Chapter 115C.

Elementary and Secondary Education.

SUBCHAPTER I. GENERAL PROVISIONS.

Article 1.

Definitions and Preliminary Provisions.

§ 115C-1. General and uniform system of schools.

A general and uniform system of free public schools shall be provided throughout the State, wherein equal opportunities shall be provided for all students, in accordance with the provisions of Article IX of the Constitution of North Carolina. Tuition shall be free of charge to all children of the State, and to every person of the State less than 21 years old, who has not completed a standard high school course of study. There shall be operated in every local school administrative unit a uniform school term of nine months, without the levy of a State ad valorem tax therefor. (1955, c. 1372, art. 1, s. 1; 1963, c. 448, s. 24; 1971, c. 704, s. 1; c. 1231, s. 1; 1981, c. 423, s. 1; 1983 (Reg. Sess., 1984), c. 1034, s. 21; 1985, c. 780, s. 1.)

§ 115C-2. Administrative procedure.

All action of agencies taken pursuant to this Chapter, as agency is defined in G.S. 150B-2, is subject to the requirements of the Administrative Procedure Act, Chapter 150B of the General Statutes. (1981, c. 423, s. 1; 1987, c. 827, s. 1.)

§ 115C-3. Access to information and public records.

Except as otherwise provided in this Chapter, access to information gathered and public records made pursuant to the provisions of this Chapter must be in conformity with the requirements of Chapter 132 of the General Statutes. (1981, c. 423, s. 1.)

§ 115C-4. Open meetings law.

Meetings of governmental bodies held pursuant to the provisions of this Chapter must be in conformity with the requirements of Article 33C of Chapter 143 of the General Statutes. (1981, c. 423, s. 1.)

§ 115C-5. Definitions.

As used in this Chapter unless the context requires otherwise:

(1) The State Board of Education may be referred to as the "Board" or as the "State Board."

(2) The governing board of a city administrative unit is "the_____ city board of education."

(3) The governing board of a county administrative unit is "the_____ county board of education."

(4) The term "school district" means any district defined by G.S. 115C-69.

(5) "Local board" or "board" means a city board of education, county board of education, or a city-county board of education.

(6) "Local school administrative unit" means a subdivision of the public school system which is governed by a local board of education. It may be a city school

administrative unit, a county school administrative unit, or a city-county school administrative unit.

(7) The executive head of a school shall be called "principal."

(8) The executive officer of a local school administrative unit shall be called "superintendent." "Superintendent" means the superintendent of schools of a public school system or, in his absence, the person designated to fulfill his functions.

(9) "Supervisor" means a person paid on the supervisor salary schedule who supervises the instructional program in one or more schools and is under the immediate supervision of the superintendent or his designee.

(10) The term "tax-levying authority" means the board of county commissioners of the county or counties in which an administrative unit is located or such other unit of local government as may be granted by local act authority to levy taxes on behalf of a local school administrative unit. (1955, c. 664; c. 1372, art. 1, ss. 8, 9; 1965, c. 584, s. 2; 1967, c. 223, s. 1; 1971, c. 883; c. 1188, s. 2; 1973, c. 315, s. 1; c. 782, ss. 1-30; 1975, c. 437, s. 10; 1979, c. 864, s. 2; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 2; 1997-456, s. 27.)

§ 115C-6. Reserved for future codification purposes.

§ 115C-7. Reserved for future codification purposes.

§ 115C-8. Reserved for future codification purposes.

§ 115C-9. Reserved for future codification purposes.

SUBCHAPTER II. ADMINISTRATIVE ORGANIZATION OF STATE AND LOCAL EDUCATION AGENCIES.

Article 2.

State Board of Education.

§ 115C-10. Appointment of Board.

The State Board of Education shall consist of the Lieutenant Governor, the State Treasurer, and 11 members appointed by the Governor, subject to confirmation by the General Assembly in joint session. Not more than two public school employees paid from State or local funds may serve as appointive members of the State Board of Education. No spouse of any public school employee paid from State or local funds and no spouse of any employee of the Department of Public Instruction may serve as an appointive member of the State Board of Education. Of the appointive members of the State Board of Education, one shall be appointed from each of the eight educational districts and three shall be appointed as members at large. Appointments shall be for terms of eight years and shall be made in four classes. Appointments to fill vacancies shall be made by the Governor for the unexpired terms and shall not be subject to confirmation.

The Governor shall transmit to the presiding officers of the Senate and the House of Representatives, on or before the sixtieth legislative day of the General Assembly, the names of the persons appointed by the Governor and submitted to the General Assembly for confirmation;

thereafter, pursuant to joint resolution, the Senate and the House of Representatives shall meet in joint session for consideration of an action upon such appointments. (1955, c. 1372, art. 1, s. 2; 1971, c. 704, s. 2; 1981, c. 423, s. 1; 1985, c. 479, s. 36; 1989, c. 46; 2009-2, s. 1.)

§ 115C-11. Organization and internal procedures of Board.

(a) Presiding Officer. – The State Board of Education shall elect from its membership a chairman and vice-chairman. A majority of the Board shall constitute a quorum for the transaction of business. Per diem and expenses of the appointive members of the Board shall be provided by the General Assembly. The chairman of the Board shall preside at all meetings of the Board. In the absence of the chairman, the vice-chairman shall preside; in the absence of both the chairman and the vice-chairman, the Board shall name one of its own members as chairman pro tempore.

(a1) Student advisors. – The Superintendent of Public Instruction is hereby authorized to appoint two high school students who are enrolled in the public schools of North Carolina as advisors to the State Board of Education. The student advisors shall participate in State Board deliberations in an advisory capacity only. The State Board may, in its discretion, exclude the student advisors from executive sessions. The Superintendent of Public Instruction shall stagger the appointments of the two student advisors so that a high school junior is serving in the first year of a two-year term and a high school senior is serving in the second year of a two-year term simultaneously. The appointment of a high school junior shall be made beginning June 15 of each year. If a student advisor is no longer enrolled in the public schools of North Carolina or if a vacancy otherwise occurs, the Superintendent of Public Instruction shall appoint a student advisor for the remainder of the unexpired term.

Student advisors shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(a2) State Teacher of the Year Advisor. – Each State Teacher of the Year, as designated by the Department of Public Instruction, shall serve ex officio as advisor to the State Board of Education. Each State Teacher of the Year shall begin service as advisory member to the State Board at the commencement of the teacher's term as State Teacher of the Year and shall serve for two years. The State Teachers of the Year shall participate in State Board deliberations and committee meetings in an advisory capacity only. The State Board may, in its discretion, exclude the State Teachers of the Year from executive sessions.

In the event a vacancy occurs in the State Teacher of the Year's advisory position, the teacher who was next runner-up to that State Teacher of the Year shall serve as the advisory member to the Board for the remainder of the unexpired term. The State Teacher of the Year advisors to the State Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(a3) Superintendent Advisor. – The Superintendent of Public Instruction shall appoint a superintendent of a local school administrative unit as an advisor to the State Board of Education. The superintendent advisor shall serve for a term of one year. The superintendent advisor shall participate in State Board deliberations and committee

meetings in an advisory capacity only. The State Board may, in its discretion, exclude the superintendent advisor from executive sessions.

In the event that a superintendent advisor ceases to be a superintendent in a local school administrative unit, the position of superintendent advisor shall be deemed vacant. In the event that a vacancy occurs in the position for whatever reason, the Superintendent of Public Instruction shall appoint a superintendent advisor for the remainder of the unexpired term. The superintendent advisor to the State Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(a4) State Principal of the Year Advisor. – Each State Principal of the Year, as designated by the Department of Public Instruction, shall serve ex officio as an advisor to the State Board of Education. Each State Principal of the Year shall begin service as an advisory member to the State Board at the commencement of the principal's term as State Principal of the Year and shall serve for one year. The State Principal of the Year shall participate in State Board deliberations and committee meetings in an advisory capacity only. The State Board may, in its discretion, exclude the State Principal of the Year from executive sessions.

In the event a vacancy occurs in the State Principal of the Year's advisory position, the principal who was next runner-up to that State Principal of the Year shall serve as the advisory member to the State Board for the remainder of the unexpired term. The State Principal of the Year advisor to the State Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(a5) Local Board of Education Advisor. – The current Raleigh Dingman Award winner shall serve as an advisor to the State Board of Education. The local board of education advisor shall serve for a term of one year. The local board of education advisor shall participate in State Board deliberations and committee meetings in an advisory capacity only. The State Board may, in its discretion, exclude the local board of education advisor from executive sessions.

In the event that the Raleigh Dingman Award winner ceases to be a local board of education member or notifies the State Board of Education that he or she is unable to fulfill his or her duties as a local board of education advisor member, the position of local board of education member shall be deemed vacant. In the event that a vacancy occurs in the position for whatever reason, the President of the North Carolina School Boards Association shall serve as the advisory member to the State Board for the remainder of the unexpired term. The local board of education advisor to the State Board shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(b) Regular Meetings of Board. – The regular meetings of the Board shall be held each month on a day certain, as determined by the Board. The Board shall determine the hour of the meeting, which may be adjourned from day to day, or to a day certain, until the business before the Board has been completed.

(b1) Annual meeting with the State Board of Community Colleges and the Board of Governors of The University of North Carolina. The State Board of Education shall meet with the State Board of Community Colleges and the Board of Governors of The University

of North Carolina at least once a year to discuss educational matters of mutual interest and to recommend to the General Assembly such policies as are appropriate to encourage the improvement of public education at every level in this State. The meeting in 1987 and every three years thereafter shall be hosted by the University Board of Governors, the meeting in 1988 and every three years thereafter shall be hosted by the State Board of Education, and the meeting in 1989 and every three years thereafter shall be hosted by the State Board of Community Colleges.

(c) Special Meetings. – Special meetings of the Board may be set at any regular meeting or may be called by the chairman or by the secretary upon the approval of the chairman: Provided, a special meeting shall be called by the chairman upon the request of any five members of the Board. In case of regular meetings and special meetings, the secretary shall give notice to each member, in writing, of the time and purpose of the meeting, by letter directed to each member at his home post-office address. Such notice must be deposited in the Raleigh Post Office at least three days prior to the date of meeting.

(d) Voting. – No voting by proxy shall be permitted. Except in voting on textbook adoptions, a majority of those present and voting shall be necessary to carry a motion and a roll call vote shall be had on each motion. A record of all such votes shall be kept in the minute book.

(e) Voting on Adoption of Textbooks. – A majority vote of the whole membership of the Board shall be required to adopt textbooks, and a roll call vote shall be had on each motion for such adoption or adoptions. A record of all such votes shall be kept in the minute book.

(f) Committees. – The Board may create from its membership such committees as it deems necessary to facilitate its business. The chairman of the Board shall with approval of the majority of the Board appoint members to the several committees authorized by the Board and to any additional committees which the chairman may deem to be appropriate.

(g) Record of Proceedings. – All of the proceedings of the Board shall be recorded in a well-bound and suitable book, which shall be kept in the office of the Superintendent of Public Instruction, and open to public inspection.

(h) Rules and Regulations. – The Board shall adopt reasonable rules and regulations not inconsistent herewith, to govern its proceedings which the Board may amend from time to time, which rules and regulations shall become effective when filed as provided by law: Provided, however, a motion to suspend the rules so adopted shall require a consent of two-thirds of the members. The rules and regulations shall include, but not be limited to, clearly defined procedures for electing the officers of the State Board referred to in G.S. 115C-11(a), fixing the term of said officers, specifying how the voting shall be carried out, and establishing a date when the first election shall be held.

(i) Administrative Assistance. – The Superintendent of Public Instruction shall provide technical assistance and administrative assistance, including all personnel except as otherwise provided in subsection (j) of this section, to the State Board of Education through the Department of Public Instruction.

(j) Certain Personnel Appointed by the State Board. – The State Board may appoint only the following personnel positions to support the operations of the State Board of Education through the Department of Public Instruction:

	Position number	Title
(1)	65023576	Attorney I.
(2)	60009384	Attorney II.
(3)	65003194	Paralegal II.
(4)	60095070	Administrative Assistant I.

(1955, c. 1372, art. 2, s. 1; 1959, c. 573, s. 19; 1971, c. 704, s. 3; 1975, c. 699, s. 1; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 991, s. 1; 1987 (Reg. Sess., 1988), c. 1102, s. 1; 1989, c. 720; 2003-306, s. 1; 2016-126, 4th Ex. Sess., s. 1; 2018-5, s. 7.14(a).)

§ 115C-12. Powers and duties of the Board generally.

The general supervision and administration of the free public school system shall be vested in the State Board of Education. The State Board of Education shall establish all needed rules and regulations for the system of free public schools, subject to laws enacted by the General Assembly. In accordance with Sections 7 and 8 of Article III of the North Carolina Constitution, the Superintendent of Public Instruction, as an elected officer and Council of State member, shall administer all needed rules and regulations adopted by the State Board of Education through the Department of Public Instruction. The powers and duties of the State Board of Education are defined as follows:

(1) Financial Powers. – The financial powers of the Board are set forth in Article 30 of this Chapter.

(1a) To Submit a Budget Request to the Director of the Budget. – The Board shall submit a budget request to the Director of the Budget in accordance with G.S. 143C-3-3. In addition to the information requested by the Director of the Budget, the Board shall provide an analysis relating each of its requests for expansion funds to anticipated improvements in student performance.

(2) Repealed by Session Laws 1985 (Regular Session, 1986), c. 975, s. 24.

(3), (4) Repealed by Session Laws 1987 (Regular Session, 1988), c. 1025, s. 1.

(5) Apportionment of Funds. – The Board shall have authority to apportion and equalize over the State all State school funds and all federal funds granted to the State for assistance to educational programs administered within or sponsored by the public school system of the State.

(6) Power to Demand Refund for Inaccurate Apportionment Due to False Attendance Records. – When it shall be found by the State Board of Education that inaccurate attendance records have been filed with the State Board of Education which resulted in an excess allotment of funds for teacher salaries in any school unit in any school year, the school unit concerned may be required to refund to the State Board the amount

allotted to said unit in excess of the amount an accurate attendance record would have justified.

(7) Power to Alter the Boundaries of City School Administrative Units and to Approve Agreements for the Consolidation and Merger of School Administrative Units Located in the Same County. – The Board shall have authority, in its discretion, to alter the boundaries of city school administrative units and to approve agreements submitted by county and city boards of education requesting the merger of two or more contiguous city school administrative units and the merger of city school administrative units with county school administrative units and the consolidation of all the public schools in the respective units under the administration of one board of education: Provided, that such merger of units and reorganization of school units shall not have the effect of abolishing any special taxes that may have been voted in any such units.

(8) Power to Make Provisions for Sick Leave and for Substitute Teachers. – The Board shall provide for sick leave with pay for all public school employees in accordance with the provisions of this Chapter and shall promulgate rules and regulations providing for necessary substitutes on account of sick leave and other teacher absences.

The minimum pay for a substitute teacher who holds a teaching certificate shall be sixty-five percent (65%) of the daily pay rate of an entry-level teacher with an "A" certificate. The minimum pay for a substitute teacher who does not hold a teaching certificate shall be fifty percent (50%) of the daily pay rate of an entry-level teacher with an "A" certificate. The pay for noncertified substitutes shall not exceed the pay of certified substitutes.

Local boards may use State funds allocated for substitute teachers to hire full-time substitute teachers.

If a teacher assistant acts as a substitute teacher, the salary of the teacher assistant for the day shall be the same as the daily salary of an entry-level teacher with an "A" certificate.

(9) Miscellaneous Powers and Duties. – All the powers and duties exercised by the State Board of Education shall be in conformity with the Constitution and subject to such laws as may be enacted from time to time by the General Assembly. Among such duties are:

a. To certify and regulate the grade and salary of teachers and other school employees.

b. To adopt and supply textbooks.

c. Repealed by Session Laws 2017-126, s. 11, effective July 20, 2017.

c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other

states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. The annual "report card" for each local school administrative unit shall include the following:

1. The State Board shall award, in accordance with G.S. 115C-83.15, an overall numerical school achievement, growth, and performance score on a scale of zero to 100 and a corresponding performance letter grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance score and grade shall reflect student performance on annual subject-specific assessments, college and workplace readiness measures, graduation rates, and student progress in achieving English language proficiency. In addition, the State Board shall award separate performance scores and grades for the following:
   - I. School performance of certain subgroups of students as provided in G.S. 115C-83.15.
   - II. For schools serving students in any grade from kindergarten to eighth grade, school performance in reading and mathematics respectively.
2. For schools serving students in third grade, the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.7(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.7(b).
3. For high schools, measures of Advanced Placement course participation, Cambridge Advanced International Certificate of Education (AICE) Program participation, and International Baccalaureate Diploma Programme participation and Advanced Placement, Cambridge AICE, and International Baccalaureate examination participation and performance.

c2. Repealed by Session Laws 1995 (Regular Session, 1996), c. 716, s. 1.

c3. To develop a system of school building improvement reports for each school building. The purpose of school building improvement reports is to measure improvement in the growth in student performance at each school building from year to year, not to compare school buildings. The Board shall include in the building reports any factors shown to affect student performance that the Board considers relevant to assess a school's efforts to improve student performance. Local school administrative units shall produce and make public their school building improvement reports by March 15, 1997, for the 1995-96 school year, by October 15, 1997, for the 1996-97 school year, and annually

thereafter. Each report shall be based on building-level data for the prior school year.

c4. To develop guidelines, procedures, and rules to establish, implement, and enforce the School-Based Management and Accountability Program under Article 8B of this Chapter in order to improve student performance, increase local flexibility and control, and promote economy and efficiency.

d. To formulate rules and regulations for the enforcement of the compulsory attendance law.

e. To manage and operate a system of insurance for public school property, as provided in Article 38 of this Chapter.

In making substantial policy changes in administration, curriculum, or programs the Board should conduct hearings throughout the regions of the State, whenever feasible, in order that the public may be heard regarding these matters.

(9a), (9b) Repealed by Session Laws 2005-458, s. 1, effective October 2, 2005.

(9c) Power to Develop Content Standards. –

a. The Board shall develop a comprehensive plan to revise content standards and the standard course of study in the core academic areas of reading, writing, mathematics, science, history, geography, and civics. The Board shall involve and survey a representative sample of parents, teachers, and the public to help determine academic content standard priorities and usefulness of the content standards. A full review of available and relevant academic content standards that are rigorous, specific, sequenced, clear, focused, and measurable, whenever possible, shall be a part of the process of the development of content standards. The revised content standards developed in the core academic areas shall (i) reflect high expectations for students and an in-depth mastery of the content; (ii) be clearly grounded in the content of each academic area; (iii) be defined grade-by-grade and course-by-course; (iv) be understandable to parents and teachers; (v) be developed in full recognition of the time available to teach the core academic areas at each grade level; and (vi) be measurable, whenever possible, in a reliable, valid, and efficient manner for accountability purposes.

b. High school course content standards shall include the knowledge and skills necessary to pursue further postsecondary education or to attain employment in the 21st century economy. The high school course content standards also shall be aligned with the minimum undergraduate course requirements for admission to the constituent institutions of The University of North Carolina.

c. The Board also shall develop and implement an ongoing process to align State programs and support materials with the revised academic content standards for each core academic area on a regular basis. Alignment shall include revising textbook criteria, support materials, State tests, teacher and school administrator preparation, and ongoing professional development programs to be compatible with content standards. The

Board shall develop and make available to teachers and parents support materials, including teacher and parent guides, for academic content standards. The State Board of Education shall work in collaboration with the Board of Governors of The University of North Carolina to ensure that teacher and school administrator degree programs, ongoing professional development, and other university activity in the State's public schools align with the State Board's priorities.

(9d) Power to Develop Exit Standards and Graduation Requirements. –

a. The Board may develop exit standards that shall be required for high school graduation. The Board shall require the following for high school graduation:

1. Successful completion of instruction in cardiopulmonary resuscitation as provided in G.S. 115C-81.25(c)(10).
2. A passing grade in the semester course on the Founding Principles of the United States of America and the State of North Carolina described in G.S. 115C-81.45(d)(1).

b. The following restrictions apply to the Board regarding Algebra I and high school graduation projects:

1. The Board shall not adopt or enforce any rule that requires Algebra I as a graduation standard or as a requirement for a high school diploma for any student whose individualized education program (i) identifies the student as learning disabled in the area of mathematics and (ii) states that this learning disability will prevent the student from mastering Algebra I.
2. The Board shall not require any student to prepare a high school graduation project as a condition of graduation from high school; local boards of education may, however, require their students to complete a high school graduation project.

(10) Power to Provide for Programs or Projects in the Cultural and Fine Arts Areas. – The Board is authorized and empowered, in its discretion, to make provisions for special programs or projects of a cultural and fine arts nature for the enrichment and strengthening of educational opportunities for the children of the State.

For this purpose, the Board may use funds received from gifts or grants and, with the approval of the Director of the Budget, may use State funds which the Board may find available in any budget administered by the Board.

(11) Power to Conduct Education Research. – The Board is authorized to sponsor or conduct education research and special school projects considered important by the Board for improving the public schools of the State. Such research or projects may be conducted during the summer months and involve one or more local school units as the Board may determine. The Board may use any available funds for such purposes.

(12) Duty to Provide for Sports Medicine and Emergency Paramedical Program. – The State Board of Education is authorized and directed to

develop a comprehensive plan to train and make available to the public schools personnel who shall have major responsibility for exercising preventive measures against sports related deaths and injuries and for providing sports medicine and emergency paramedical services for injuries that occur in school related activities. The plan shall include, but is not limited to, the training, assignment of responsibilities, and appropriate additional reimbursement for individuals participating in the program.

The State Board of Education is authorized and directed to develop an implementation schedule and a program funding formula that will enable each high school to have a qualified sports medicine and emergency paramedical program by July 1, 1984.

The State Board of Education is authorized and directed to establish minimum educational standards necessary to enable individuals serving as sports medicine and emergency paramedical staff to provide such services, including first aid and emergency life saving skills, to students participating in school activities.

(13) Power to Purchase Liability Insurance. – The Board is authorized to purchase insurance to protect board members from liability incurred in the exercise of their duty as members of the Board.

(14) Duty to Provide Personnel Information to Local Boards. – Upon request, the State Board of Education and the Department of Public Instruction shall furnish to any county or city board of education any and all available personnel information relating to certification, evaluation and qualification including, but not limited to, semester hours or quarterly hours completed, graduate work, grades, scores, etc., that are on that date in the files of the State Board of Education or Department of Public Instruction.

(15) Duty to Develop Noncertified Personnel Position Evaluation Descriptions. – The Board is authorized and directed to develop position evaluation descriptions covering those positions in local school administrative units for which certification by the State Board of Education is not normally a prerequisite. The position evaluation descriptions required in this subdivision are to be used by local boards of education as the basis for assignment of noncertified employees to an appropriate pay grade in accordance with salary grades and ranges adopted by the State Board of Education. No appropriations are required by this subdivision.

(16) Power with Regard to Salary Schedules. – The Board shall provide for sick leave with pay for all public school employees in accordance with the provisions of this Chapter and shall promulgate rules and regulations providing for necessary substitutes on account of sick leave and other teacher absences.

a. Support personnel refers to all public school employees who are not required by statute or regulation to be certified in order to be employed. The State Board of Education is authorized and empowered to adopt all necessary rules for full implementation of all schedules to the extent that State funds are made available for support personnel.

b. Salary schedules for the following public school support personnel shall be adopted by the State Board of Education: school finance officer, office support personnel, teacher assistants, maintenance supervisors, custodial personnel, and transportation personnel. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Human Resources Commission.

By the end of the third payroll period of the 1995-96 fiscal year, local boards of education shall place State-allotted office support personnel, teacher assistants, and custodial personnel on the salary schedule adopted by the State Board of Education so that the average salary paid is the State-allotted amount for the category. In placing employees on the salary schedule, the local board shall consider the education, training, and experience of each employee, including experience in other local school administrative units. It is the intent of the General Assembly that a local school administrative unit not fail to employ an employee who was employed for the prior school year in order to implement the provisions of this sub-subdivision. A local board of education is in compliance with this sub-subdivision if the average salary paid is at least ninety-five percent (95%) of the State-allotted amount for the category at the end of the third payroll period of the 1995-96 fiscal year, and at least ninety-eight percent (98%) of the State-allotted amount for the category at the end of the third payroll period of each subsequent fiscal year. The Department of Public Instruction shall provide technical assistance to local school administrative units regarding the implementation of this sub-subdivision.

c. Salary schedules for other support personnel, including but not limited to maintenance and school food service personnel, shall be adopted by the State Board of Education. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Human Resources Commission. These schedules shall apply if the local board of education does not adopt a salary schedule of its own for personnel paid from other than State appropriations.

(17) Power to Provide for School Transportation Programs. – The State Board of Education is authorized and empowered to promulgate such policies, rules, and regulations as it may deem necessary and desirable for the operation of a public school transportation system by each local administrative unit in the State. Such policies, rules, and regulations shall include, but are not limited to, fund allocations and fiscal support to assure the effective and efficient use of funds appropriated by the General Assembly in support of the school transportation system. Nothing herein

shall be construed to affect in any way or to lessen in any way the full and complete authority of local boards of education to assign pupils to schools in accordance with G.S. 115C-366.

(18) Duty to Develop and Implement a Uniform Education Reporting System, Which Shall Include Standards and Procedures for Collecting Fiscal and Personnel Information. –

a. The State Board of Education shall adopt standards and procedures for local school administrative units to provide timely, accurate, and complete fiscal and personnel information, including payroll information, on all school personnel.

b. The State Board of Education shall develop and implement a Uniform Education Reporting System that shall include requirements for collecting, processing, and reporting fiscal, personnel, and student data, by means of electronic transfer of data files from local computers to the State Computer Center through the State Communications Network.

c. The State Board of Education shall comply with the provisions of G.S. 116-11(10a) to plan and implement an exchange of information between the public schools and the institutions of higher education in the State. The State Board of Education shall require local boards of education to provide to the parents of children at a school all information except for confidential information received about that school from institutions of higher education pursuant to G.S. 116-11(10a) and to make that information available to the general public.

d. The State Board of Education shall modify the Uniform Education Reporting System to provide clear, accurate, and standard information on the use of funds at the unit and school level. The plan shall provide information that will enable the General Assembly to determine State, local, and federal expenditures for personnel at the unit and school level. The plan also shall allow the tracking of expenditures for textbooks, educational supplies and equipment, capital outlay, at-risk students, and other purposes.

e. When practicable, reporting requirements developed by the State Board of Education as part of the Uniform Education Reporting System under this subdivision shall be incorporated into the PowerSchool application or any other component of the Instructional Improvement System to minimize duplicative reporting by local school administrative units.

f. The State Board of Education shall develop a process for local school administrative units to annually identify enrolled military-connected students using the Uniform Education Reporting System. The identification of military-connected students shall not be used for the purposes of determining school achievement, growth, and performance scores as required by G.S. 115C-12(9)c1. The identification of military-connected students is not a public record within the meaning of G.S. 132-1 and shall not be made public by any person, except as permitted under the provisions of the Family Educational and Privacy Rights Act of 1974, 20 U.S.C. § 1232g. For purposes of this section, a

"military-connected student" means a student enrolled in a local school administrative unit who has a parent, step-parent, sibling, or any other person who resides in the same household serving in the active or reserve components of the Army, Navy, Air Force, Marine Corps, Coast Guard, or National Guard. Beginning in the 2016-2017 school year, and annually thereafter, the identification of military-connected students for all local school administrative units shall be completed by January 31 of each school year.

(19) Duty to Identify Required Reports and to Eliminate Unnecessary Reports and Paperwork. – Prior to the beginning of each school year, the State Board of Education shall identify all reports that are required at the State level for the school year.

The State Board of Education shall adopt policies to ensure that local school administrative units are not required by the State Board of Education, the State Superintendent, or the Department of Public Instruction staff to (i) provide information that is already available on the student information management system or housed within the Department of Public Instruction; (ii) provide the same written information more than once during a school year unless the information has changed during the ensuing period; (iii) complete forms, for children with disabilities, that are not necessary to ensure compliance with the federal Individuals with Disabilities Education Act (IDEA); or (iv) provide information that is unnecessary to comply with State or federal law and not relevant to student outcomes and the efficient operation of the public schools. Notwithstanding the foregoing, the State Board may require information available on its student information management system or require the same information twice if the State Board can demonstrate a compelling need and can demonstrate there is not a more expeditious manner of getting the information.

The State Board shall permit schools and local school administrative units to submit all reports to the Department of Public Instruction electronically.

The State Board of Education, in collaboration with the education roundtables within the Department of Public Instruction, shall consolidate all plans that affect the school community, including school improvement plans. The consolidated plan shall be posted on each school's Web site for easy access by the public and by school personnel.

(20) Duty to Report Appointment of Caretaker Administrators and Boards. – Pursuant to G.S. 120-30.9G the State Board of Education shall submit to the Attorney General of the United States within 30 days any rules, policies, procedures, or actions taken pursuant to G.S. 115C-64.4 which could result in the appointment of a caretaker administrator or board to perform any of the powers and duties of a local board of education where

that school administrative unit is covered by the Voting Rights Act of 1965.

(21) Duty to Monitor Acts of School Violence. – The State Board of Education shall monitor and compile an annual report on acts of violence in the public schools. The State Board shall adopt standard definitions for acts of school violence and shall require local boards of education to report them to the State Board in a standard format adopted by the State Board. The State Board shall submit its report on acts of violence in the public schools to the Joint Legislative Education Oversight Committee by March 15 of each year.

(22) Duty to Monitor the State of the Teaching Profession in North Carolina. – The State Board of Education shall monitor and compile an annual report on the state of the teaching profession in North Carolina that includes data on the decisions of teachers to leave the teaching profession and data on teaching positions that local boards of education are unable to fill, as provided in G.S. 115C-299.5.

(23) Power to Adopt Eligibility Rules for Interscholastic Athletic Competition. – The State Board of Education shall adopt rules governing interscholastic athletic activities conducted by local boards of education, including eligibility for student participation. With regard to middle schools and high schools, the rules shall provide for the following:

a. All coaches, school nurses, athletic directors, first responders, volunteers, students who participate in interscholastic athletic activities, and the parents of those students shall receive, on an annual basis, a concussion and head injury information sheet. School employees, first responders, volunteers, and students must sign the sheet and return it to the coach before they can participate in interscholastic athletic activities, including tryouts, practices, or competition. Parents must sign the sheet and return it to the coach before their children can participate in any such interscholastic athletic activities. The signed sheets shall be maintained in accordance with sub-subdivision d. of this subdivision.

For the purpose of this subdivision, a concussion is a traumatic brain injury caused by a direct or indirect impact to the head that results in disruption of normal brain function, which may or may not result in loss of consciousness.

b. If a student participating in an interscholastic athletic activity exhibits signs or symptoms consistent with concussion, the student shall be removed from the activity at that time and shall not be allowed to return to play or practice that day. The student shall not return to play or practice on a subsequent day until the student is evaluated by and receives written clearance for such participation from (i) a physician licensed under Article 1 of Chapter 90 of the General Statutes with training in concussion management, (ii) a neuropsychologist licensed under Article 18A of Chapter 90 of the General Statutes with training in concussion management and working in consultation with a physician

licensed under Article 1 of Chapter 90 of the General Statutes, (iii) an athletic trainer licensed under Article 34 of Chapter 90 of the General Statutes, (iv) a physician assistant, consistent with the limitations of G.S. 90-18.1, or (v) a nurse practitioner, consistent with the limitations of G.S. 90-18.2.

c. Each school shall develop a venue specific emergency action plan to deal with serious injuries and acute medical conditions in which the condition of the patient may deteriorate rapidly. The plan shall include a delineation of roles, methods of communication, available emergency equipment, and access to and plan for emergency transport. This plan must be (i) in writing, (ii) reviewed by an athletic trainer licensed in North Carolina, (iii) approved by the principal of the school, (iv) distributed to all appropriate personnel, (v) posted conspicuously at all venues, and (vi) reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletic activities.

d. Each school shall maintain complete and accurate records of its compliance with the requirements of this subdivision pertaining to head injuries.

The State Board of Education may authorize a designated organization to apply and enforce the Board's rules governing participation in interscholastic athletic activities at the high school level.

(24) Duty to Develop Standards for Alternative Learning Programs, Provide Technical Assistance on Implementation of Programs, and Evaluate Programs. – The State Board of Education shall adopt standards for assigning students to alternative learning programs. These standards shall include (i) a description of the programs and services that are recommended to be provided in alternative learning programs and (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision. The State Board also shall adopt policies that define what constitutes an alternative school and an alternative learning program.

The State Board of Education shall also adopt standards to require that local school administrative units shall use (i) the teachers allocated for students assigned to alternative learning programs pursuant to the regular teacher allotment and (ii) the teachers allocated for students assigned to alternative learning programs only to serve the needs of these students.

The State Board of Education shall provide technical support to local school administrative units to assist them in developing and implementing plans and proposals for alternative learning programs.

The State Board shall evaluate the effectiveness of alternative learning programs and, in its discretion, of any other programs funded from the Alternative Schools/At-Risk Student allotment. Local school administrative units shall report to the State Board of Education on how

funds in the Alternative Schools/At-Risk Student allotment are spent and shall otherwise cooperate with the State Board of Education in evaluating the alternative learning programs. As part of its evaluation of the effectiveness of these programs, the State Board shall, through the application of the accountability system developed under G.S. 115C-83.15 and G.S. 115C-105.35, measure the educational performance and growth of students placed in alternative schools and alternative programs. If appropriate, the Board may modify this system to adapt to the specific characteristics of these schools. Also as part of its evaluation, the State Board shall evaluate its standards adopted under this subdivision and make any necessary changes to those standards based on strategies that have been proven successful in improving student achievement and shall report to the Joint Legislative Education Oversight Committee by April 15, 2006 to determine if any changes are necessary to improve the implementation of successful alternative learning programs and alternative schools.

(25) Duty to Report to Joint Legislative Education Oversight Committee. – Upon the request of the Joint Legislative Education Oversight Committee, the State Board shall examine and evaluate issues, programs, policies, and fiscal information, and shall make reports to that Committee. Furthermore, by November 15 of each year, the State Board shall submit reports to that Committee regarding schools identified as low-performing, school improvement plans found to significantly improve student performance, personnel actions taken in low-performing schools, and recommendations for additional legislation to improve student performance and increase local flexibility.

(25a) [Development of Goals and Annual Report on Improvement in Graduation Rate.] Prior to the 2010-2011 school year, the State Board of Education shall:

a. Develop a growth model establishing annual goals for continuous and substantial improvement in the four-year cohort graduation rate by local school administrative units.

b. Establish as a short-term goal that local school administrative units meet the annual growth model goals for improvement in the four-year cohort graduation rate beginning with the graduating class of 2011 and continuing annually thereafter.

c. Establish as long-term minimum goals statewide four-year cohort graduation rates of seventy-four percent (74%) by 2014; eighty percent (80%) by 2016; and ninety percent (90%) by 2018.

d. Establish as a long-term goal with benchmarks and recommendations to reach a statewide four-year cohort graduation rate of one hundred percent (100%).

The State Board of Education shall report to the Joint Legislative Education Oversight Committee by November 15, 2010, and annually

thereafter on the goals, benchmarks, and recommendations described in this section. Such goals, benchmarks, and recommendations shall appropriately differentiate for students with disabilities and other specially identified subcategories within each four-year cohort. The report shall include goals and benchmarks by local school administrative unit, the strategies and recommendations for achieving the goals and benchmarks, any evidence or data supporting the strategies and recommendations, and the identity of the persons employed by the State Board of Education who are responsible for oversight of local school administrative units in achieving the goals and benchmarks.

(25b) Repealed by Session Laws 2012-142, s. 7.13(d), effective July 1, 2012.

(26) Repealed by Session Laws 2012-142, s. 7.13(f), effective July 1, 2012.

(27) Reporting Dropout Rates, Corporal Punishment, Suspensions, Expulsions, and Alternative Placements. – The State Board shall report by March 15 of each year to the Joint Legislative Education Oversight Committee on the numbers of students who have dropped out of school, been subjected to corporal punishment, been suspended, been expelled, been reassigned for disciplinary purposes, or been provided alternative education services. The data shall be reported in a disaggregated manner, reflecting the local school administrative unit, race, gender, grade level, ethnicity, and disability status of each affected student. Such data shall be readily available to the public. The State Board shall not include students that have been expelled from school when calculating the dropout rate. The Board shall maintain a separate record of the number of students who are expelled from school and the reasons for the expulsion.

(27a) Reducing School Dropout Rates. – The State Board of Education shall develop a statewide plan to improve the State's tracking of dropout data so that accurate and useful comparisons can be made over time. The plan shall include, at a minimum, how dropouts are counted and the methodology for calculating the dropout rate, the ability to track students movements among schools and districts, and the ability to provide information on who drops out and why.

(28) Duty to Develop Rules for Issuance of Driving Eligibility Certificates. – The State Board of Education shall adopt the following rules to assist schools in their administration of procedures necessary to implement G.S. 20-11 and G.S. 20-13.2:

a. To define what is equivalent to a high school diploma for the purposes of G.S. 20-11 and G.S. 20-13.2. These rules shall apply to all educational programs offered in the State by public schools, charter schools, nonpublic schools, or community colleges.

b. To establish the procedures a person who is or was enrolled in a public school or in a charter school must follow and the requirements that person shall meet to obtain a driving eligibility certificate.

c. To require the person who is required under G.S. 20-11(n) to sign the driving eligibility certificate to 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).

These rules shall apply to public schools and charter schools.

d. To provide for an appeal to an appropriate education authority by a person who is denied a driving eligibility certificate. These rules shall apply to public schools and charter schools.

e. To define exemplary student behavior and to define what constitutes the successful completion of a drug or alcohol treatment counseling program. These rules shall apply to public schools and charter schools.

The State Board 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 public school or in a charter school no longer meets the requirements for a driving eligibility certificate.

The State Board 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 public schools or charter schools.

The State Board of Education may use funds appropriated for drivers education to cover the costs of driving eligibility certificates.

(29) To Issue Special High School Diplomas to Veterans of World War II, Korea, and Vietnam. – The State Board of Education shall issue special high school diplomas to all honorably discharged veterans of World War II, the Korean Conflict, and the Vietnam era who request special diplomas and have not previously received high school diplomas.

(30) Duty to Adopt Model Guidelines and Policies for the Establishment of Local Task Forces on Closing the Academic Achievement Gap. – The State Board shall adopt a Model for local school administrative units to use as a guideline to establish local task forces on closing the academic achievement gap at the discretion of the local board. The purpose of each task force is to advise and work with its local board of education and administration on closing the gap in academic achievement and on developing a collaborative plan for achieving that goal. The State Board

shall consider the recommendations of the Commission on Improving the Academic Achievement of Minority and At-Risk Students to the 2001 Session of the General Assembly in establishing its guidelines.

(30a) Duty to Assist Schools in Meeting Adequate Yearly Progress. – The State Board of Education shall:

a. Identify which schools are meeting adequate yearly progress with subgroups as specified in the No Child Left Behind Act of 2001;

b. Study the instructional, administrative, and fiscal practices and policies employed by the schools selected by the State Board of Education that are meeting adequate yearly progress specified in the No Child Left Behind Act of 2001;

c. Create assistance models for each subgroup based on the practices and policies used in schools that are meeting adequate yearly progress. The schools of education at the constituent institutions of The University of North Carolina, in collaboration with the University of North Carolina Center for School Leadership Development, shall assist the State Board of Education in developing these models; and

d. Offer technical assistance based on these assistance models to local school administrative units not meeting adequate yearly progress, giving priority to those local school administrative units with high concentrations of schools that are not meeting adequate yearly progress. The State Board of Education shall determine the number of local school administrative units that can be served effectively in the first two years. This technical assistance shall include peer assistance and professional development by teachers, support personnel, and administrators in schools with subgroups that are meeting adequate yearly progress.

(31) To Adopt Guidelines for Individual Diabetes Care Plans. – The State Board shall adopt guidelines for the development and implementation of individual diabetes care plans. The State Board shall consult with the North Carolina Diabetes Advisory Council established by the Department of Health and Human Services in the development of these guidelines. The State Board also shall consult with local school administrative unit employees who have been designated as responsible for coordinating their individual unit's efforts to comply with federal regulations adopted under Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794. In its development of these guidelines, the State Board shall refer to the guidelines recommended by the American Diabetes Association for the management of children with diabetes in the school and day care setting and shall consider recent resolutions by the United States Department of Education's Office of Civil Rights of investigations into complaints alleging discrimination against students with diabetes.

The guidelines adopted by the State Board shall include:

a. Procedures for the development of an individual diabetes care plan at the written request of the student's parent or guardian, and involving the parent or guardian, the student's health care provider, the student's

classroom teacher, the student if appropriate, the school nurse if available, and other appropriate school personnel.

b. Procedures for regular review of an individual care plan.

c. Information to be included in a diabetes care plan, including the responsibilities and appropriate staff development for teachers and other school personnel, an emergency care plan, the identification of allowable actions to be taken, the extent to which the student is able to participate in the student's diabetes care and management, and other information necessary for teachers and other school personnel in order to offer appropriate assistance and support to the student. The State Board shall ensure that the information and allowable actions included in a diabetes care plan as required in this subdivision meet or exceed the American Diabetes Association's recommendations for the management of children with diabetes in the school and day care setting.

d. Information and staff development to be made available to teachers and other school personnel in order to appropriately support and assist students with diabetes.

The State Board shall ensure that these guidelines are updated as necessary and shall ensure that the guidelines and any subsequent changes are published and disseminated to local school administrative units.

(32) Duty to Encourage Early Entry of Motivated Students into Four-Year College Programs. – The State Board of Education, in cooperation with the Education Cabinet, shall work with local school administrative units, the constituent institutions of The University of North Carolina, local community colleges, and private colleges and universities to (i) encourage early entry of motivated students into four-year college programs and to (ii) ensure that there are opportunities at four-year institutions for academically talented high school students to get an early start on college coursework, either at nearby institutions or through distance learning.

The State Board of Education shall also adopt policies directing school guidance counselors to make ninth grade students aware of the potential to complete the high school courses required for college entry in a three-year period.

(33) Duty to Develop Recommended Programs for Use in Schools on Memorial Day. – The State Board of Education shall develop recommended instructional programs that enable students to gain a better understanding of the meaning and importance of Memorial Day. All schools, especially schools that hold school on Memorial Day, shall instruct students on the significance of Memorial Day.

(33a) Duty to Develop Recommended Programs for Use in Schools During Veterans' History Awareness Month. – The State Board of Education shall develop recommended programs in collaboration with active

military installations, veterans, and veterans service organizations that enable students to gain a better understanding of the meaning and importance of the contributions of American veterans and, in particular, veterans from North Carolina. Recommended programs may be integrated into lesson plans and may include veteran participation and veteran sponsorship in the form of an Adopt-A-Veteran program. All schools are encouraged to collaborate with veterans and veteran service organizations during Veterans' History Awareness Month to designate time for appropriate commemorative activities.

(34) Duty to Protect the Health of School-Age Children From Toxicants at School. – The State Board shall address public health and environmental issues in the classroom and on school grounds by doing all of the following:

a. Develop guidelines for sealing existing arsenic-treated wood in playground equipment or establish a time line for removing existing arsenic-treated wood on playgrounds and testing the soil on school grounds for contamination caused by the leaching of arsenic-treated wood in other areas where children may be at particularly high risk of exposure.

b. Establish guidelines to reduce students' exposure to diesel emissions that can occur as a result of unnecessary school bus idling, nose-to-tail parking, and inefficient route assignments.

c. Study methods for mold and mildew prevention and mitigation and incorporate recommendations into the public school facilities guidelines as needed.

d. Establish guidelines for Integrated Pest Management consistent with the policy of The North Carolina School Boards Association, Inc., as published in 2004. These guidelines may be updated as needed to reflect changes in technology.

e. Establish guidelines for notification of students' parents, guardians, or custodians as well as school staff of pesticide use on school grounds.

(35) To Encourage Local Boards of Education to Enter into Agreements Regarding the Joint Use of Facilities for Physical Activity. – The State Board of Education shall encourage local boards of education to enter into agreements with local governments and other entities regarding the joint use of their facilities for physical activity. The agreements should delineate opportunities, guidelines, and the roles and responsibilities of the parties, including responsibilities for maintenance and liability.

(36) Duty to Charge Tuition for the Governor's School of North Carolina. – The State Board of Education may implement a tuition charge for students attending the Governor's School of North Carolina to cover the costs of the School.

(37) To Adopt Guidelines for Fitness Testing. – The State Board of Education shall adopt guidelines for the development and implementation of

evidence-based fitness testing for students statewide in grades kindergarten through eight.

(38) Repealed by Session Laws 2012-194, s. 55(a), effective July 17, 2012.

(39) Power to Accredit Schools. – Upon the request of a local board of education, the State Board of Education shall evaluate schools in local school administrative units to determine whether the education provided by those schools meets acceptable levels of quality. The State Board shall adopt rigorous and appropriate academic standards for accreditation after consideration of (i) the standards of regional and national accrediting agencies, (ii) the academic standards adopted in accordance with subdivision (9c) of this section, and (iii) other information it deems appropriate.

The local school administrative unit shall compensate the State Board for the actual costs of the accreditation process.

(40) **(For applicability, see editor's note)** To Establish High School Diploma Endorsements. – The State Board of Education shall establish, implement, and determine the impact of adding (i) college, (ii) career, and (iii) college and career endorsements to high school diplomas to encourage students to obtain requisite job skills necessary for students to be successful in a wide range of high-quality careers and to reduce the need for remedial education in institutions of higher education. These endorsements shall reflect courses completed, overall grade point average, reading achievement, and other criteria as developed by the State Board of Education. A student shall only receive a high school diploma endorsement if that student receives on a nationally norm-referenced college admissions test for reading, either administered under G.S. 115C-174.11(c)(4) or as an alternative nationally norm-referenced college admissions test approved by the State Board, at least the benchmark score established by the testing organization that represents the level of achievement required for students to have approximately a fifty percent (50%) chance of obtaining a grade B or higher or a seventy-five percent (75%) chance of obtaining a grade C or higher in a corresponding credit-bearing, first-year college course. A student may retake a nationally norm-referenced test as many times as necessary to achieve the required benchmark score for reading in order to receive a high school diploma endorsement prior to the student's graduation. The State Board of Education shall report annually to the Joint Legislative Education Oversight Committee on (i) the impact of awarding these endorsements on high school graduation, college acceptance and remediation, and post-high school employment rates; (ii) the number of students who had to retake a nationally norm-referenced college admissions test to meet the reading benchmark score required by this subdivision to receive a high school diploma endorsement; and (iii) the

number of students who were not awarded a high school diploma endorsement solely because of the inability to meet the benchmark score for reading as required by this subdivision.

(41) To Establish Career and Technical Education Incentives. – The State Board of Education shall establish, implement, and determine the impact of a career and technical education incentive program as provided under G.S. 115C-156.2.

(42) To notify the General Assembly of federal grant applications. – The State Board of Education shall provide written notification to the General Assembly in accordance with G.S. 120-29.5 and to the Fiscal Research Division of its intent to apply for any federal grant prior to submitting the grant application. The notice shall include details about the grant and a brief summary of any anticipated policy implications of accepting the grant.

(43) To Ensure that Local Boards of Education Implement Injury Prevention and Return-to-Work Programs. – The State Board of Education shall develop policies and procedures to ensure that local boards of education implement and comply with loss prevention and return-to-work programs based on models adopted by the State Board. These models shall be designed to reduce the number of injuries resulting in workers' compensation claims and ensure injured employees with workers' compensation claims return to work in accordance with current State Board of Education policy.

(44) Duty to Ensure Educational Services in Private Psychiatric Residential Treatment Facilities (PRTFs). – The Board, in collaboration with the Department of Health and Human Services, shall ensure that educational services are provided to all students in PRTFs as required under Part 4 of Article 6 of Chapter 122C of the General Statutes. The Board shall ensure that a child with a disability as defined under G.S. 115C-106.3(1) in a PRTF receives educational services and procedural safeguards as provided in Article 9 of this Chapter.

(45) To provide notification of student and parent surveys. – The State Board of Education shall provide written notification to the General Assembly in accordance with G.S. 120-29.5 of its intent to conduct any mandatory student or parent surveys in individual local school administrative units or on a statewide basis, including a copy of the proposed survey. The Department of Public Instruction shall also notify a superintendent of any plan to conduct a student or parent survey in the local school administrative unit. The superintendent shall be given a reasonable amount of time following notification to contact the Department with feedback on the survey prior to the survey being conducted in the local school administrative unit.

(46) **(Effective July 1, 2019)** Duty Regarding Anonymous Safety Tip Line Application. – The State Board of Education shall use the anonymous safety tip line application developed pursuant to G.S. 115C-105.51(b) for all public secondary schools serving students in grades six or higher operated under the control of the State Board of Education. (1955, c. 1372, art. 2, s. 2; art. 17, s. 6; art. 18, s. 2; 1957, c. 541, s. 11; 1959, c. 1294; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 584, s. 20.1; c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 236; c. 476, s. 138; c. 675; 1975, c. 686, s. 1; c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; c. 986; 1981, c. 423, s. 1; 1983, c. 630, s. 1; 1983 (Reg. Sess., 1984), c. 1034, s. 16; 1985, c. 479, s. 55(c)(3); c. 757, s. 145(a); 1985 (Reg. Sess., 1986), c. 975, s. 24; 1987, c. 414, s. 1; 1987 (Reg. Sess., 1988), c. 1025, ss. 1, 3; 1989, c. 585, s. 1; c. 752, s. 65(c); c. 778, s. 6; 1991, c. 529, s. 3; c. 689, s. 196(b); 1991 (Reg. Sess., 1992), c. 880, s. 3; c. 900, s. 75.1(e); 1993, c. 321, ss. 125, 133(a), 139(b); 1993 (Reg. Sess., 1994), c. 769, ss. 19(a), 19.9; 1995, c. 60, s. 1; c. 324, s. 17.15(a); c. 450, s. 4; c. 509, s. 59; 1995 (Reg. Sess., 1996), c. 716, s. 1; 1996, 2nd Ex. Sess., c. 18, ss. 18.4, 18.28(a); 1997-18, s. 15(a), (c)-(e); 1997-221, s. 12(a); 1997-239, s. 1; 1997-443, s. 8.27(a), (e); 1997-443, s. 8.29(o), (u); 1997-507, s. 3; 1998-153, s. 16(b); 1998-212, ss. 9.16(a), 9.23; 1999-237, s. 8.25(d); 1999-243, s. 5; 1999-397, s. 3; 2001-86, s. 1; 2001-151, s. 1; 2001-424, ss. 28.30(e), (f), 31.4(a); 2002-103, s. 1; 2002-126, s. 7.15; 2002-159, s. 63; 2002-178, s. 1(a); 2003-251, s. 1; 2003-419, s. 1; 2005-155, s. 1; 2005-276, ss. 7.18, 9.34(a); 2005-446, s. 1; 2005-458, ss. 1, 2; 2006-75, s. 1; 2006-143, s. 1; 2006-203, s. 30; 2006-260, s. 1; 2009-305, s. 4; 2009-334, s. 1; 2009-451, s. 7.39(a); 2010-31, s. 7.5(c), (g); 2010-111, s. 1; 2010-112, s. 4(a); 2010-161, s. 1; 2011-145, ss. 7.9, 7.13(a); 2011-147, s. 3; 2011-185, s. 9(b); 2011-282, s. 4; 2011-306, s. 3; 2011-379, ss. 2(a), (b), 6(a); 2011-391, s. 14(b); 2012-142, ss. 7.13(d), (f), 7A.3(a); 2012-194, s. 55(a); 2013-1, s. 1(a); 2013-226, s. 9(e), (f); 2013-360, ss. 8.27(a), 8.28(a), 9.4(c), (d); 2013-382, s. 9.1(c); 2014-15, s. 1; 2014-78, s. 4; 2014-100, ss. 8.9, 8.26, 8.39(b); 2015-126, s. 1; 2015-241, ss. 8.25(a), (b); 2015-264, s. 82; 2016-94, s. 8.32(a); 2016-126, 4th Ex. Sess., s. 2; 2017-57, ss. 7.26(a), 7.26B(a); 2017-65, s. 2; 2017-102, s. 48(a); 2017-126, ss. 9-11; 2017-189, s. 5(a); 2017-197, s. 2.18(a); 2018-5, s. 7.26(b).)

§ 115C-12.1. Training of State Board members.

The State Board of Education shall establish minimum training requirements for members of the State Board of Education. All Board members shall participate in training programs, as required by the State Board. (1991, c. 689, s. 200(c).)

§ 115C-12.2. Voluntary shared leave.

(a) The State Board of Education, in cooperation with the State Board of Community Colleges and the State Human Resources Commission, shall adopt rules and policies to allow any employee at a public school to share leave voluntarily with an immediate family member who is an employee of a public school, community college, or State agency; and with a coworker's immediate family member who is an employee of a public school, community college, or State agency. For the purposes of this section, the term "immediate family member" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. The term "coworker" means that the employee donating the leave is employed by the same agency, department, institution, university, local school administrative unit, or community college as the employee whose immediate family member is receiving the leave.

(b) The State Board of Education shall adopt rules and policies for the voluntary shared leave program to allow an employee at a public school to donate sick leave to a nonfamily member employee of a public school. A donor of sick leave to a nonfamily member recipient shall not donate more than five days of sick leave per year to any one nonfamily member recipient. The combined total of sick leave donated to a recipient from nonfamily member donors shall not exceed 20 days per year. Donated sick leave shall not be used for retirement purposes, and employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave. (1999-170, s. 2; 2003-9, s. 2; 2003-284, s. 30.14A(b); 2010-139, s. 2; 2013-382, s. 9.1(c).)

§ 115C-13. Duty to maintain confidentiality of certain records.

Except as otherwise provided by federal law, local boards of education and their officers and employees shall provide to the State Board and to the Superintendent all information needed to carry out their duties. It is unlawful for any member of the State Board of Education, the Superintendent of Public Instruction, or any employee or officer of the State Board of Education or the Department of Public Instruction to disclose any of this information that the local board or its officers or employees could not lawfully disclose. This disclosure is a Class 1 misdemeanor. (1985, c. 757, s. 145(j); 1993, c. 539, s. 880; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 115C-13.5. Prohibition on use of State funds to employ private counsel in litigation.

As provided in G.S. 114-2.3(d) and G.S. 147-17(c1), the State Board of Education shall not use any State funds to employ private counsel to provide litigation services to the State Board of Education. As used in this section, litigation services include legal work conducted in anticipation of or in preparation for any suit or action. As used in this section, private counsel includes any licensed attorney retained, engaged, or otherwise representing the State Board of Education but does not include a licensed attorney who holds a permanent budgeted position in either the Department of Justice or the State Board of Education. (2017-57, s. 7.18(a).)

§ 115C-14. Repealed by Session Laws 1987, c. 414, s. 11.

§ 115C-15: Repealed by Session Laws 1997-18, s. 1.

§ 115C-16. Authorization for school uniform pilot program.

The State Board of Education may authorize up to five local school administrative units to implement pilot programs in which students are required to wear uniforms in public schools.

Prior to selecting the pilot units, the State Board of Education shall develop guidelines for local boards of education to use when establishing requirements for students to wear uniforms in public schools. In developing these guidelines, the State Board shall consider (i) ways to promote parental and community involvement in the pilot programs, (ii) relevant State and federal constitutional concerns such as freedom of religion and freedom of speech, and (iii) the ability of students to purchase the uniforms.

Local boards in the pilot units shall establish requirements, consistent with the State Board's guidelines, for students enrolled in any of their schools to wear uniforms at school during the regular school day.

No State funds shall be used for the uniforms. (1995, c. 334, s. 1.)

§ 115C-17: Repealed by Session Laws 2015-65, s. 1.1, effective June 11, 2015.

Article 3.

Department of Public Instruction.

§ 115C-18. Election of Superintendent of Public Instruction.

The Superintendent of Public Instruction shall be elected by the qualified voters of the State in 1972 and every four years thereafter at the same time and places as members of the General Assembly are elected. His term of office shall be four years and shall commence on the first day of January next after election and continue until his successor is elected and qualified.

If the office of the Superintendent of Public Instruction is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in Article III, Sec. 7 of the Constitution of North Carolina. When a vacancy occurs in the office and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office. Upon the occurrence of a vacancy in the office for any of the causes stated herein, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to Article III, Sec. 7 of the Constitution of North Carolina to fill the vacancy and is qualified.

The time of the election of the Superintendent of Public Instruction shall be in accordance with the provisions of Part 1 of Article 15 of Chapter 163A of the General Statutes.

The election, term and induction into office of the Superintendent of Public Instruction shall be in accordance with the provisions of G.S. 147-4. (1981, c. 423, s. 1; 2017-6, s. 3.)

§ 115C-19. Chief administrative officer of the State Board of Education.

As provided in Article IX, Sec. 4(2) of the North Carolina Constitution, the Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education. As provided in Sections 7 and 8 of Article III of the North Carolina Constitution, the Superintendent of Public Instruction shall be an elected officer and Council of State member and shall carry out the duties prescribed under G.S. 115C-21 as the administrative head of the Department of Public Instruction. The Superintendent of Public Instruction shall administer all needed rules and regulations adopted by the State Board of Education through the Department of Public Instruction. (1955, c. 1372, art. 3, s. 1; 1971, c. 704, s. 5; 1981, c. 423, s. 1; 1987 (Reg. Sess., 1988), c. 1025, s. 4; 1995, c. 72, s. 1; 2016-126, 4th Ex. Sess., s. 3.)

§ 115C-20. Office and salary.

The Superintendent of Public Instruction shall keep his office in the Education Building in Raleigh, and his salary shall be set by the General Assembly in the Current Operations Appropriations Act. In addition to the salary set by the General Assembly in the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as is provided to employees of the State who are subject to the North Carolina Human Resources Act. (1955, c. 1372, art. 3, s. 2; c. 1374; 1963, c. 1178, s. 2; 1967, c. 1130; c. 1237, s. 2; 1969, c. 1214, s. 2; 1971, c. 912, s. 2; 1973, c. 778, s. 2; 1975, 2nd Sess., c. 983, s. 17; 1977, c. 802, s. 42.15; 1981, c. 423, s. 1; 1983, c. 761, s. 210; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1987, c. 738, s. 32(b); 2013-382, s. 9.1(c).)

§ 115C-21. Powers and duties generally.

(a) Administrative Duties. – It shall be the duty of the Superintendent of Public Instruction:

(1) To organize and establish a Department of Public Instruction which shall include divisions and departments for supervision and administration of the public school system, to administer the funds appropriated for the operation of the Department of Public Instruction, in accordance with all needed rules and regulations adopted by the State Board of Education, and to enter into contracts for the operations of the Department of Public Instruction. All appointments of administrative and supervisory personnel to the staff of the Department of Public Instruction and the State Board of Education, except for certain personnel appointed by the State Board of Education as provided in G.S. 115C-11(j), shall be under the control and management of the Superintendent of Public Instruction who may terminate these appointments in conformity with Chapter 126 of the General Statutes, the North Carolina Human Resources Act.

(2) To keep the public informed as to the problems and needs of the public schools by constant contact with all school administrators and teachers, by personal appearance at public gatherings, and by information furnished to the press of the State.

(3) To report biennially to the Governor 30 days prior to each regular session of the General Assembly, such report to include information and statistics of the public schools, with recommendations for their improvement and for changes in the school law.

(4) To have printed and distributed such educational bulletins as are necessary for the professional improvement of teachers and for the cultivation of public sentiment for public education, and to have printed all forms necessary and proper for the administration of the Department of Public Instruction.

(5) To have under his or her direction and control, all matters relating to the direct supervision and administration of the public school system.

(6) To create and administer special funds within the Department of Public Instruction to manage funds received as grants from nongovernmental sources in support of public education in accordance with G.S. 115C-410.

(7) Repealed by Session Laws 1995, c. 72, s. 2.

(8) To administer, through the Department of Public Instruction, all needed rules and regulations established by the State Board of Education.

(9) To have under his or her direction and control all matters relating to the provision of staff services, except certain personnel appointed by the State Board as provided in G.S. 115C-11(j), and support of the State Board of Education, including implementation of federal programs on behalf of the State Board.

(b) Duties as Secretary to the State Board of Education. – As secretary to the State Board of Education, it shall be the duty of the Superintendent of Public Instruction:

(1) Repealed by Session Laws 2016-126, 4th Ex. Sess., s. 4, effective January 1, 2017.

(1a) Repealed by Session Laws 1995, c. 72, s. 2.

(1b) To administer funds appropriated for the operations of the State Board of Education and for aid to local school administrative units.

(2) To keep the Board informed regarding developments in the field of public education.

(3) To make recommendations to the Board with regard to the problems and needs of education in North Carolina.

(4) To make available to the public schools a continuous program of comprehensive supervisory services.

(5) To collect and organize information regarding the public schools, on the basis of which he or she shall furnish the Board such tabulations and reports as may be required by the Board.

(6) To communicate to the public school administrators all information and instructions regarding needed rules and regulations adopted by the Board.

(7) To have custody of the official seal of the Board and to attest all deeds, leases, or written contracts executed in the name of the Board. All deeds of conveyance, leases, and contracts affecting real estate, title to which is

held by the Board, and all contracts of the Board required to be in writing and under seal, shall be executed in the name of the Board by the chairman and attested by the secretary; and proof of the execution, if required or desired, may be had as provided by law for the proof of corporate instruments.

(8) To attend all meetings of the Board and to keep the minutes of the proceedings of the Board in a well-bound and suitable book, which minutes shall be approved by the Board prior to its adjournment; and, as soon thereafter as possible, to furnish to each member of the Board a copy of said minutes.

(9) To perform such other duties as may be necessary and appropriate for the Superintendent of Public Instruction in the role as secretary to the Board. (1955, c. 1372, art. 2, s. 2; art. 3, ss. 3, 4; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 476, s. 138; c. 675; 1975, c. 699, ss. 2, 3; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1; 1985, c. 479, s. 37; 1987 (Reg. Sess., 1988), c. 1025, ss. 5-8; 1989, c. 752, s. 78(a); 1989 (Reg. Sess., 1990), c. 1066, s. 102; 1991 (Reg. Sess., 1992), c. 812, s. 6(g); c. 1044, s. 22(a); 1993, c. 522, s. 1; 1995, c. 72, s. 2; 2014-115, s. 55.4(b); 2016-126, 4th Ex. Sess., s. 4.)

§ 115C-21.1: Repealed by Session Laws 1997-18, s. 2.

§ 115C-22: Repealed by Session Laws 1997-18, s. 3.

§ 115C-23. Reserved for future codification purposes.

§ 115C-24. Reserved for future codification purposes.

§ 115C-25. Reserved for future codification purposes.

§ 115C-26. Reserved for future codification purposes.

Article 4.

Office of the Controller.

§§ 115C-27 through 115C-34: Repealed by Session Laws 1987 (Regular Session, 1988), c. 1025, s. 2.)

Article 5.

Local Boards of Education.

§ 115C-35. How constituted.

(a) The county board of education in each county shall consist of five members elected by the voters of the county at large for terms of four years: Provided, that where there are multiple local school administrative units located within the county, and unless the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, only those voters who reside within the county school administrative unit boundary lines shall be eligible to vote for members of the county board of education. Where the county board is responsible for appointing members of the board of education of a city administrative unit located within the county, the voters residing within that city school administrative unit shall be eligible to vote for members of the county board of education.

The terms of office of the members of boards of education of all school administrative units in this State, who serve on June 25, 1975, shall continue until members are elected and qualified as provided in this section unless modified by local legislation.

(b) No person residing in a local school administrative unit shall be eligible for election to the board of education of that local school administrative unit unless such person resides within the boundary lines of that local school administrative unit. (1955, c. 1372, art. 5, s. 1; 1967, c. 972, s. 1; 1969, c. 1301, s. 2; 1975, c. 855, ss. 1-3; 1981, c. 423, s. 1.)

§ 115C-36. Designation of board.

All powers and duties conferred and imposed by law respecting public schools, which are not expressly conferred and imposed upon some other official, are conferred and imposed upon local boards of education. Said boards of education shall have general control and supervision of all matters pertaining to the public schools in their respective administrative units and they shall enforce the school law in their respective units. (1955, c. 1372, art. 5, s. 18; 1957, c. 262; 1963, c. 425; 1965, c. 1185, s. 1; 1969, c. 517, s. 2; 1981, c. 423, s. 1.)

§ 115C-37. Election of board members.

(a) Method of Election. – The county boards of education shall be elected on a nonpartisan basis at the time of the primary election in 1970 and biennially thereafter. The names of the candidates shall be printed on the ballots without reference to any party affiliation and any qualified voter residing in the county shall be entitled to vote such ballots. Except as otherwise provided herein, the election shall be conducted according to the provisions of Subchapter III of Chapter 163A of the General Statutes then governing primary elections.

The terms of office of the members shall be staggered so as nearly equal to one half as possible shall expire every two years.

(b) County Board of Elections to Provide for Elections. – The county board of elections under the direction of the Bipartisan State Board of Elections and Ethics Enforcement, shall make all necessary provisions for elections of county boards of education as are herein provided for. The county board of elections of each county shall file with the Bipartisan State Board of Elections and Ethics Enforcement a statement specifying the size and method of election of members of its county board of education.

(c) City Board of Education. – The board of education for any city administrative unit shall be appointed or elected as now provided by law. If no provision is now made by the law for the filling of vacancies in the membership of any city board of education, such vacancy may be filled by the governing body of the city or town embraced by said

administrative unit. In the event that any such vacancy is not filled in this manner within 30 days, the State Board of Education may fill such vacancy.

(d) Members to Qualify. – Each county board of education shall hold a meeting in December following the election. At that meeting, newly elected members of the board of education shall qualify by taking the oath of office prescribed in Article VI, Sec. 7 of the Constitution.

This subsection shall not have the effect of repealing any local or special acts relating to boards of education of any particular counties whose membership to said boards is chosen by a vote of the people.

(e) Vacancies in Nominations for Membership on County Boards. – If any candidate nominated on a partisan basis shall die, resign, or for any reason become ineligible or disqualified between the date of his nomination and the time for the election, such vacancy caused thereby may be filled by the actions of the county executive committee of the political party of such candidate.

(f) Vacancies in Office. – All vacancies in the membership of the boards of education whose members are elected pursuant to the provisions of subsection (a) of this section by death, resignation, or other causes shall be filled by appointment by the remaining members of the board, of a person to serve until the next election of members of such board, at which time the remaining unexpired term of the office in which the vacancy occurs shall be filled by election.

(g) Eligibility for Board Membership; Holding Other Offices. – Any person possessing the qualifications for election to public office set forth in Article VI, Sec. 6 of the Constitution of North Carolina shall be eligible to serve as a member of a local board of education: Provided, however, that any person elected or appointed to a local board of education, and also employed by that board of education, shall resign his employment before taking office as a member of that board of education.

Membership on a board of education is hereby declared to be an office that, with the exceptions provided above, may be held concurrently with any appointive office, pursuant to Article VI, Sec. 9 of the Constitution, but any person holding an elective office shall not be eligible to serve as a member of a local board of education.

(h) Death or Disqualification of Candidate in Nonpartisan Election. – If a candidate dies or becomes disqualified after the filing period has closed and before the election, and the ballots have not been printed, the county board of elections shall immediately reopen the filing period for five days so that additional candidates may file for election. If the ballots have been printed at the time the board of elections receives notice of the death or disqualification, the board shall reopen the filing period for three days if the board determines it will have time to reprint the ballots before the election.

In the event the board of elections determines that there is not time enough to reopen the filing period for three days and to reprint the ballots, then the ballots shall not be reprinted and the name of the deceased or disqualified candidate shall remain on the ballot. Votes cast for such candidate shall not be considered and the candidates receiving the highest number of votes equal to the number of positions to be filled shall be elected.

(i) The local board of education shall revise electoral district boundaries from time to time as provided by this subsection. If district boundaries are set by local act or court order and the act or order does not provide a method for revising them, the local board of education shall revise them only for the purpose of (i) accounting for territory annexed to or excluded from the school administrative unit, and (ii) correcting population imbalances among the districts shown by a new federal census or caused by exclusions or annexations. After the General Assembly has ratified an act establishing district boundaries, the local board of education shall not revise them again until a new federal census of population is taken or territory is annexed to or excluded from the school administrative unit, whichever event first occurs. After the local board of education has revised district boundaries in conformity with this act, the local board of education shall not revise them again until a new federal census of population is taken or territory is annexed to or excluded from the school administrative unit, whichever event occurs first, except that the board may make an earlier revision of district boundaries it has drawn if it must do so to comply with a court order or to gain approval of a district-revision plan by the U.S. Justice Department under Section 5 of the Voting Rights Act. In establishing district boundaries, the local board of education shall use data derived from the most recent federal census. (1955, c. 1372, art. 5, ss. 2-8; 1967, c. 972, ss. 2-6; 1969, c. 1301, s. 2; 1971, c. 704, s. 6; 1973, c. 1446, s. 1; 1977, c. 662; 1981, c. 423, s. 1; 1985, c. 404; c. 405, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 975, s. 10; 1991, c. 400, s. 1; 2017-6, s. 3.)

§ 115C-37.1. Vacancies in offices of county boards elected on partisan basis in certain counties.

(a) All vacancies in the membership of county boards of education which are elected by public or local act on a partisan basis shall be filled by appointment of the person, board, or commission specified in the act, except that if the act specifies that appointment shall be made by a party executive committee, then the appointment shall be made instead by the remaining members of the board.

(b) If the vacating member was elected as the nominee of a political party, then the person, board, or commission required to fill the vacancy shall consult with the county executive committee of that party and appoint the person recommended by that party executive committee, if the party executive committee makes a recommendation within 30 days of the occurrence of the vacancy.

(c) Whenever only the qualified voters of less than the entire county were eligible to vote for the member whose seat is vacant (either because the county administrative unit was less than countywide or only residents of certain areas of the administrative unit could vote in the general election for a district seat), the appointing authority must accept the recommendation only if the county executive committee restricted voting to committee members who represent precincts all or part of which were within the territory of the vacating school board member.

(d) **(Effective until December 3, 2018)** This section shall apply only in the following counties: Alleghany, Brunswick, Cherokee, Clay, Cleveland, Davie, Graham, Guilford, Harnett, Iredell, Lee, New Hanover, Rutherford, Stanly, Vance, and Washington.

(d) **(Effective December 3, 2018)** This section shall apply only in the following counties: Alleghany, Beaufort, Brunswick, Carteret, Cherokee, Clay, Cleveland, Dare, Davie, Graham, Guilford, Harnett, Hyde, Iredell, Lee, Madison, New Hanover, Onslow, Pender, Rutherford, Stanly, Vance, Washington, and Yancey. (1981, c. 763, ss. 4, 14; c. 830; 1983, c. 493, s. 1; 1987 (Reg. Sess., 1988), c. 974, s. 5; 1989, c. 497, s. 3; 2009-277, ss. 1, 2; 2013-220, s. 2; 2013-361, s. 2; 2014-6, s. 5(b); 2015-35, s. 4(a); 2015-242, s. 2; 2017-78, ss. 12(a), (b).)

§ 115C-38. Compensation of board members.

The tax-levying authority for a local school administrative unit may, under the procedures of G.S. 153A-92, fix the compensation and expense allowances paid members of the board of education of that local school administrative unit.

Funds for the per diem, subsistence, and mileage for all meetings of county and city boards of education shall be provided from the current expense fund budget of the particular county or city.

The compensation and expense allowances of members of boards of education shall continue at the same levels as paid on July 1, 1975, until changed by or pursuant to local act or pursuant to this section. (1955, c. 1372, art. 5, s. 12; 1975, c. 569, ss. 1-3; 1977, c. 802, s. 39.5; 1981, c. 423, s. 1.)

§ 115C-39. Suspension of duties by State Board.

(a) Repealed by Session Laws 2007-498, s. 1, effective August 30, 2007.

(b) In the event the State Board of Education has appointed an interim superintendent under G.S. 115C-105.39 and the State Board determines that the local board of education has failed to cooperate with the interim superintendent, the State Board shall have the authority to suspend any of the powers and duties of the local board and to act on its behalf under G.S. 115C-105.39. (1955, c. 1372, art. 5, s. 13; 1981, c. 423, s. 1; 1995 (Reg. Sess., 1996), c. 716, s. 5; 2007-498, s. 1.)

§ 115C-40. Board a body corporate.

The board of education of each county in the State shall be a body corporate by the name and style of "The _____ County Board of Education," and the board of education of each city administrative school unit in the State shall be a body corporate by the name and style of "The _____ City Board of Education." The several boards of education, both county and city, shall hold all school property and be capable of purchasing and holding real and personal property, of building and repairing schoolhouses, of selling and transferring the same for school purposes, and of prosecuting and defending suits for or against the corporation.

Local boards of education, subject to any paramount powers vested by law in the State Board of Education or any other authorized agency shall have general control and supervision of all matters pertaining to the public schools in their respective local school administrative units; they shall execute the school laws in their units; and shall have authority to make agreements with other boards of education to transfer pupils from one local school administrative unit to another unit when the administration of the schools can be thereby more efficiently and more economically accomplished. (1955, c. 1372, art. 5, s. 10; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 24.)

§ 115C-41. Organization of board.

(a) Unless otherwise provided by local law, all local boards of education shall have an organizational meeting no later than 60 days after the swearing in of members following election or appointment and as often thereafter as the board shall determine appropriate. The board may fix the date and time of its organizational meeting. At the organizational meeting the members of all boards shall elect one of their members as chairman for a period of one year, or until his successor is elected and qualified. The chairman of the local board of education shall preside at the meetings of the board, and in the event of his absence or sickness, the board may appoint one of its members temporary chairman. The superintendent of schools, whether a county or city superintendent, shall be ex officio secretary to his respective board. He shall keep the minutes of the meetings of the board but shall have no vote: Provided, that in the event of a vacancy in the superintendency, the board may elect one of its members to serve temporarily as secretary to the board.

(b) All local boards of education shall meet on the first Monday in January, April, July, and October of each year, or as soon thereafter as practicable. A board may elect to hold regular monthly meetings, and to meet in special session upon the call of the chairman or of the secretary as often as the school business of the local school administrative unit may require. (1955, c. 1372, art. 5, ss. 9, 11; 1981, c. 423, s. 1; 1983, c. 408.)

§ 115C-42. Liability insurance and immunity.

Any local board of education, by securing liability insurance as hereinafter provided, is hereby authorized and empowered to waive its governmental immunity from liability for damage by reason of death or injury to person or property caused by the negligence or tort of any agent or employee of such board of education when acting within the scope of his authority or within the course of his employment. Such immunity shall be deemed to have been waived by the act of obtaining such insurance, but such immunity is waived only to the extent that said board of education is indemnified by insurance for such negligence or tort.

Any contract of insurance purchased pursuant to this section shall be issued by a company or corporation duly licensed and authorized to execute insurance contracts in this State or by a qualified insurer as determined by the Department of Insurance and shall by its terms adequately insure the local board of education against liability for damages by reason of death or injury to person or property proximately caused by the negligent act or torts of the agents and employees of said board of education or the agents and employees of a particular school in a local administrative unit when acting within the scope of their authority. The local board of education shall determine what liabilities and what officers, agents and employees shall be covered by any insurance purchased pursuant to this section. Any company or corporation which enters into a contract of insurance as above described with a local board of education, by such act waives any defense based upon the governmental immunity of such local board of education.

Every local board of education in this State is authorized and empowered to pay as a necessary expense the lawful premiums for such insurance.

Any person sustaining damages, or in case of death, his personal representative may sue a local board of education insured under this section for the recovery of such damages in any court of competent jurisdiction in this State, but only in the county of such board of education; and it shall be no defense to any such action that the negligence or tort complained of was in pursuance of governmental, municipal or discretionary function of such local board of education if, and to the extent, such local board of education has insurance coverage as provided by this section.

Except as hereinbefore expressly provided, nothing in this section shall be construed to deprive any local board of education of any defense whatsoever to any such action for damages or to

restrict, limit, or otherwise affect any such defense which said board of education may have at common law or by virtue of any statute; and nothing in this section shall be construed to relieve any person sustaining damages or any personal representative of any decedent from any duty to give notice of such claim to said local board of education or to commence any civil action for the recovery of damages within the applicable period of time prescribed or limited by statute.

A local board of education may incur liability pursuant to this section only with respect to a claim arising after such board of education has procured liability insurance pursuant to this section and during the time when such insurance is in force.

No part of the pleadings which relate to or allege facts as to a defendant's insurance against liability shall be read or mentioned in the presence of the trial jury in any action brought pursuant to this section. Such liability shall not attach unless the plaintiff shall waive the right to have all issues of law or fact relating to insurance in such an action determined by a jury and such issues shall be heard and determined by the judge without resort to a jury and the jury shall be absent during any motions, arguments, testimony or announcement of findings of fact or conclusions of law with respect thereto unless the defendant shall request a jury trial thereon: Provided, that this section shall not apply to claims for damages caused by the negligent acts or torts of public school bus, or school transportation service vehicle drivers, while driving school buses and school transportation service vehicles when the operation of such school buses and service vehicles is paid from the State Public School Fund. (1955, c. 1256; 1957, c. 685; 1959, c. 573, s. 2; 1961, c. 1102, s. 4; 1977, 2nd Sess., c. 1280, s. 3; 1981, c. 423, s. 1; 1985, c. 527.)

§ 115C-43. Defense of board of education members and employees.

(a) Upon request made by or in behalf of any member or employee or former member or employee, any local board of education may provide for the defense of any civil or criminal action or proceeding brought against him either in his official or in his individual capacity, or both, on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his duty as a member of or employee of the local board of education. The defense may be provided by the local board of education by its own counsel, or by employing other counsel, or by purchasing insurance which requires that the insurer provide the defense. Nothing in this section shall be deemed to require any local board of education to provide for the defense of any action or proceeding of any nature.

(b) Any local board of education may budget funds for the purpose of paying all or part of a claim made or any civil judgment entered against any of its members or employees or former members and employees, when such claim is made or such judgment is rendered as damages on account of any act done or omission made, or any act allegedly done or omission allegedly made, in the scope and course of his duty as a member of the local board of education or as an employee. Nothing in this section shall authorize any local board of education to budget funds for the purpose of paying any claim made or civil judgment entered against any of its members or employees or former members and employees if the local board of education finds that such member or employee acted or failed to act because of actual fraud, corruption or actual malice on his part. Any local board of education may budget for and purchase insurance coverage for payment of claims or judgments pursuant to this section. Nothing in this section shall be deemed to require any local board of education to pay any claim or judgment referred to herein, and the purchase of insurance coverage for payment of any such claim or judgment shall not be deemed an assumption of any liability not covered by such insurance contract, and shall not be deemed an assumption of

liability for payment of any claim or judgment in excess of the limits of coverage in such insurance contract.

(c) Subsection (b) of this section shall not authorize any local board of education to pay all or part of a claim made or civil judgment entered or to provide a defense to a criminal charge unless (i) notice of the claim or litigation is given to the local board of education prior to the time that the claim is settled or civil judgment is entered and (ii) the local board of education shall have adopted, and made available for public inspection, uniform standards under which claims made, civil judgments entered, or criminal charges against members or employees or former members and employees shall be defended or paid. (1979, c. 1074, s. 1; 1981, c. 423, s. 1.)

§ 115C-44. Suits and actions.

(a) A local board of education shall institute all actions, suits, or proceedings against officers, persons, or corporations, or their sureties, for the recovery, preservation, and application of all money or property which may be due to or should be applied to the support and maintenance of the schools, except in case of the breach of his bond by the treasurer of the county school fund, in which case action shall be brought by the board of county commissioners.

(b) In all actions brought in any court against a local board of education, the order or action of the board shall be presumed to be correct and the burden of proof shall be on the complaining party to show the contrary. (1955, c. 1372, art. 5, s. 14; 1981, c. 423, s. 1.)

§ 115C-45. Judicial functions of board.

(a) Power to Subpoena and to Punish for Contempt. – Local boards of education shall have power to issue subpoenas for the attendance of witnesses. Subpoenas for the attendance of witnesses may be issued in any and all matters which may lawfully come within the powers of the board and which, in the discretion of the board, require investigation. Local boards of education may request the chief district court judge or the judge's designee to grant approval for the local board of education to issue a subpoena for the production of all tangible things in matters where an employee is suspected of committing job-related misconduct and which, in the discretion of the board, require investigation. Subpoenas for the production of tangible things may include, but are not limited to, documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic communications, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics. In making the determination to approve the subpoena, the judge shall consider the following: (i) whether the subpoena allows reasonable time for compliance; (ii) if the subpoena requires disclosure of privileged or other protected matter and if any exception or waiver applies to the privilege or protection; (iii) whether the individual would be subject to undue burdens or expenses; and (iv) whether the subpoena is otherwise unreasonable or oppressive.

It shall be the duty of the sheriff or any process serving officer to serve any such subpoenas upon payment of their lawful fees.

Local boards of education shall have power to punish for contempt for any disorderly conduct or disturbance tending to disrupt them in the transaction of official business.

(b) Witness Failing to Appear; Misdemeanor. – Any witness who shall wilfully and without legal excuse fail to appear before a local board of education to testify in any manner under investigation by the board shall be guilty of a Class 3 misdemeanor.

(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the local board of education from any final administrative decision in the following matters:

(1) The discipline of a student under G.S. 115C-390.7, 115C-390.10, or 115C-390.11;
(2) An alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board policy, including policies regarding grade retention of students;
(3) The terms or conditions of employment or employment status of a school employee; and
(4) Any other decision that by statute specifically provides for a right of appeal to the local board of education and for which there is no other statutory appeal procedure.

As used in this subsection, the term "final administrative decision" means a decision of a school employee from which no further appeal to a school administrator is available.

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

In all appeals to the board it is the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal of right brought before a local board of education under subdivision (1), (2), or (4) of this subsection may be further appealed to the superior court of the State on the grounds that the local board's decision is in violation of constitutional provisions, is in excess of the statutory authority or jurisdiction of the board, is made upon unlawful procedure, is affected by other error of law, is unsupported by substantial evidence in view of the entire record as submitted, or is arbitrary or capricious. (1955, c. 1372, art. 5, ss. 15-17; 1971, c. 647; 1981, c. 423, s. 1; 1993, c. 539, s. 881; 1994, Ex. Sess., c. 24, s. 14(c); 2001-260, s. 1; 2001-500, s. 6; 2011-282, s. 5; 2013-360, s. 9.6(c); 2014-115, s. 65; 2016-116, s. 2.)

§ 115C-46. Powers of local boards to regulate parking of motor vehicles.

(a) Any local board of education may adopt reasonable rules and regulations with respect to the parking of motor vehicles and other modes of conveyance on public school grounds and may enforce such rules and regulations. A violation of a rule or regulation concerning parking on

public school grounds is an infraction punishable by a penalty of not more than ten dollars ($10.00) unless the regulation provides that the violation is not punishable as an infraction. Rules and regulations adopted hereunder shall be made available for inspection by any person upon request.

(b) Any local board of education may adopt written guidelines governing the individual assignment of parking spaces on school grounds. Such guidelines shall give first priority treatment to the physically handicapped.

(c) Any local board of education, by rules and regulations adopted hereunder, may provide for the registration of motor vehicles and other modes of conveyance maintained, operated or parked on school grounds. Any local board of education, by rules and regulations adopted hereunder, may provide for the issuance of stickers, decals, permits or other indicia representing the registration status of vehicles or the eligibility of vehicles to park on school grounds and may prohibit the forgery, counterfeiting, unauthorized transfer or unauthorized use of them.

(d) Any motor vehicle parked in a parking lot on school grounds, when such lot is clearly designated as such by a sign no smaller than 24 inches by 24 inches prominently displayed at each entrance thereto, in violation of the rules and regulations adopted by the local board of education, or any motor vehicle otherwise parked on school grounds in violation of the rules and regulations adopted by the county or city local board of education, may be removed from school grounds to a place of storage and the registered owner of that vehicle shall become liable for removal and storage charges. Any person who removes a vehicle pursuant to this section shall not be held liable for damages for the removal of the vehicle to the owner, lienholder or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages. (1979, c. 821; 1981, c. 423, s. 1; 1981 (Reg. Sess., 1982), c. 1239, s. 2; 1983, c. 420, s. 3; 1985, c. 764, s. 37; 1989, c. 644, s. 4.)

§ 115C-46.1. Limitation on the use of public funds.

A local board of education shall not use public funds to endorse or oppose a referendum, election or a particular candidate for elective office. (2010-114, s. 1.5(c).)

§ 115C-46.2. Probation officer visits at school; limitations.

(a) Except as provided in this section, probation officers are not authorized to visit students during school hours on school property.

(b) Probation officers of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice, when working as a part of the Section's School Partnership Program, may visit students during school hours on school property with prior authorization by school administrators. For purposes of this section, "authorization" includes requests for assistance from guidance counselors or school resource officers.

(c) Each local board of education shall develop policies and guidelines for coordinating with probation officers of the Section of Community Corrections of the Division of Adult Correction and Juvenile Justice in the planning and scheduling of school visits as provided in this section, utilizing existing administrative capacity to manage scheduling. Visits shall be conducted in a private area designated for such use and located away from contact with the general student population. The probation officer shall not initiate direct contact with a student while the student is in class or between classes. Initial

contact with the student shall be made by a school administrator or other designated school employee, who shall direct the student to a private area to meet with the probation officer. (2011-145, s. 19.1(k); 2012-149, s. 6; 2017-186, s. 2(xxxx).)

§ 115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

(1) To Provide the Opportunity to Receive a Sound Basic Education. – It shall be the duty of local boards of education to provide students with the opportunity to receive a sound basic education and to make all policy decisions with that objective in mind, including employment decisions, budget development, and other administrative actions, within their respective local school administrative units, as directed by law.

(1a) a. To Establish and Maintain Kindergartens. Local boards of education shall provide for their respective local school administrative unit kindergartens as a part of the public school system for all children living in the local school administrative unit who are eligible for admission pursuant to sub-subdivision c. of this subdivision provided that funds are available from State, local, federal, or other sources to operate a kindergarten program as provided in this subdivision.

b. All kindergarten programs so established shall be subject to the supervision of the Department of Public Instruction and shall be operated in accordance with the standards adopted by the State Board of Education, upon recommendation of the Superintendent of Public Instruction. Among the standards to be adopted by the State Board of Education shall be a provision that the Board will allocate funds for the purpose of operating and administering kindergartens to each school administrative unit in the State based on the average daily membership for the best continuous three out of the first four school months of pupils in the kindergarten program during the last school year in that respective school administrative unit. Such allocations are to be made from funds appropriated to the State Board of Education for the kindergarten program.

c. Any child who meets the requirements of G.S. 115C-364 shall be eligible for enrollment in kindergarten. Any child who is enrolled in kindergarten and not withdrawn by the child's parent or legal guardian shall attend kindergarten.

d. Notwithstanding any other provision of law to the contrary, subject to the approval of the State Board of Education, any local board of education may elect not to establish and maintain a kindergarten program. Any funds allocated to a local board of education which does not operate a kindergarten program may be reallocated by the State Board of Education, within the discretion of the Board, to a county or city board of education which will operate such a program.

(2) To Exercise Certain Judicial Functions and to Participate in Certain Suits and Actions. – Local boards of education shall have the power and authority to exercise certain judicial functions pursuant to the provisions of G.S. 115C-45 and to participate in certain suits and actions pursuant to the provisions of G.S. 115C-44.

(3) To Divide Local School Administrative Units into Attendance Areas. – Local boards of education shall have authority to divide their various units into attendance areas without regard to district lines.

(4) To Regulate Extracurricular Activities. – Local boards of education shall make all rules and regulations necessary for the conducting of extracurricular activities in the schools under their supervision, including a program of athletics, where desired, without assuming liability therefor; provided, that all interscholastic athletic activities shall be conducted in accordance with rules and regulations prescribed by the State Board of Education.

(5) To Fix Time of Opening and Closing Schools. – The time of opening and closing the public schools shall be fixed under G.S. 115C-84.2.

(6) To Regulate Fees, Charges and Solicitations. – Local boards of education shall adopt rules and regulations governing solicitations of, sales to, and fund-raising activities conducted by, the students and faculty members in schools under their jurisdiction, and no fees, charges, or costs shall be collected from students and school personnel without approval of the board of education as recorded in the minutes of said board; provided, this subdivision shall not apply to such textbooks fees as are determined and established by the State Board of Education. All schedules of fees, charges and solicitations approved by local boards of education shall be reported to the Superintendent of Public Instruction.

(7) To Accept and Administer Federal or Private Funds. – Local boards of education shall have power and authority to accept, receive and administer any funds or financial assistance given, granted or provided under the provisions of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 89th Congress, HR 2362) and under the provisions of the Economic Opportunity Act of 1964 (Public Law 88-452, 88th Congress, S. 2642), or other federal acts or funds from foundations or private sources, and to comply with all conditions and requirements necessary for the receipt, acceptance and use of said funds. In the administration of such funds, local boards of education shall have authority to enter into contracts with and to cooperate with and to carry out projects with nonpublic elementary and secondary schools, community groups and nonprofit corporations, and to enter into joint agreements for these purposes with other local boards of education. Local boards of education shall furnish such information as shall be requested

by the State Board of Education, from time to time, relating to any programs related or conducted pursuant to this subdivision.

(8) To Sponsor or Conduct Educational Research. – Local boards of education are authorized to sponsor or conduct educational research and special projects approved by the Department of Public Instruction and the State Board of Education that may improve the school system under their jurisdictions. Such research or projects may be conducted during the summer months and the board may use any available funds for such purposes.

(9) To Assure Accurate Attendance Records. – When the governing board of any local school administrative unit shall have information that inaccurate school attendance records are being kept, the board concerned shall immediately investigate such inaccuracies and take necessary action to establish and maintain correct records and report its findings and action to the State Board of Education.

(10) To Assure Appropriate Class Size. – It shall be the responsibility of local boards of education to assure that the class size requirements set forth in G.S. 115C-301 for kindergarten through third grade are met. Any teacher who believes that the requirements of G.S. 115C-301 have not been met shall make a report to the principal and superintendent, and the superintendent shall immediately determine whether the requirements have in fact not been met. If the superintendent determines the requirements have not been met, he or she shall make a report to the next local board of education meeting. The local board of education shall take action to meet the requirements of the statute. If the local board cannot organizationally correct the exception, it shall immediately apply to the State Board of Education for additional personnel or a waiver of the class size requirements, as provided in G.S. 115C-301(g).

Upon notification from the State Board of Education that the reported exception does not qualify for an allotment adjustment or a waiver under provisions of G.S. 115C-301, the local board, within 30 days, shall take action necessary to correct the exception, as required in G.S. 115C-301(g).

At the end of October and end of February of each school year, the local board of education, through the superintendent, shall file a report with the Superintendent of Public Instruction, in a format prescribed by the Superintendent of Public Instruction, describing the organization for each school in the local school administrative unit, as required by G.S. 115C-301(f).

In addition to assuring that the requirements of G.S. 115C-301 are met, each local board of education shall also have the duty to provide an adequate number of classrooms to meet the requirements of that statute.

(11) To Determine the School Calendar. – Local boards of education shall determine the school calendar under G.S. 115C-84.2.

(12) Repealed by Session Laws 2017-126, s. 12, effective July 20, 2017.

(13) To Elect a Superintendent. – The local boards of education shall elect superintendents subject to the requirements and limitations set forth in G.S. 115C-271.

(14) To Supply an Office, Equipment and Clerical Assistance for the Superintendent. – It shall be the duty of the various boards of education to provide the superintendent of schools with an office, equipment and clerical assistance as provided in G.S. 115C-277.

(15) To Prescribe Duties of Superintendent. – The local boards of education shall prescribe the duties of the superintendent as subject to the provisions of G.S. 115C-276(a).

(16) To Remove a Superintendent, When Necessary. – Local boards of education shall remove a superintendent for cause, pursuant to the provisions of G.S. 115C-274(a).

(17) To Employ Assistant Superintendent and Supervisors. – Local boards of education have the authority to employ assistant superintendents and supervisors pursuant to the provisions of G.S. 115C-278 and 115C-284(g).

(17a) To adopt anti-nepotism policies. – Local boards of education shall adopt policies requiring that before any immediate family, as defined in G.S. 115C-12.2, of any board of education member or central office staff administrator, including directors, supervisors, specialists, staff officers, assistant superintendents, area superintendents, superintendents, or principals, shall be employed or engaged as an employee, independent contractor, or otherwise by the board of education in any capacity, such proposed employment or engagement shall be (i) disclosed to the board of education and (ii) approved by the board of education in a duly called open-session meeting. The burden of disclosure of such a conflict of interest shall be on the applicable board member or central office staff administrator.

(18) To Make Rules Concerning the Conduct and Duties of Personnel. – Local boards of education, upon the recommendation of the superintendent, shall have full power to make all just and needful rules and regulations governing the conduct of teachers, principals, and supervisors, the kind of reports they shall make, and their duties in the care of school property.

Prior to the beginning of each school year, each local board of education shall identify all reports, including local school required reports, that are required at the local level for the school year and shall, to the maximum extent possible, eliminate any duplicate or obsolete reporting requirements and consolidate remaining reporting requirements. No additional reports shall be required at the local level

after the beginning of the school year without the prior approval of the local board of education.

Prior to the beginning of each school year, each local board of education shall also identify software protocols such as NC Wise that could be used to minimize repetitious data entry by teachers and shall make them available to teachers.

Each local board of education shall appoint a person or establish a local paperwork control committee to monitor all reports and other paperwork required of teachers by the central office and to monitor teachers' access to software protocols that minimize repetitious data entry.

(18a) To Adopt Rules and Policies Limiting the Noninstructional Duties of Teachers. – Local boards of education shall adopt rules and policies limiting the noninstructional duties assigned to teachers. A local board may temporarily suspend the rules and policies for individual schools upon a finding that there is a compelling reason the rules or policies should not be implemented. These rules and policies shall ensure that:

a. Teachers with initial certification are not assigned extracurricular activities unless they request the assignments in writing and that other noninstructional duties assigned to these teachers are minimized, so these teachers have an opportunity to develop into skilled professionals;

b. Repealed by Session Laws 2015-241, s. 8.45, effective July 1, 2015.

c. The noninstructional duties of all teachers are limited to the extent possible given federal, State, and local laws, rules, and policies, and that the noninstructional duties required of teachers are distributed equitably among employees.

(19) To Approve the Assignment of Duties to an Assistant Principal. – Local boards of education shall permit certain duties of the principal to be assigned to an assistant or acting principal pursuant to the provisions of G.S. 115C-289.

(20) To Provide for Training of Teachers. – Local boards of education are authorized to provide for the training of teachers as provided in G.S. 115C-300.

(21) It is the duty of every local board of education to provide for the prompt monthly payment of all salaries due teachers and other school officials and employees, and of all current bills and other necessary operating expenses. All salaries and bills shall be paid as provided by law for disbursing State and local funds.

The local board shall determine salary schedules of employees pursuant to the provisions of G.S. 115C-273, 115C-285(b), 115C-302.1(i), and 115C-316(b).

The authority for boards of education to issue salary vouchers to all school employees, whether paid from State or local funds, shall be a monthly payroll prepared on forms approved by the State Board of

Education and containing all information required by the State Board of Education. This monthly payroll shall be signed by the principal of each school.

(22) To Provide School Food Services. – Local boards of education shall provide, to the extent practicable, school food services as provided in Part 2 of Article 17 of this Chapter.

(23) To Purchase Equipment and Supplies. – Local boards shall contract for equipment and supplies under G.S. 115C-522(a) and G.S. 115C-528.

(24) Purchase of Activity Buses with Local Capital Outlay Tax Funds. – Local boards of education are authorized to purchase activity buses with local capital outlay tax funds, and are authorized to maintain these buses in the county school bus garage. Reimbursement to the State Public School Fund shall be made for all maintenance cost including labor, gasoline and oil, repair parts, tires and tubes, antifreeze, etc. Labor cost reimbursements and local funds may be used to employ additional mechanics so as to insure that all activity buses owned and operated by local boards of education are maintained in a safe mechanical condition. Replacement units for activity buses shall be financed with local funds.

(25) To Secure Liability Insurance. – Local boards of education are authorized to secure liability insurance, as provided in G.S. 115C-42, so as to waive their immunity for liability for certain negligent acts of their employees.

(25a) To Reimburse the Additional Cost of Automobile Liability Coverage for School Social Workers Required to Transport Students. – Unless a local board of education otherwise provides for liability insurance coverage of a school social worker who is required to transport students under G.S. 115C-317.1, a local board of education may require a school social worker who is required to transport students as provided under G.S. 115C-317.1 to increase the liability limits or add a business-use rider, or both, on that employee's personal automobile liability insurance policy for the purpose of transporting students within the course of that employee's work duties, only if the board reimburses the employee for the additional premium charged, up to the maximum additional amount charged to a person with up to two points assessed under the Safe Driver Incentive Plan pursuant to G.S. 58-36-65, for the increased liability limits or the added rider, or both.

(26) If a local board of education provides access to its buildings and campus and the student information directory to persons or groups which make students aware of occupational or educational options, the local board of education shall provide access on the same basis to official recruiting representatives of the military forces of the State and of the United States for the purpose of informing students of educational and career opportunities available in the military.

(27) Repealed by Session Laws 1987, c. 571, s. 2.

(28) To Enter Lease Purchase and Installment Purchase Contracts. – Local boards may enter into lease purchase and installment purchase contracts as provided in G.S. 115C-528.

(28a) To Enter Guaranteed Energy Savings Contracts for Energy Conservation Measures. – Local boards may purchase energy conservation measures by guaranteed energy savings contracts pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.

(29) To Authorize the Observance of a Moment of Silence. – To afford students and teachers a moment of quiet reflection at the beginning of each day in the public schools, to create a boundary between school time and nonschool time, and to set a tone of decorum in the classroom that will be conducive to discipline and learning, each local board of education may adopt a policy to authorize the observance of a moment of silence at the commencement of the first class of each day in all grades in the public schools. Such a policy shall provide that the teacher in charge of the room in which each class is held may announce that a period of silence not to exceed one minute in duration shall be observed and that during that period silence shall be maintained and no one may engage in any other activities. Such period of silence shall be totally and completely unstructured and free of guidance or influence of any kind from any sources.

(29a) To Require the Display of the United States and North Carolina Flags, and to Require the Recitation of the Pledge of Allegiance. – Local boards of education shall adopt policies to (i) require the display of the United States and North Carolina flags in each classroom, when available, (ii) require that recitation of the Pledge of Allegiance be scheduled on a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins of the flag and the Pledge of Allegiance. These policies shall not compel any person to stand, salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each classroom.

(29b) Repealed by Session Laws 2014-13, s. 2, effective June 19, 2014. See now G.S. 115C-407.30 et seq.

(29c) To Allow and Encourage the Reading and Posting of Documents on the History of the United States and With Historical Significance for the United States.

a. Local boards of education shall allow and may encourage any public school teacher or administrator to read or post in a public school building, classroom, or event excerpts or portions of writings, documents, and records that reflect the history of the United States, including, but not limited to:

1. The preamble to the North Carolina Constitution.
2. The Declaration of Independence.

3. The United States Constitution.
4. The Mayflower Compact.
5. The national motto.
6. The National Anthem.
7. The Pledge of Allegiance.
8. The writings, speeches, documents, and proclamations of the founding fathers and Presidents of the United States.
9. Decisions of the Supreme Court of the United States.
10. Acts of the Congress of the United States, including the published text of the Congressional Record.

b. Local boards, superintendents, principals, and supervisors shall not allow content-based censorship of American history in the public schools of this State, including religious references in these writings, documents, and records. Local boards and professional school personnel may develop curricula and use materials that are limited to specified topics, provided the curricula and materials are aligned with the standard course of study or are grade level appropriate.

c. A local school administrative unit may display on real property controlled by that local school administrative unit documents and objects of historical significance that have formed and influenced the United States legal or governmental system and that exemplify the development of the rule of law, such as the Magna Carta, the Mecklenburg Declaration, the Ten Commandments, the Justinian Code, and documents set out in sub-subdivision a. of this subdivision. Such displays are subject to the following requirements:

1. The display may include, but shall not be limited to, documents that contain words associated with a religion; provided, however, no display shall seek to establish or promote religion or to persuade any person to embrace a particular religion, denomination of a religion, or other philosophy.
2. The display of a document containing words associated with a religion shall be in the same manner and appearance generally as other documents and objects displayed and shall not be presented or displayed in any fashion that results in calling attention to it apart from the other displayed documents and objects. The display also shall be accompanied by a prominent sign quoting the First Amendment of the United States Constitution as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

(30) To Appoint Advisory Councils. – Local boards of education are authorized to appoint advisory councils as provided in G.S. 115C-55 and Article 10 of this Chapter.

(31) Local boards of education shall determine the hours of employment for teacher assistants. The Legislative Commission of Salary Schedules for Public School Employees shall include in its report to the General Assembly recommendations regarding hours of employment for teacher assistants and other employees.

(32) To Refer All Students Who Drop Out of the Public Schools to Appropriate Services. – Local boards of education shall refer all students who drop out of the public schools to appropriate services. When appropriate public school services such as extended day programs are available, the local boards shall refer the students to those services. When appropriate public school programs are not available or are not suitable for certain students, the local board shall refer the students to the community college system or to other appropriate services.

(32a) To Establish Alternative Learning Programs and Develop Policies and Guidelines. – Each local board of education shall establish at least one alternative learning program and shall adopt guidelines for assigning students to alternative learning programs. These guidelines shall include (i) a description of the programs and services to be provided, (ii) a process for ensuring that an assignment is appropriate for the student and that the student's parents are involved in the decision, and (iii) strategies for providing alternative learning programs, when feasible and appropriate, for students who are subject to long term suspension or expulsion. In developing these guidelines, local boards shall consider the State Board's standards developed under G.S. 115C-12(24).

The General Assembly urges local boards to adopt policies that prohibit superintendents from assigning to any alternative learning program any professional public school employee who has received within the last three years a rating on a formal evaluation that is less than above standard.

Notwithstanding this subdivision, each local board shall adopt policies based on the State Board's standards developed under G.S. 115C-12(24). These policies shall apply to any new alternative learning program or alternative school that is implemented beginning with the 2006-2007 school year. Local boards of education are encouraged to apply these standards to alternative learning programs and alternative schools implemented before the 2006-2007 school year.

Local boards shall assess on a regular basis whether the unit's alternative schools and alternative learning programs comply with the State Board's standards developed under G.S. 115C-12(24) and whether they incorporate best practices for improving student academic performance and reducing disruptive behavior, are staffed with professional public school employees who are well trained and provided with appropriate staff development, are organized to provide coordinated

services, and provide students with high quality and rigorous academic instruction.

(33) Local boards of education shall have sole authority to select and procure supplementary instructional materials, whether or not the materials contain commercial advertising, pursuant to the provisions of G.S. 115C-98(b).

(33a) To Approve and Use Textbooks Not Adopted by State Board of Education. – Local boards of education shall have the authority to select, procure, and use textbooks not adopted by the State Board of Education as provided in G.S. 115C-98(b1).

(34) To Encourage the Business Community to Facilitate Student Achievement. – Local boards of education, in consultation with local business leaders, shall develop voluntary guidelines relating to after-school employment. The guidelines may include an agreement to limit the number of hours a student may work or to tie the number of hours a student may work to his academic performance, school attendance, and economic need. The General Assembly finds that local boards of education do not currently have information regarding how many of their students are employed after school and how many hours they work; the General Assembly urges local boards of education to compile this critical information so that the State can determine to what extent these students' work affects their school performance.

Local boards of education shall work with local business leaders, including local chambers of commerce, to encourage employers to include and adopt as part of their stated personnel policies time for employees who are parents or guardians to attend conferences with their children's teachers.

The Superintendent of Public Instruction shall provide guidance and technical assistance to the local boards of education on carrying out the provisions of this subdivision.

(34a) To Establish Work-Based Opportunities and Encourage High School to Work Partnerships. – Each local board of education shall offer at least two work-based learning opportunities that are related to career and technical education instruction in the local school administrative unit as required by G.S. 115C-157. Local boards of education shall also encourage high schools and local businesses to partner, specifically to target students who may not seek higher education, and facilitate high school to work partnerships. Local businesses shall be encouraged to work with local high schools to create opportunities for students to complete a job shadow, internship, or apprenticeship. Students may also be encouraged to tour the local business or clinic, meet with employees, and participate in career and technical student organizations. Waiver

forms shall be developed in collaboration with participating businesses for the protection of both the students and the businesses.

Each local board of education shall encourage high schools to designate the Career Development Coordinator or other designee of the local Career and Technical Education administrator to be the point person for local businesses to contact. If the person selected is a teacher, the teacher shall work with the principal and the local Career and Technical Education administrator to find time in the school day to contact businesses and develop opportunities for students. The high school shall include a variety of trades and skilled labor positions for students to interact with and shadow and shall encourage students who may be interested in a job-shadowing opportunity to pursue and set up the job shadow.

Each local board of education shall develop a policy with provisions for students who are absent from school while doing a job shadow to make up the work. Students shall not be counted as absent when participating in these work-based learning opportunities or in Career and Technical Education student organization activities. Local boards may determine maximum numbers of days to be used for job-shadowing activities.

(35) To produce school building improvement reports. – Each administrative unit shall produce school building improvement reports for each school building in the local school administrative unit, in accordance with G.S. 115C-12(9)c3.

(36) To Report All Acts of School Violence. – Local boards of education shall report all acts of school violence to the State Board of Education in accordance with G.S. 115C-12(21).

(37) To purchase group accident and health insurance for students. – Local boards of education may purchase group accident, group health, or group accident and health insurance for students in accordance with G.S. 58-51-81.

(38) To Establish School Improvement Teams. – Local boards shall adopt a policy to ensure that each principal has established a school improvement team under G.S. 115C-105.27 and in accordance with G.S. 115C-288(*l*) and that the composition of the team complies with G.S. 115C-105.27(a). Local boards shall direct the superintendent or the superintendent's designee to provide appropriate guidance to principals to ensure that these teams are established and that the principals work together with these teams to develop, review, and amend school improvement plans for their schools.

(39) To Adopt Policies Related to Student Retention Decisions. – Local boards shall adopt policies related to G.S. 115C-45(c) that include opportunities for parents and guardians to discuss decisions to retain students.

(40) Adopt School Risk Management Plans. – Each local board of education shall, in coordination with local law enforcement and emergency management agencies, adopt a School Risk Management Plan (SRMP) relating to incidents of school violence for each school in its jurisdiction. In constructing and maintaining these plans, local boards of education and local school administrative units shall utilize the School Risk and Response Management System (SRRMS) established pursuant to G.S. 115C-105.49A. These plans are not 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.

(41) To Encourage Recycling in Public Schools. – Local boards of education shall encourage recycling in public schools and may develop and implement recycling programs at public schools. Local boards of education shall comply with G.S. 160A-327.

(42) Recodified as G.S. 115C-375.3 by Session Laws 2005-22, s. 3(a), effective April 28, 2005.

(43) Local boards of education are encouraged to adopt policies that require superintendents to assign to the core academic courses, in seventh through ninth grades, teachers who have at least four years' teaching experience and who have received within the last three years an overall rating on a formal evaluation that is at least above standard.

(44) Recodified as G.S. 115C-375.4 by Session Laws 2005-22, s. 4(a), effective April 28, 2005.

(45) To Report Certain Incidents of Seclusion and Restraint. – Local boards of education shall maintain a record of incidents reported under G.S. 115C-391.1(j)(4) and shall provide this information annually to the State Board of Education.

(46) At the discretion of the board, to adopt policies and procedures authorizing schools that operate programs under G.S. 115C-307(c) to utilize unlicensed health care personnel to perform the technical aspects of medication administration to students. If adopted, the policies and procedures shall be consistent with the requirements of Article 9A of Chapter 90 of the General Statutes and shall include the following:

a. Training and competency evaluation of medication aides as provided for under G.S. 131E-270.

b. Requirements for listing under the Medication Aide Registry as provided for under G.S. 131E-271.

c. Requirements for supervision of medication aides by licensed health professionals or appropriately qualified supervisory personnel consistent with Articles 5, 6, 10, and 16 of Chapter 131E of the General Statutes.

(47) To Address the Use of Pesticides in Schools. – Local boards of education shall adopt policies that address the use of pesticides in schools. These policies shall:

a. Require the principal or the principal's designee to annually notify the students' parents, guardians, or custodians as well as school staff of the schedule of pesticide use on school property and their right to request notification. Such notification shall be made, to the extent possible, at least 72 hours in advance of nonscheduled pesticide use on school property. The notification requirements under this subdivision do not apply to the application of the following types of pesticide products: antimicrobial cleansers, disinfectants, self-contained baits and crack-and-crevice treatments, and any pesticide products classified by the United States Environmental Protection Agency as belonging to the U.S.E.P.A. Toxicity Class IV, "relatively nontoxic" (no signal word required on the product's label).

b. Require the use of Integrated Pest Management. As used in this sub-subdivision, "Integrated Pest Management" or "IPM" means the comprehensive approach to pest management that combines biological, physical, chemical, and cultural tactics as well as effective, economic, environmentally sound, and socially acceptable methods to prevent and solve pest problems that emphasizes pest prevention and provides a decision-making process for determining if, when, and where pest suppression is needed and what control tactics and methods are appropriate.

(48) To Address Arsenic-Treated Wood in the Classroom and on School Grounds. – Local boards of education shall prohibit the purchase or acceptance of chromated copper arsenate-treated wood for future use on school grounds. Local boards of education shall seal existing arsenic-treated wood in playground equipment or establish a time line for removing existing arsenic-treated wood on playgrounds, according to the guidelines established under G.S. 115C-12(33). Local boards of education are encouraged to test the soil on school grounds for contamination caused by the leaching of arsenic-treated wood.

(49) To Address Mercury in the Classroom and on School Grounds. – Local boards of education are encouraged to remove and properly dispose of all bulk elemental mercury, chemical mercury, and bulk mercury compounds used as teaching aids in science classrooms, not including barometers. Local boards of education shall prohibit the future use of bulk elemental mercury, chemical mercury compounds, and bulk mercury compounds used as teaching aids in science classrooms, not including barometers.

(49a) To Address Science Safety Requirements. –

a. Each local board of education shall certify annually to the State Board of Education that its high school and middle school science laboratories

are equipped with appropriate personal protective equipment for students and teachers.

b. Each local board of education shall ensure that its high schools and middle schools comply with all State Board of Education policies related to science laboratory safety.

(50) To Address Exposure to Diesel Exhaust Fumes. – Local boards of education shall adopt policies and procedures to reduce students' exposure to diesel emissions.

(51) To Ensure that Schools Provide Information Concerning Cervical Cancer, Cervical Dysplasia, Human Papillomavirus, and the Vaccines Available to Prevent These Diseases. – Local boards of education shall ensure that schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five through 12. 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 places parents and guardians may obtain additional information and vaccinations for their children.

(52) To Ensure That Certain Students Receive Information Annually on Lawfully Abandoning a Newborn Baby. – Not later than August 1, 2008, local boards of education shall adopt policies to ensure that students in grades nine through 12 receive information annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

(53) To Encourage Programs for Successful Transition Between the Middle School and High School Years. – Local boards of education are encouraged to adopt policies to implement programs that assist students in making a successful transition between the middle school and high school years. The programs may include Ninth Grade Academies, programs to effectively prepare eighth grade students for the expectations and rigors of high school, early warning systems to flag students not ready for ninth grade and develop plans for those students, mentoring programs that pair upperclassmen with incoming students, and graduation plans for students who have fallen behind and are off track for graduation.

(54) To Increase Parental Involvement in Student Achievement and Graduation Preparation. – Local boards of education are encouraged to adopt policies to promote and support parental involvement in student learning and achievement at school and at home and to encourage successful progress toward graduation. These policies may include strategies to increase school communications with parents regarding expectations for students and student progress, graduation requirements,

and available course offerings, to provide increased opportunities for parental involvement in schools, and to create an environment in the schools conducive for parental involvement.

(55) To Reduce Suspension and Expulsion Rates and Provide for Academic Progress During Suspensions. – Local boards of education are encouraged to adopt policies and best practices to reduce suspension and expulsion rates and to provide alternative learning programs for continued academic progress for students who have been suspended.

(56) To Notify Parents or Legal Guardians of Students Alleged to be Victims of Acts Required to be Reported to Law Enforcement and the Superintendent. – Local boards of education shall adopt a policy on the notification to parents or legal guardians of any students alleged to be victims of any act that is required to be reported to law enforcement and the superintendent under G.S. 115C-288(g).

(57) To adopt a code of ethics. – Local boards of education shall adopt a resolution or policy containing a code of ethics, as required by G.S. 160A-86.

(58) To Inform the Public About the North Carolina School Report Cards Issued by the State Board of Education. – Each local board of education 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. Each local board of education shall ensure that the overall school performance score and grade earned by each school in the local school administrative unit for the current and previous four school years is prominently displayed on the Web site of the local school administrative unit. If any school in the local school administrative unit earned an overall school performance grade of D or F, the local board of education shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school.

(59) To Encourage Student Voter Registration. – Local boards of education are encouraged to adopt policies to promote student voter registration. These policies may include collaboration with county boards of elections to conduct voter registration in high schools. Completion and submission of voter registration forms shall not be a course requirement or graded assignment for students.

(60) Repealed by Session Laws 2012-194, s. 55(a), effective July 17, 2012.

(61) To Provide a Safe School Environment. – Local boards of education may enter into an agreement with the sheriff, chief of police of a local police department, or chief of police of a county police department to provide security at the schools by assigning volunteer school safety resource officers who meet the selection standards and criteria developed by the head of the appropriate local law enforcement agency and the criteria set out in G.S. 162-26 or G.S. 160A-288.4, as appropriate.

(62) To Establish Nonprofit Corporations to Further Authorized Purposes. – Local boards of education may establish, control, and operate a nonprofit corporation that is created under Chapter 55A of the General Statutes and is a tax-exempt organization under the Internal Revenue Code to further their authorized purposes. A nonprofit corporation established as provided in this section shall not have regulatory or enforcement powers and shall not engage in partisan political activity or policy advocacy. Any local board of education that establishes a nonprofit corporation shall make a report annually to the Joint Legislative Education Oversight Committee.

(63) Repealed by 2017-4, s. 1, effective March 30, 2017. (1955, c. 1372, art. 5, ss. 18, 28, 30, 33; art. 6, s. 6; art. 17, s. 7; c. 1185; 1959, c. 1294; 1963, c. 425; c. 688, s. 3; 1965, c. 584, ss. 4, 6; c. 1185, s. 1; 1969, c. 517, s. 2; c. 538; 1973, c. 770, ss. 1, 2; c. 782, s. 31; 1975, c. 150, s. 1; c. 965, s. 3; 1977, c. 1088, s. 4; 1981, c. 423, s. 1; c. 901, s. 1; 1983 (Reg. Sess., 1984), c. 1019, s. 2, 1; c. 1034, s. 16; 1985, c. 436, s. 1; c. 479, ss. 55(c)(4), 55(c)(6); c. 637; c. 757, s. 145(i); 1985 (Reg. Sess., 1986), c. 975, ss. 3, 11; c. 1014, s. 58; 1987, c. 340; c. 414, s. 2; c. 571, s. 2; c. 738, s. 182; 1987 (Reg. Sess., 1988), c. 1025, ss. 9, 15; c. 1086, s. 89(b); 1989, c. 585, s. 2; c. 752, s. 65(b); 1989 (Reg. Sess., 1990), c. 1074, s. 23(b); 1991, c. 706, s. 1; 1991 (Reg. Sess., 1992), c. 900, s. 75.1(f); 1993, c. 114, s. 1; c. 321, s. 139(c); 1993 (Reg. Sess., 1994), c. 716, s. 2; c. 775, s. 5; 1995, c. 455, s. 1; c. 497, ss. 1, 2; 1995 (Reg. Sess., 1996), c. 716, ss. 11, 12, 17; 1997-443, s. 8.38(j)-(l); 1998-194, s. 3; 1998-202, s. 12; 1999-96, s. 7; 1999-237, s. 8.25(a); 1999-373, s. 3; 1999-397, s. 4; 1999-456, s. 35; 2000-67, s. 8.18(b); 2000-140, s. 77; 2001-424, s. 28.17(c); 2001-500, s. 3; 2001-512, s. 12; 2002-103, s. 2; 2002-178, s. 3; 2003-147, s. 4; 2004-118, s. 2; 2004-203, s. 72(b); 2005-22, ss. 3(a), 4(a); 2005-205, s. 5; 2005-276, s. 10.40D(f); 2005-355, s. 2; 2005-446, s. 3; 2006-137, s. 1; 2006-143, s. 2; 2007-59, s. 1; 2007-126, s. 1; 2009-223, s. 1; 2009-330, ss. 1, 2; 2009-403, s. 2; 2009-410, s. 2; 2009-451, s. 7.28; 2009-541, s. 29(a); 2011-91, s. 1; 2011-145, s. 7.13(b), (w); 2011-185, s. 9(a); 2011-379, s. 3; 2011-391, s. 14(b); 2012-142, s. 7A.3(b); 2012-194, s. 55(a); 2013-360, ss. 8.37(a), 8.45(c); 2013-363, s. 3.3(b); 2013-381, s. 12.1(h); 2014-13, s. 2; 2014-111, s. 4; 2015-241, ss. 8.26(a), 8.45, 8A.2; 2015-248, s. 6(b); 2015-264, s. 56.5; 2016-3, 2nd Ex. Sess., s. 1.1; 2017-4, s. 1; 2017-9, s. 2(a); 2017-10, s. 2.3; 2017-57, ss. 7.23H(a), 7.26(b); 2017-126, ss. 6-8, 12; 2017-157, s. 1(a).)

§ 115C-48. Penalties for certain conduct.

(a) Members of local boards of education are criminally liable for certain conduct as provided in G.S. 14-234.

(b) Members of local boards of education are civilly liable for certain conduct as provided in G.S. 115C-441. (1981, c. 423, s. 1; 1995, c. 509, s. 60; 2001-409, s. 4.)

§ 115C-49: Repealed by Session Laws 1995, c. 501, s. 1.

§ 115C-50. Training of board members.

(a) All members of local boards of education, whether elected or appointed, shall receive a minimum of 12 clock hours of training every two years. The 12 clock hours of training may be earned at any time during the two-year period and may include the ethics education required by G.S. 160A-87.

(b) The training shall include but not be limited to public school law, public school finance, and duties and responsibilities of local boards of education.

(c) The training may be provided by the North Carolina School Boards Association, the School of Government at the University of North Carolina at Chapel Hill, or other qualified sources at the choice of the local board of education. (1991, c. 689, s. 200(d); 2006-264, s. 29(h); 2009-403, s. 3; 2015-241, s. 8.44.)

§ 115C-51. Public comment period during regular meetings.

The local board of education shall provide at least one period for public comment per month at a regular meeting of the board. The board may adopt reasonable rules governing the conduct of the public comment period, including, but not limited to, rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of spokesmen for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing. The board is not required to provide a public comment period under this section if no regular meeting is held during the month. (2005-170, s. 1.)

§ 115C-52. Reserved for future codification purposes.

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Article 6.

Advisory Councils.

§ 115C-54: Repealed by Session Laws 1985 (Regular Session, 1986), c. 975, s. 1.

§ 115C-55. Advisory councils.

A board of education may appoint an advisory council for any school or schools within the local school administrative unit. The purpose and function of an advisory council shall be to serve in an advisory capacity to the board on matters affecting the school or schools for which it is appointed. Except as otherwise provided under Part 4 of Article 10 of this Chapter for business advisory councils, the organization, terms, composition and regulations for the operation of such advisory council shall be determined by the board.

(1955, c. 1372, art. 7, s. 2; 1957, c. 686, s. 2; 1965, c. 584, s. 8; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 1; 2017-57, s. 7.23H(b).)

§§ 115C-56 through 115C-59: Repealed by Session Laws 1985 (Regular Session, 1986), c. 975, s. 1.

§§ 115C-60 through 115C-64. Reserved for future codification purposes.

Article 6A.

State Assistance and Intervention in Low Performing School Units.

§§ 115C-64.1 through 115C-64.5: Repealed by Session Laws 1995 (Regular Session, 1996), c. 716, s. 4.

Article 6B.

Dropout Prevention Grants.

§§ 115C-64.6 through 115C-64.9: Repealed by Session Laws 2014-120, s. 1, effective September 18, 2014.

Article 6C.

Education and Workforce Innovation Program.

§ 115C-64.15. North Carolina Education and Workforce Innovation Commission.

(a) There is created the North Carolina Education and Workforce Innovation Commission (Commission). The Commission shall be located administratively in the Department of Public Instruction but shall exercise all its prescribed powers independently of the Department of Public Instruction. Of the funds appropriated for the Education and Workforce Innovation Program established under G.S. 115C-64.16, up to ten percent (10%) of those funds each fiscal year may be used by the Department of Public Instruction to provide technical assistance and administrative assistance, including staff, to the Commission and for reimbursements and expenses for the Commission for the Education and Workforce Innovation Program and the Career and Technical Education Grade Expansion Program.

(b) The Commission shall consist of the following 14 members:

(1) The Secretary of Commerce.
(2) The State Superintendent of Public Instruction.
(3) The Chair of the State Board of Education.
(4) The President of The University of North Carolina.
(5) The President of the North Carolina Community College System.
(6) Three members appointed by the Governor who have experience in education.

(7) Three members appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, as provided in G.S. 120-121, who have experience in businesses operating in North Carolina.

(8) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, as provided in G.S. 120-121, who have experience in businesses operating in North Carolina.

(b1) Members appointed by the Governor or the General Assembly shall serve for three-year terms commencing July 1 of the year of appointment and may serve successive terms.

(c) The Commission members shall elect a chair from the membership of the Commission. The Commission shall meet at least three times annually on the call of the Chair or as additionally provided by the Commission. A quorum is six members of the Commission. Members may not send designees to Commission meetings nor may they vote by proxy.

(d) The Commission shall develop and administer the Education and Workforce Innovation Program, as established under G.S. 115C-64.16, and make awards of grants under the Program.

(d1) The Commission shall develop and administer, in coordination with the State Board of Education and the Superintendent of Public Instruction, the Career and Technical Education Grade Expansion Program, as established under G.S. 115C-64.17, and shall make awards of grants under the Program.

(e) The Commission shall publish a report on the Education and Workforce Innovation Program and the Career and Technical Education Grade Expansion Program on or before April 30 of each year. The report shall be submitted to the Joint Legislative Education Oversight Committee, the State Board of Education, the State Board of Community Colleges, and the Board of Governors of The University of North Carolina. The report shall include at least all of the following information:

(1) An accounting of how funds and personnel resources were utilized for each program and their impact on student achievement, retention, and employability.

(2) Recommended statutory and policy changes.

(3) Recommendations for improvement of each program.

(4) For the Career and Technical Education Grade Expansion Program, recommendations on increasing availability of grants after the first two years of the program to include additional local school administrative units or providing additional grants to prior recipients. (2013-360, s. 8.34(a); 2013-363, s. 3.10(a); 2014-100, s. 23.1(e); 2017-57, ss. 7.23F(a), 7.23G(b).)

§ 115C-64.16. The Education and Workforce Innovation Program.

(a) Program Establishment. – There is established the Education and Workforce Innovation Program (Program) to foster innovation in education that will lead to more students graduating career and college ready. Funds appropriated to the Program shall be used to award competitive grants to an individual school, a local school administrative unit, or a regional partnership of more than one local school administrative unit to advance comprehensive, high-quality education that equips teachers with the knowledge and skill required to succeed with all students. Before receiving a grant, applicants must meet all of the following conditions:

(1) Form a partnership, for the purposes of the grant, with either a public or private university or a community college.

(2) Form a partnership, for the purposes of the grant, with regional businesses and business leaders.

(3) Demonstrate the ability to sustain innovation once grant funding ends.

(b) Applicant Categories and Specific Requirements. –

(1) Individual schools. – Individual public schools must demonstrate all of the following in their applications:

a. Partnerships with business and industry to determine the skills and competencies needed for students' transition into growth sectors of the regional economy.

b. Aligned pathways to employment, including students' acquisition of college credit or industry recognized credentials.

c. Development of systems, infrastructure, capacity, and culture to enable teachers and school leaders to continuously focus on improving individual student achievement.

(2) Local school administrative units. – Local school administrative units must demonstrate all of the following in their applications:

a. Implementation of comprehensive reform and innovation.

b. Appointment of a senior leader to manage and sustain the change process with a specific focus on providing parents with a portfolio of meaningful options among schools.

(3) Regional partnerships of two or more local school administrative units. – Partnerships of two or more local school administrative units must demonstrate all of the following in their applications:

a. Implementation of resources of partnered local school administrative units in creating a tailored workforce development system for the regional economy and fostering innovation in each of the partnered local school administrative units.

b. Promotion of the development of knowledge and skills in career clusters of critical importance to the region.

c. Benefits of the shared strengths of local businesses and higher education.

d. Usage of technology to deliver instruction over large geographic regions and build networks with industry.

e. Implementation of comprehensive reform and innovation that can be replicated in other local school administrative units.

(c) Consideration of Factors in Awarding of Grants. – All applications must include information on at least the following in order to be considered for a grant:

(1) Describe the aligned pathways from school to high-growth careers in regional economies.

(2) Leverage technology to efficiently and effectively drive teacher and principal development, connect students and teachers to online courses and resources, and foster virtual learning communities among faculty, higher education partners, and business partners.

(3) Establish a comprehensive approach to enhancing the knowledge and skills of teachers and administrators to successfully implement the proposed innovative program and to graduate all students ready for work and college.

(4) Link to a proven provider of professional development services for teachers and administrators capable of providing evidence-based training and tools aligned with the goals of the proposed innovative program.

(5) Form explicit partnerships with businesses and industry, which may include business advisory councils, internship programs, and other customized projects aligned with relevant workforce skills.

(6) Partner with community colleges or public or private universities to enable communities to challenge every student to graduate with workplace credentials or college credit.

(7) Align K-12 and postsecondary instruction and performance expectations to reduce the need for college remediation courses.

(8) Secure input from parents to foster broad ownership for school choice options and to foster greater understanding of the need for continued education beyond high school.

(9) Provide a description of the funds that will be used and a proposed budget for five years.

(10) Describe the source of matching funds required in subsection (d) of this section.

(11) Establish a strategy to achieve meaningful analysis of program outcomes due to the receipt of grant funds under this section.

(d) Matching Private and Local Funds. – All grant applicants must match fifty percent (50%) of all State dollars. Matching funds shall not include other State funds. Matching funds may include in-kind contributions.

(e) Grants. – Any grants awarded by the Commission may be spent over a five-year period from the initial award. Grants may be awarded for new or existing projects.

(f) Reporting Requirements. – No later than September 1 of each year, a grant recipient shall submit to the Commission an annual report for the preceding grant year that describes the academic progress made by the students and the implementation of program initiatives. (2013-360, s. 8.34(a); 2014-100, ss. 23.1(b), (d); 2014-115, s. 48.)

§ 115C-64.17. The Career and Technical Education Grade Expansion Program.

(a) Program Establishment. – There is established the Career and Technical Education Grade Expansion Program (Program) to expand career and technical education (CTE) programs by prioritizing the inclusion of students in sixth and seventh grade through grant awards provided to selected local school administrative units for up to seven years. Funds appropriated for the Program shall be allocated to selected local school administrative units as competitive grants of (i) up to seven hundred thousand dollars ($700,000) for the 2017-2018 fiscal year and (ii) to the extent funds are available, up to one million dollars ($1,000,000) for the 2018-2019 fiscal year and subsequent fiscal years. Grant funds shall be used only for employing additional licensed personnel in career and technical education areas, career development coordination areas, and support service areas necessary for expanding the CTE program to sixth and seventh grade students. The funds may be used for CTE programs at one or more schools in the local school administrative unit. Grant funds allocated to the local school administrative unit each fiscal year under the Program shall not revert but shall be available for the purpose of the grant program until expended.

(b) Consideration of Factors in Awarding of Grants. – Local school administrative units applying for the Program shall submit an application that includes at least the following information:

(1) A plan for expansion of the CTE program to sixth and seventh grade students, including the specific programs that will be expanded, the significance of CTE in the local school administrative unit, and how a grade expansion would enhance the education program and the community.

(2) A request for the amount of funds, a description of how the funds will be used, and any other sources of funds available to accomplish the purposes of this program.

(3) A proposed budget for seven years that provides detail on the use of the amount of funds to add personnel, increase career development efforts, and provide support services.

(4) A strategy to achieve meaningful analysis of program outcomes due to the receipt of grant funds under this section.

(c) Selection of Recipients. – For the 2017-2018 fiscal year, the Commission shall accept applications for a grant until November 30, 2017. For subsequent fiscal years that funds are made available for the Program, the Commission shall accept applications for a grant until August 1 of each year. The Commission shall select recipients in a manner that considers diversity among the pool of applicants, including geographic location, location of industries in the area in which a local school administrative unit is located, and the size of the student population served by the unit, in order to award funds to the extent possible to grant recipients that represent different regions and characteristics of the State. The Commission shall recommend recipients of the grants to the State Board of Education. The State Board, upon consultation with the Superintendent of Public Instruction, shall approve the recipients of grant awards.

(d) Allocation of Funds. – Of the funds available for the Program in each fiscal year, the Commission shall first allocate funds to applicants who received grant funds for the prior fiscal year for up to seven years. After funds are allocated to prior fiscal year grant recipients, any remaining funds may be used by the Commission to select new grant recipients. The Commission, in consultation with the Superintendent of Public Instruction, shall establish rules regarding any requirements for grant recipients to continue eligibility to receive funds each fiscal year, including timely and accurate reporting as required under subsection (e) of this section.

(e) Reporting Requirements. – No later than August 1 of each year, for up to seven years after the initial grant award, a grant recipient shall submit to the Department of Public Instruction, Local Planning Systems Regional Services staff within the Division of Career and Technical Education, an annual report for the preceding year in which grant funds were expended that provides at least the following information on the program for sixth and seventh grade students:

(1) The use of grant funds, including the CTE programs and courses that have been expanded in the local school administrative unit to include sixth and seventh grade students.
(2) The number of students enrolled in CTE courses as part of the expansion.
(3) The number of students who subsequently enrolled in CTE courses in high school.
(4) The number of students who subsequently participated in internships, cooperative education, or apprenticeship programs.
(5) The number of students who subsequently earned (i) college credit and (ii) approved industry certification and credentials.
(6) Any other information the Division of Career and Technical Education deems necessary.

The Superintendent of Public Instruction shall provide a report to the Commission by October 15 of each year based on the information reported to the Local Planning Systems Regional Services staff under this subsection, including how the grant recipients compare to CTE programs statewide and whether the programs are aligned with the Master Plan for Career and Technical Education adopted by the State Board. (2017-57, s. 7.23F(b); 2017-212, s. 2.2.)

Article 6D.

B-3 Interagency Council.

§ 115C-64.25. Establishment and membership of B-3 Interagency Council.

(a) There is established the B-3 Interagency Council. The Council is a joint council between the Department of Health and Human Services and the Department of Public Instruction and shall consist of 12 voting members and four nonvoting advisory members as follows:

(1) The Superintendent of Public Instruction or the Superintendent's designee shall serve ex officio, with the same rights and privileges, including voting rights, as other members.
(2) The Associate Superintendent of Early Education at the Department of Public Instruction shall serve ex officio, with the same rights and privileges, including voting rights, as other members.
(3) The Secretary of Health and Human Services or the Secretary's designee shall serve ex officio, with the same rights and privileges, including voting rights, as other members.
(4) The Deputy Secretary of Human Services at the Department of Health and Human Services shall serve ex officio, with the same rights and privileges, including voting rights, as other members.
(5) Four public members appointed by the Speaker of House of Representatives who represent organizations that focus on early childhood education and development, one of whom shall be a representative of Smart Start.
(6) Four public members appointed by the President Pro Tempore of the Senate who represent organizations that focus on early childhood education and development, one of whom shall be a representative of the North Carolina Partnership for Children.
(7) Two members of the House of Representatives appointed by the Speaker of the House of Representatives to serve as nonvoting advisory members.
(8) Two members of the Senate appointed by the President Pro Tempore of the Senate to serve as nonvoting advisory members.

The Deputy Secretary of Human Services and the Associate Superintendent of Early Education shall serve as cochairs of the Council. Members of the Council shall receive per diem, subsistence, and travel allowance, as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

(b) Terms for all public members and advisory members except for the initial appointments shall be for four years. Two of the public members appointed by the Speaker of the House of Representatives pursuant to subdivision (5) of subsection (a) of this section and one of the advisory members appointed by the Speaker of the House of Representatives pursuant to subdivision (7) of subsection (a) of this section shall be appointed for an initial term of two years. Two of the public members appointed by the President Pro Tempore of the Senate pursuant to subdivision (6) of subsection (a) of this section and one of the advisory members appointed by the President Pro Tempore of the Senate pursuant to subdivision (8) of subsection (a) of this section shall be appointed for an initial term of two years. Terms for members shall begin on November 1. Members shall serve until their successors are appointed. Any vacancy in the membership of the Council shall be filled in the same manner as the original appointment.

(c) The Council shall have as its charge establishing a vision and accountability for a birth through grade three system of early education that addresses all of the following:

(1) Standards and assessment.

(2) Data-driven improvement and outcomes, including shared accountability measures such as the NC Pathways to Grade-Level Reading.
(3) Teacher and administrator preparation and effectiveness.
(4) Instruction and environment.
(5) Transitions and continuity.
(6) Family engagement.
(7) Governance and funding. (2017-57, s. 7.23I(a).)

§ 115C-64.26. Powers and duties of B-3 Interagency Council.

The B-3 Interagency Council shall have the following powers and duties:

(1) Facilitating the development and implementation of an interagency plan for a coordinated system of early care, education, and child development services with a focus on program outcomes in satisfying the developmental and educational needs of all children from birth to eight years of age that includes at least the following:
   a. Any recommendations to the Secretary of Health and Human Services and the Superintendent of Public Instruction on necessary organizational changes needed within the Departments of Health and Human Services and Public Instruction to be more responsive to and supportive of the birth to grade three continuum of early learning and development in an effort to optimize learning gains realized in the prekindergarten years.
   b. An early childhood information system that facilitates and encourages the sharing of data between and among early childhood service providers and State agencies.
   c. An early childhood accountability plan that includes identification of appropriate population indicators and program and system performance measures of early success of children such as the NC Pathways to Grade-Level Reading.
(2) Implementing a statewide longitudinal evaluation of the educational progress of children from prekindergarten programs through grade 12.
(3) Collaborating with the Department of Public Instruction, the Department of Health and Human Services, the North Carolina Partnership for Children, and other relevant early childhood stakeholders, including members of the North Carolina Early Childhood Advisory Council, to achieve the goal of a coordinated system of early care, education, and child development services for children from birth to eight years of age. (2017-57, s. 7.23I(a).)

§ 115C-64.27. Reporting requirement.

The Deputy Secretary of Human Services and the Associate Superintendent of Early Education shall report on a quarterly basis to the Secretary of Health and Human Services and the Superintendent of Public Instruction on the progress and implementation of any of

the duties and responsibilities of the Council as set forth in this Article. (2017-57, s. 7.23I(a).)

§ 115C-64.28. Establish position of Associate Superintendent of Early Education to serve as chief academic officer of early education.

(a) There is established within the Department of Public Instruction the position of Associate Superintendent of Early Education who shall serve as the chief academic officer of early education. The Associate Superintendent shall have professional, administrative, technical, and clerical personnel as may be necessary to assist in carrying out his or her duties. The Associate Superintendent shall co-lead the work of the B-3 Interagency Council and oversee the Department of Public Instruction's prekindergarten through third grade initiatives.

(b) The Associate Superintendent shall be appointed by the Superintendent of Public Instruction at a salary established by the Superintendent of Public Instruction within the funds appropriated for that purpose. The Associate Superintendent may be removed from the position by the Superintendent of Public Instruction. The Associate Superintendent shall be exempt from the provisions of Chapter 126 of the General Statutes, except for Articles 6 and 7 of Chapter 126 of the General Statutes.

All other staff shall be appointed, supervised, and directed by the Associate Superintendent and shall be subject to the provisions of Chapter 126 of the General Statutes. Except for the Associate Superintendent, salaries and compensation of all staff personnel shall be fixed in the manner provided by law for fixing and regulating salaries and compensation by other State agencies. (2017-57, s. 7.23I(a); 2017-197, s. 2.3.)

SUBCHAPTER III. SCHOOL DISTRICTS AND UNITS.

Article 7.

Organization of Schools.

§ 115C-65. State divided into districts.

The State of North Carolina shall be divided into eight educational districts, which shall match the composition of the zones set forth in G.S. 143B-28.1. (1955, c. 1372, art. 1, s.3; 1981, c. 423, s.1; 2014-18, s. 3.4.)

§ 115C-66. Administrative units classified.

Each county of the State shall be classified as a county school administrative unit, the schools of which, except in city administrative units, shall be under the general supervision and control of a county board of education with a county superintendent as the administrative officer.

A city school administrative unit shall be classified as an area within a county or adjacent parts of two or more contiguous counties which has been or may be approved by the State Board of Education as such a unit for purposes of school administration. The

general administration and supervision of a city administrative unit shall be under the control of a board of education with a city superintendent as the administrative officer.

All local school administrative units, whether city or county, shall be dealt with by the State school authorities in all matters of school administration in the same way.

For purposes of eligibility for federal grant funds, the Department of Health and Human Services is hereby classified as a public authority, which is the school administrative agency for the schools that it operates, and shall be considered as such by the State school authorities in the administration and distribution of federal grant funds. (1955, c. 1372, art. 1, s. 4; 1981, c. 423, s. 1; 2005-276, s. 7.54(b).)

§ 115C-66.5. Merger of county school administrative units by the State Board of Education.

(a) Consolidation and Merger. – The State Board of Education shall have the authority to consolidate and merge contiguous county school administrative units or a group of county school administrative units in which each county unit is contiguous with at least one other county unit in the group. The State Board shall adopt a written plan setting forth the conditions of the merger. A merger of county units and reorganization of those units under this section shall not have the effect of abolishing any special taxes that may have been voted in any such units.

(b) Effective Date. – The merger shall become effective on July 1 immediately following the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the State Board approved the merger. If a bill that specifically disapproves the merger is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the merger becomes effective on the July 1 immediately following the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the merger. A merger that is specifically disapproved by a bill enacted into law before it becomes effective does not become effective.

(c) Legislative Disapproval of Merger. – A bill specifically disapproves a merger if it contains a provision that refers to the written plan of merger and states that the merger is disapproved. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a merger that has been approved by the State Board and that has not become effective. (2015-241, s. 8A.5.)

§ 115C-67. Merger of units in same county.

City school administrative units may be consolidated and merged with contiguous city school administrative units and with county school administrative units upon approval by the State Board of Education of a plan for consolidation and merger submitted by the boards of education involved and bearing the approval of the board of county commissioners.

County and city boards of education desiring to consolidate and merge their school administrative units may do so by entering into a written plan which shall set forth the

conditions of merger. The provisions of the plan shall be consistent with the General Statutes and shall contain, but not be limited to, the following:

(1) The name by which the merged school administrative unit shall be identified and known.

(2) The effective date of the merger.

(3) The establishment and maintenance of a board of education which shall administer all the public schools of the newly created unit, including:

a. The termination of any terms of office proposed in the reorganization of the board.

b. The method of constituting and continuing the board of education; the manner of selection of board members, including (i) the number of members of the board, (ii) the method of their election or appointment, (iii) whether members shall be nominated, elected, or appointed from districts or at large, (iv) the manner of determining the nominee, and (v) whether the election shall be partisan or nonpartisan; the length of the members' terms of office; the dates of induction into office; the organization of the board; the procedure for filling vacancies; and the compensation to be paid members of the board for expenses incurred in performance of their duties. To the extent that the method conflicts with G.S. 115C-35, G.S. 115C-37, or with any local act concerning any of the units being merged and consolidated, the plan of merger and consolidation shall prevail.

(4) The authority, powers, and duties of the board of education with respect to the employment of personnel, the preparation of budgets, and any other related matters which may be particularly applicable to the merged unit not inconsistent with the General Statutes.

(5) The transfer of all facilities, properties, structures, funds, contracts, deeds, titles, and other obligations, assets and liabilities to the board of education of the merged unit.

(6) Whether or not there shall be continued in force any supplemental school tax which may be in effect in either or all local school administrative units involved.

(7) A public hearing, which shall have been announced at least 10 days prior to the hearing, on the proposed plan of merger.

(8) A statement as to whether the question of merger, in accordance with the projected plan, is to be contingent upon approval of the voters in the affected area.

(9) Any other condition or prerequisite to merger, together with any other appropriate subject or function that may be necessary for the orderly consolidation and merger of the local school administrative units involved.

The plan referred to above shall be mutually agreed upon by the city and county boards of education involved and shall be accompanied by a certification that the plan was approved by the board of education on a given day and that the action has been duly recorded in the minutes of said board, together with a certification to the effect that the public hearing required above was announced and held. The plan, together with the required certifications, shall then be submitted to the board of county commissioners for its concurrence and approval. After such approval has been received, the plan shall be

submitted to the State Board of Education for the approval of said State Board and the plan shall not become effective until such approval is granted. Upon approval by the State Board of Education, the plan of consolidation and merger shall become final and shall be deemed to have been made by authority of law and shall not be changed or amended except by an act of the General Assembly. The written plan of agreement shall be placed in the custody of the board of education operating and administering the public schools in the merged unit and a copy filed with the Secretary of State.

The plan may be, but it is not required that it be, submitted for the approval of the voters of the geographic area affected in a referendum or election called for such purpose, and such elections or referendums if held shall be held under the provisions governing elections or referendums as set forth in G.S. 115C-507, with authority of the board of county commissioners to have such election or referendum conducted by the board of elections of the county.

Upon approval of the plan of consolidation or merger by the State Board of Education, or upon approval of the plan of consolidation or merger by the voters in a referendum or election called for such purpose, and as soon as a provisional or interim board of education of the merged unit, or a permanent board of education of the merged unit, enters in and upon the duties of the administration of the public schools of the consolidated or merged unit, then the former boards of education and all public officers of the former boards of education of the separate units thus merged shall stand abolished, and said separate boards of education or administrative units thus merged shall stand dissolved and shall cease to exist for any and all purposes. All consolidations and mergers of county and city boards of education and of county and city school administrative units heretofore agreed to and finally approved, and all consolidation or merger proceedings entered into prior to June 9, 1969, are hereby declared to be effective, legal and according to law notwithstanding any defect in the merger or consolidation proceedings and notwithstanding any dissolution of the separate boards of education and public officers of the former, separate school units. (1967, c. 643, s. 3; 1969, c. 742; 1981, c. 423, s. 1; 1991 (Reg. Sess., 1992), c. 767, s. 3.)

§ 115C-68. Merger of units in adjoining counties.

(a) Boards of education of contiguous counties or boards of education in a group of counties in which each county is contiguous with at least one other county in the group, and any city school administrative unit located in counties to be merged, may merge school administrative units upon approval by the State Board of Education of a written plan for merger submitted by the boards of education involved and bearing the approval of the tax-levying body for the school units. The plan shall be consistent with the General Statutes, shall contain provisions covering those items listed in G.S. 115C-67 (providing for the merger of units in the same county), and shall contain any other provision deemed necessary or appropriate by the State Board of Education or the local boards of education for the merger of school units in two or more counties.

(b) The plan of merger, including any arrangements for financing or taxing for the schools in the new local school administrative unit, may be, but is not required to be, submitted for the approval of the voters of the geographic area affected in a referendum or

election called for the purpose of approving these matters. Such elections or referendums, if held, shall be held under the provisions governing elections or referendums as set forth in G.S. 115C-507. Each board of county commissioners shall have authority to have such elections or referendums conducted by the board of elections of its county under the provisions set forth in G.S. 115C-507.

(c) If twenty percent (20%) of the qualified voters of a county to be merged petition the board of county commissioners of their county for an election as to whether their county shall be included in the proposed merger, the board of county commissioners shall call an election on this question for its county under the provisions of G.S. 115C-507. The petition must be submitted to the board of county commissioners within 10 days following the public hearing required by G.S. 115C-67 on the proposed plan of merger. The board of county commissioners shall have authority to have such an election conducted by the board of election of its county under the provisions set forth in G.S. 115C-507.

(d) Boards of education considering a merger of two or more counties may spend money necessary for studying and preparing for such a merger. (1969, c. 828; 1981, c. 423, s. 1.)

§ 115C-68.1. Merger of units by the board of commissioners.

(a) The board of commissioners of a county in which two or more local school administrative units are located, but all are located wholly within the county, may adopt a plan for the consolidation and merger of the units into a single countywide unit.

The plan adopted under this subsection shall require that the county adopting the plan provide local funding per average daily membership to the resulting local school administrative unit for subsequent years of at least the highest level of any local school administrative unit in the county during the preceding five fiscal years before the merger.

The board of commissioners shall forward a copy of the plan it adopts to the boards of education of all local school administrative units located within the county, immediately upon adoption.

(b) The boards of commissioners of two counties in which one local school administrative unit is located in both counties may jointly adopt plans for each of their counties, including a plan of consolidation and merger for such unit that is located in more than one county. The results of such consolidation and merger shall be that there is only one countywide local school administrative unit in each county, or that the entirety of the unit located within two counties is merged and consolidated with the county unit of one of the two counties. Such plans shall also merge and consolidate any other city school administrative unit located wholly within one of the two counties. Within the two-county area, all the plans shall take effect on the same day.

The plans jointly adopted under this subsection shall require that the counties jointly adopting the plans provide local funding per average daily membership to the resulting local school administrative units for subsequent fiscal years of at least the highest level of any local school administrative unit being merged during the preceding five fiscal years before the merger.

The boards of commissioners of each of the two counties shall forward copies of the plans they adopt to the boards of education of all local school administrative units located within the county, immediately upon adoption.

(c) The plans under this section shall be prepared and approved in accordance with G.S. 115C-67 as provided by general law, or G.S. 115C-68 as provided by general law, as applicable, except that the county and city boards of education shall not participate by preparing, entering into, submitting, or agreeing to a plan, and the plan shall not be contingent upon approval of the voters.

(d) For the purpose of this section, local funding per average daily membership means the budgeted local expense per average daily membership. The State Board of Education shall establish guidelines for the computation of this amount and the amount shall be set out in the plan for consolidation and merger.

(e) If the State Board of Education fails to approve a plan submitted to it under this section, such failure to approve does not preclude the approval of the plan by the General Assembly by local act. (1991, c. 689, s. 37(b).)

§ 115C-68.2. Merger of units by the local boards of education.

If a city board of education notifies the State Board of Education that it is dissolving itself, the State Board of Education shall adopt a plan of consolidation and merger of that city school administrative unit with the county school administrative unit in the county in which the city unit is located; provided, however, if a city school administrative unit located in more than one county notifies the State Board of Education that it is dissolving itself, the State Board shall adopt a plan that divides the city unit along the county line and consolidates and merges the part of the city unit in each county with the county unit in that county and the plans shall take effect on the same day. The plans shall be prepared and approved in accordance with G.S. 115C-67 as provided by general law, and G.S. 115C-68 as provided by general law, as applicable, except that the county and city boards of education and the boards of commissioners shall not participate by preparing, entering into, submitting, or agreeing to a plan, and the plan shall not be contingent upon approval by the voters. (1991, c. 689, s. 37(c).

§ 115C-68.3. Validation of plans of consolidation and merger.

All plans for consolidation and merger of school administrative units entered into between June 9, 1969, and May 26, 1992, under G.S. 115C-67, 115C-68.1, 115C-68.2, former G.S. 115-74.1, or under any local act authorizing such mergers, are ratified and considered to have been adopted by act of the General Assembly. This Article prevails over G.S. 153A-76(4). (1991 (Reg. Sess., 1992), c. 767, s. 2; c. 1030, s. 51.2.)

§ 115C-69. Types of districts defined.

The term "district" here used is defined to mean any convenient territorial division or subdivision of a county, created for the purpose of maintaining within its boundaries one or more public schools. It may include one or more incorporated towns or cities, or parts

thereof, or one or more townships, or parts thereof, all of which territory is included in a common boundary. There shall be three different kinds of districts:

(1) The "nontax district" is a territorial division of a local school administrative unit under the control of the local board of education, having no special local tax fund voted by the people for supplementing State and county funds.

(2) The "local tax district" is a territorial division of a local school administrative unit under the control of the local board of education, having in addition to State and county funds, a special local tax fund voted by the people for supplementing State and county funds.

(3) The "administrative district" is a territorial division of a county school administrative unit under the control of a county board of education which is established for administrative purposes and which consists of any combination of one or more local tax districts, nontax areas or bond districts of the county school administrative unit. (1955, c. 1372, art. 1, s. 7; 1965, c. 584, s. 1; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 12.)

§ 115C-70. Repealed by Session Laws 1985 (Regular Session, 1986), c. 975, s. 24.

§ 115C-71. Districts formed from portions of contiguous counties.

School districts may be formed out of contiguous counties by agreement of the county boards of education of the respective counties subject to the approval of the State Board of Education. Rules for the organization, support and operation of districts so formed are subject to the agreement of the boards of education concerned, and as a guide to the working out of such agreements the formulas contained in G.S. 115C-510 should be followed as far as applicable. (1955, c. 1372, art. 8, s. 2; 1981, c. 423, s. 1.)

§ 115C-72. Consolidation of districts and discontinuance of schools.

(a) Local boards of education shall have the power and authority to close or consolidate schools located in the same district, and with the approval of the State Board of Education, to consolidate school districts or other school areas over which the board has full control, whenever and wherever in its judgment the closing or consolidation will better serve the educational interest of the local school administrative unit or any part of it.

In determining whether two or more public schools shall be consolidated, or in determining whether or not a school shall be closed and the pupils transferred therefrom, local boards of education of the several counties shall observe and be bound by the following rules:

(1) In any question involving the closing or consolidation of any public school, the local board of education of the school administrative unit in which such school is located shall cause a thorough study of such school to be made, having in mind primarily the welfare of the students to be affected by a proposed closing or consolidation and including in such study, among other factors, geographic conditions, anticipated increase or decrease in school enrollment, the inconvenience or hardship that might result to the pupils to be affected by such closing or consolidation, the cost of providing additional school facilities in the event of such closing or consolidation, and such other factors as the board shall

consider germane. Before the entry of any order of closing or consolidation, the local board of education shall provide for a public hearing in regard to such proposed closing or consolidation, at which hearing the public shall be afforded an opportunity to express their views. Upon the basis of the study so made and after such hearing, said board may, in the exercise of its discretion, approve the closing or consolidation proposed.

(2) The provisions of this section shall not deprive any local board of education of the authority to assign or enroll any and all pupils in schools in accordance with the provisions of G.S. 115C-366(b) and 115C-367 to 115C-370.

(b) This section does not govern merger of a city school administrative unit with another school administrative unit. Such merger is governed by G.S. 115C-67. (1955, c. 1372, art. 8, s. 3; 1981, c. 423, s. 1; 1983, c. 308; c. 752; 2009-570, s. 27.)

§ 115C-73. Enlarging tax districts and city units by permanently attaching contiguous property.

The county boards of education with the approval of the State Board of Education may transfer from nontax territory and attach permanently to local tax districts or to city school administrative units, real property contiguous to said local tax districts or city school administrative units, upon the written petition of the owners thereof and the taxpayers of the families living on such real property, and there shall be levied upon the property of each individual in the area so attached, including landowners and tenants, the same tax as is levied upon other property in said district or unit: Provided, that such transfer shall be subject to the approval of the board of education of such city unit: Provided, the petition must be signed by a majority of the persons who are the owners thereof and a majority of the taxpayers of the families living on such real property on the date the petition is filed with the county board of education: Provided, further, that a person or corporation owning only an easement in real property shall not be considered an owner of said property within contemplation of this section: Provided, further that no right of action or defense founded upon the invalidity of such transfer shall be asserted, nor shall the validity of such transfer be open to question in any court upon any ground whatever, except in an action or proceeding commenced within 60 days after the approval of such transfer is given by the State Board of Education.

Any qualified voter residing in the area attached shall be permitted to vote in any election for members of the board of education having jurisdiction over the attached area. (1955, c. 1372, art. 8, s. 4; 1959, c. 573, s. 4; 1971, c. 672; 1973, c. 1155; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 13.)

§ 115C-74. School system defined.

The school system of each local school administrative unit shall consist of 12 years of study or grades, and shall be graded on the basis of a school year of not less than nine months. Schools within the system may be organized in the discretion of the local board of education. (1955, c. 1372, art. 1, s. 5; 1959, c. 573, s. 1; 1981, c. 423, s. 1; 2001-97, s. 1.)

§ 115C-75. Recommended school classification.

(a) The different types of public schools are classified and defined as follows:

(1) An "elementary school" is a school that includes all or part of the first through eighth grade and that may have a kindergarten or other early childhood program.

(2) A "high school" is a school that includes all or part of grades nine through 12 and that offers at least the minimum high school course of study prescribed by the State Board of Education.

(3) Repealed by Session Laws 2001-97, s. 2.

(4) A "junior high school" is a school that includes all or part of grades seven through nine.

(4a) A "middle school" is a school that includes all or part of grades six through nine.

(5) A "senior high school" is a school that includes the tenth, eleventh and twelfth grades.

(6) A "union school" is a school that includes elementary, middle, and high school grades.

(b) The school classifications in subsection (a) of this section are recommendations only and do not prohibit local boards of education from classifying schools in other ways. (1955, c. 1372, art. 1, s. 6; 1959, c. 915, s. 1; 1963, c. 448, s. 24; 1969, c. 1213, s. 2; 1981, c. 423, s. 1; 2001-97, s. 2.)

§ 115C-75.1: Reserved for future codification purposes.

§ 115C-75.2: Reserved for future codification purposes.

§ 115C-75.3: Reserved for future codification purposes.

§ 115C-75.4: Reserved for future codification purposes.

Article 7A.

North Carolina Innovative School District and Innovation Zones.

§ 115C-75.5. Definitions.

The following definitions apply in this Article:

(1) Innovative school. – A qualifying school selected by the State Board of Education under the supervision of the North Carolina Innovative School District.

(2) Reserved.

(3) Innovative school operator or IS operator. – An entity selected by the State Board of Education upon the recommendation of the ISD Superintendent to operate an innovative school. Except as otherwise provided in this Article, the Department of Public Instruction may not be selected as an IS operator.

(4) ISD Superintendent. – The superintendent of the ISD appointed by the Superintendent of Public Instruction in accordance with G.S. 115C-75.6.

(4a) North Carolina Innovative School District or ISD. – The statewide school unit established pursuant to this Article.

(5) Qualifying school. – A low-performing school, as defined in G.S. 115C-105.37, that meets one of the following criteria:

a. The school earned an overall school performance score in the lowest five percent (5%) of all schools in the prior school year that meet all of the following requirements:

1. The school includes all or part of grades kindergarten through fifth.

2. The school did not exceed growth in at least one of the prior three school years and did not meet growth in at least one of the prior three school years.

3. One of the models established in G.S. 115C-105.37B for continually low-performing schools had not been adopted for that school for the immediately prior school year.

b. The school received a school performance score in the lowest ten percent (10%) of all schools that include all or part of grades kindergarten through fifth in the prior school year and has been designated by the local board of education for consideration by the State Board of Education as an innovative school. (2016-110, s. 1; 2016-126, 4th Ex. Sess., s. 14; 2017-57, ss. 7.26(e), 7.26E(a), (f); 2018-5, s. 7.20(a).)

§ 115C-75.6. North Carolina Innovative School District.

(a) There is established the North Carolina Innovative School District (ISD) under the administration of the State Board of Education and the Superintendent of Public Instruction. The ISD shall assume the supervision, management, and operation of elementary and secondary schools as innovative schools as provided in this Article. For the purposes of federal law and administration of State law, the ISD shall be considered a local school administrative unit.

(b) Repealed by Session Laws 2016-126, s. 15.

(c) The Superintendent of Public Instruction shall appoint a superintendent to serve as the executive officer of the ISD. The ISD Superintendent shall serve at the pleasure of the Superintendent of Public Instruction at a salary established by the Superintendent of Public Instruction within the funds appropriated for this purpose. The ISD Superintendent shall have qualifications consistent with G.S. 115C-271(a) and report directly to the Superintendent of Public Instruction.

(d) By January 15 annually, the State Board of Education, Superintendent of Public Instruction, and the ISD Superintendent shall report to the Joint Legislative Education Oversight Committee on all aspects of operation of the ISD, including the selection of innovative schools and their progress. (2016-110, s. 1; 2016-126, 4th Ex. Sess., s. 15; 2017-57, ss. 7.26E(a), (f).)

§ 115C-75.7. Selection of innovative schools.

(a) State Board Selection. – The State Board of Education is authorized to select, upon the recommendation of the ISD Superintendent, no more than five qualifying elementary schools to transfer to the ISD as innovative schools. The five qualifying schools selected for inclusion in the ISD should represent geographic diversity, including urban and rural schools. The State Board of Education shall select no more than one qualifying school per local school administrative unit, unless the local board of education consents.

(b) Selection Process. – The selection of qualifying schools shall be based on an analysis of performance over the most recent three-year period. Prior to recommendation of selection of a qualifying school, the ISD Superintendent shall conduct an evaluation of the school to determine the factors contributing to the school's performance and shall confer with the school principal, local board of education members, the local school superintendent, and the local board of county commissioners to share the findings of the evaluation. The school selection process shall also include a public hearing to allow for parent and community input. The ISD Superintendent shall evaluate and identify the qualifying schools to recommend for selection as prospective innovative schools no later than October 15 prior to the initial school year in which the school may operate as an innovative school and shall notify the local boards of education where prospective innovative schools are located by that date. The State Board of Education shall select the prospective innovative schools no later than December 15.

(c) Local Board Response. – Upon notification by the ISD Superintendent of selection by the State Board of Education of the qualifying school as a prospective innovative school, the local board of education shall determine whether to (i) close the selected qualifying school or (ii) transfer the school into the ISD. The local board shall not be required to undertake the study required by G.S. 115C-72 before closing the school. Before the adoption of a resolution, the local board of education shall provide for a public hearing in regard to the proposed transfer or closure, at which hearing the public shall be afforded an opportunity to express their views. No later than February 1, the local board of education shall adopt a resolution either (i) consenting to transfer of the selected qualifying school to the ISD as an innovative school or (ii) closing that school at the conclusion of that school year. The State Board of Education may delay the transfer of a selected school to the ISD for one year only upon the recommendation of the ISD Superintendent.

(d) Public Notification. – The list of qualifying schools and selected innovative schools shall be made publically available on a Web site maintained by the ISD.

(e) Waivers for Innovative Schools. – The ISD Superintendent may request a waiver from the State Board of Education of State Board of Education rules, regulations, policies, and procedures, or the provisions of this Chapter for innovative schools; however, innovative schools shall be required to comply with, at a minimum, the statutory requirements for charter schools as provided in Article 14A of this Chapter. The goal for each waiver shall be improvement of student performance. All innovative schools shall comply with all applicable constitutional and statutory nondiscrimination requirements. Notwithstanding G.S. 115C-105.26, the State Board of Education may grant a requested

waiver of State laws or rules for an innovative school pursuant to this subsection, except for a waiver of State laws or rules applicable to children with disabilities and any of the other requirements set forth in this subsection. (2016-110, s. 1; 2017-57, ss. 7.26E(a), (f).)

§ 115C-75.8. Selection of IS operators.

(a) The State Board of Education may select an IS operator for a prospective innovative school by January 15 and shall select an IS operator for a prospective school no later than February 15.

(b) Upon the recommendation of the ISD Superintendent, the State Board of Education shall only select an entity to contract as an IS operator if that entity demonstrates one of the following:

(1) The entity has a record of results in improving performance of persistently low-performing schools or improving performance of a substantial number of persistently low-performing students within a school or schools operated by the entity in this State or other states.

(2) The entity has a credible and specific plan for dramatically improving student achievement in a low-performing school and provides evidence that the entity, or a contractual affiliate of such an entity, is either currently operating a school or schools in this State that provide students a sound, basic education or demonstrating consistent and substantial growth toward providing students a sound, basic education in the prior three school years.

(b1) In the event that no entity demonstrates the qualifications required by subsection (b) of this section, the ISD is authorized to act as an IS operator for one academic year and the State Board shall select an entity in accordance with subsection (b) of this section to assume management beginning with the next academic year. If the State Board has not been able to select an entity demonstrating the required qualifications by the third year of management of the school by the ISD, the ISD shall remain the operator of the school until the end of the fifth year and shall develop a transition plan to return the school to the local school administrative unit.

(c) The selected IS operator is encouraged to hold public informational sessions and other outreach to the community, prospective innovative school, and local board of education of a prospective innovative school prior to a local board's adoption of the resolution required by G.S. 115C-75.7(c).

(d) The contract between the State Board of Education and IS operator shall require, as a minimum, that the IS operator meet the same requirements as established for charter schools in the following statutes:

(1) G.S. 115C-218.20 (Civil liability and insurance requirements).

(2) G.S. 115C-218.25 (Open meetings and public records).

(3) G.S. 115C-218.30 (Accountability; reporting requirements to State Board of Education).

(4) G.S. 115C-218.50 (Charter school nonsectarian).

(5) G.S. 115C-218.55 (Nondiscrimination in charter schools).

(6) G.S. 115C-218.60 (Student discipline).
(7) G.S. 115C-218.65 (North Carolina School Report Cards).
(8) G.S. 115C-218.75 (General operating requirements).
(9) G.S. 115C-218.85 (Course of study requirements). (2016-110, s. 1; 2017-57, ss. 7.26E(a), (f); 2018-5, s. 7.20(c).)

§ 115C-75.9. Management of innovative schools.

(a) Direct Management by IS Operator. – An innovative school shall be subject to direct management by an IS operator selected by the State Board of Education, upon the recommendation of the ISD Superintendent, for a five-year contract. In the event that temporary management is necessary due to contract termination, lack of a qualified IS operator under G.S. 115C-75.8(b1), or other unforeseen emergency, the ISD is authorized to act as an IS operator.

(b) Role of IS Operator. – The IS operator shall be authorized to have a direct role in making decisions about school finance, human capital, and curriculum and instruction for the innovative school while developing the leadership capacity in such schools.

(c) Assignment to Innovative Schools. – All innovative schools shall remain open to enrollment in the same manner with the same attendance zone as prior to becoming an innovative school. If a local board of education's reassignment of students within the local school administrative unit due to student population changes or openings or closures of other schools impacts the innovative school, the IS operator may appeal to the ISD Superintendent and request a hearing before the State Board of Education regarding the reassignment. Notwithstanding G.S. 115C-366, the State Board of Education shall, after hearing from both the local board of education and IS operator, determine whether the reassignment of students impacting the innovative school may proceed.

(d) Facility and Capital Expenditures. – Facility and capital expenditures shall be provided as follows:

(1) In addition to the transfer of funds as provided in G.S. 115C-75.10, the local board of education shall be responsible for facility and capital expenditures at the qualifying school.
(2) All IS operators and local boards of education shall enter into an occupancy agreement establishing the terms of occupancy for the IS operator not otherwise addressed in statute. If the parties are unable to reach agreement, either party may petition the State Board of Education to resolve any issues in dispute.
(3) The IS operator shall have first priority in use of the facility for any purpose related to the operation of the innovative school. The local board of education may allow use of the facility by governmental, charitable, civic, or other organizations for activities within the community and may retain any funds received for such use for any time the IS operator has not provided written notice to the local board of its use of the facility during that time for a purpose related to the operation of the innovative school.

For the purposes of this subsection, facility and capital expenditures include routine maintenance and repair, and capital expenditures include building repair and maintenance, furniture, furnishings, and equipment.

(e) Transportation. – The local board of education shall provide transportation of all students assigned to the innovative school in the same manner as provided for other schools in the local school administrative unit in that school year.

(f) Memorandums of Understanding for Alternate Arrangements. – Notwithstanding this section, the IS operator, in consultation with the ISD Superintendent, may elect to enter into a memorandum of understanding for alternate arrangements with the local board of education to address any of the following:

(1) Facility and capital expenditures.

(2) Transportation services.

(3) Services for Children with Disabilities.

If the IS operator elects to use a memorandum of understanding for alternate arrangements, the IS operator and local board of education shall finalize the memorandum of understanding within 30 days of the initial request by the IS operator. If the parties have not completed the memorandum of understanding within 30 days, the State Board of Education shall resolve any issues in dispute.

(g) Student Records. – The local board of education shall make available in a timely fashion all student records to the innovative school at no cost for all students of that school.

(h) Innovative School Employees. – The IS operator shall select and hire the school principal for an innovative school. Within the limits of the school budget, the IS operator or its designee shall select staff members in accordance with guidance from the ISD Superintendent. Before finalizing staffing recommendations, the IS operator and the ISD Superintendent or the Superintendent's designee shall interview all existing staff members at the qualifying school and review student growth and performance data for those staff members for whom it is available. Notwithstanding Article 21A of this Chapter, the IS operator and the ISD Superintendent shall be permitted to examine personnel files of existing staff members for the qualifying school. The IS operator shall have the authority to decide whether any administrator, teacher, or staff member previously assigned to a qualifying school selected to become an innovative school shall continue as an employee of the innovative school. Any such employees retained shall become employees of the ISD. An employee hired to work in an innovative school shall be an employee of the ISD, and the employees shall be under the exclusive control of the ISD. All employees of the ISD shall be eligible for enrollment in the Teachers' and State Employees' Retirement System of North Carolina, the State Health Plan, and other benefits available to State employees. The IS operator shall provide funds to the ISD in an amount sufficient to provide salary and benefits for employees of the ISD working in the innovative school based on the terms of employment established by the IS operator.

(i) Criminal History Checks. – The State Board of Education shall require applicants for employment with the ISD to be checked for criminal histories using the process provided in G.S. 115C-332. The State Board of Education shall provide the criminal history it receives to the ISD Superintendent and IS operator.

(j) Employees of Local Board of Education. – The transfer of a qualifying school shall be deemed a reorganization of the local school administration unit resulting in a reduction in force. If an employee is not given the option to continue as an employee for the innovative school, the local board of education may, in its discretion, do any of the following:

(1) Continue the employee's employment with the local board of education.

(2) Dismiss the employee due to a reduction in force as provided in Article 22 of this Chapter.

(3) Dismiss the employee as otherwise provided in Article 22 of this Chapter.

(k) Liability Insurance. – The IS operator shall maintain reasonable amounts and types of liability insurance as established by the State Board of Education. No civil liability shall attach to the State Board of Education, the Department of Public Instruction, the ISD Superintendent, or a local board of education or to any of their members or employees, individually or collectively, for any acts or omissions of the IS operator.

(*l*) School Nutrition Program. – The innovative school shall participate in the National School Lunch Program, as provided in G.S. 115C-264.

(m) Cooperation with ISD Superintendent. – The local board of education shall cooperate with the ISD Superintendent in carrying out his or her powers and duties as necessary in accordance with this Chapter. (2016-110, s. 1; 2017-57, ss. 7.26E(a), (f); 2017-102, s. 48(i); 2018-5, s. 7.20(b).)

§ 115C-75.10. Innovative schools funds.

(a) Funding Allocation Selection. – State and local funding for an innovative school shall be allocated as provided in subsection (b) or subsection (c) of this section. The IS operator shall select one of the allocation methods as the method to be used for the innovative school.

(b) Designated Funding. – Funding shall be allocated to the ISD for the innovative school by the State Board of Education and local board of education as follows:

(1) The State Board of Education shall allocate the following to the ISD for each innovative school:

a. An amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the innovative school was located for each child attending the innovative school except for the allocations for (i) children with disabilities, (ii) children with limited English proficiency, and (iii) transportation. The State Board of Education shall provide the allocation for transportation to the local school administrative unit in which the innovative school is located.

b. An additional amount for each child attending the innovative school who is a child with disabilities.

c. An additional amount for children with limited English proficiency attending the innovative school, based on a formula adopted by the State Board of Education.

(2) The local school administrative unit in which the innovative school is located shall transfer to the ISD for the innovative school an amount equal to the per pupil share of the local current expense fund of the local school administrative unit for the fiscal year. The per pupil share of the local current expense fund shall be transferred to the ISD for the innovative school within 30 days of the receipt of monies into the local current expense fund. The local school administrative unit and ISD may use the process for mediation of differences between the State Board of Education and a charter school provided in G.S. 115C-218.95(d) to resolve differences on calculation and transference of the per pupil share of the local current expense fund. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to an innovative school located in the tax district for which these taxes are levied and in which the student resides. The local school administrative unit shall also provide the ISD with all of the following information within the 30-day time period provided in this subsection:

a. The total amount of monies the local school administrative unit has in each of the funds listed in G.S. 115C-426(c).

b. The student membership numbers used to calculate the per pupil share of the local current expense fund.

c. How the per pupil share of the local current expense fund was calculated.

d. Any additional records requested by the ISD from the local school administrative unit in order for the ISD to audit and verify the calculation and transfer of the per pupil share of the local current expense fund.

(c) Funding Memorandum of Understanding. – The IS operator, in consultation with the ISD Superintendent, may enter into a funding memorandum of understanding with the local board of education of the local school administrative unit where the innovative school is located for all student support and operational services and instructional services to be provided by the local board of education in the same manner and degree as in the prior school year or funding in an amount equivalent to the amount the local board of education would have expended on those services if provided. For the purposes of this subsection, student support and operational services include cafeteria services, custodial services, broadband and utilities, and student information services, and instructional services include alternative education, special education services, test administration services, textbooks, technology, media resources, instructional equipment, and other resources. The IS operator and local board of education shall finalize the funding memorandum of understanding within 30 days of the initial request for the memorandum by the IS operator. If the parties have not completed the funding memorandum of understanding within 30 days, the State Board of Education shall resolve any issues in dispute.

(d) The ISD may seek, manage, and expend federal money and grants, State funding, municipal funding, and other funding with the same authority as a local school

administrative unit, including decisions related to allocation of State funds among innovative schools, and shall be considered a local school administrative unit for all federal funding purposes. (2016-110, s. 1; 2017-57, ss. 7.26E(a), (f); 2018-5, s. 38.8(c).)

§ 115C-75.11. Accountability and governance for innovative schools.

(a) The IS operator shall set clear goals related to higher academic outcomes for students, safe and positive learning environments for children, parent and community engagement, and the efficient and effective use of taxpayer dollars, empower and equip teachers and school leaders to meet the goals, and hold such teachers and school leaders accountable to meet the goals. The IS operator shall apply to the ISD Superintendent for appropriate waivers for the innovative school pursuant to G.S. 115C-75.7(e).

(b) The IS operator shall select, approve, or remove the school principal of an innovative school that it is managing in accordance with this Article.

(c) The IS operator shall enter into an agreement with the school principal regarding specific goals for the innovative school related to higher academic outcomes for students, safe and positive learning environments for children, parent and community engagement, and the efficient and effective use of taxpayer dollars. The agreement shall be made publicly available on the ISD Web site.

(d) An innovative school shall not be included in any State evaluation or performance models used for the local school administrative unit in which the school is located but shall be considered a part of the ISD for all evaluation purposes. (2016-110, s. 1; 2017-57, ss. 7.26E(a), (f).)

§ 115C-75.12. Term of supervision for an innovative school.

(a) An innovative school shall remain under the supervision of the ISD for a minimum of five consecutive years through a contract with an IS operator. The following shall apply to the term of a contract with an IS operator of an innovative school:

(1) Early termination of contract based on performance. – If, during the five-year contract, the innovative school's annual percentage growth does not exceed the average annual percentage growth of other qualifying schools for three consecutive years, the State Board of Education, upon the recommendation of the ISD Superintendent, may terminate the contract at the conclusion of the academic year and select another IS operator in accordance with G.S. 115C-75.8 to assume the remainder of the five-year contract and any occupancy agreements or memorandums of understanding with the local board of education at the beginning of the next academic year.

(2) Nonrenewal of contract based on performance. – If, by the end of the five-year contract, the innovative school's average annual percentage growth during the term of the contract does not exceed the average annual percentage growth of other qualifying schools during the same term, the State Board of Education shall not renew the contract of the IS operator

and develop a transition plan to return the school to the local school administrative unit.

(3) State Board of Education optional extension of contract for three years. – If, by the end of the five-year contract, the innovative school remains a qualifying school but has exceeded the average annual percentage growth of other qualifying schools and has shown growth over the term of the contract, the State Board of Education, upon the recommendation of the ISD Superintendent in his or her discretion, may continue the contract with the IS operator for an additional three-year term. The ISD Superintendent and IS operator shall engage the school, the school community, and the school's local board of education in developing a transition plan for the school to leave the supervision of the ISD at the conclusion of the three-year extension of the contract. If the State Board of Education does not elect to continue the contract, the State Board of Education may do any of the following:

a. Select another IS operator for a three-year contract.

b. Close the school as provided in subdivision (2) of this subsection.

c. Develop a transition plan to return the school to the local school administrative unit for the next school year.

(4) IS operator option to extend contract for three years. – If, by the end of the five-year contract, the innovative school receives a grade of C or higher under G.S. 115C-12(9)c1., the IS operator shall have the option to extend the contract for another three-year term. The ISD Superintendent and IS operator shall engage the school, the school community, and the school's local board of education in developing a transition plan for the school to leave the supervision of the ISD at the conclusion of the three-year extension of the contract. Options at the conclusion of the contract shall include the following:

a. Conversion to charter. – If, in the development of the transition plan, a local board of education indicates by resolution to the State Board of Education that the local board of education elects to not receive the transfer of the innovative school back to the local school administrative unit, the IS operator may apply to convert the school to a charter school under Article 14A of this Chapter. If a charter is awarded, the charter board of directors may request to use the facility as provided in G.S. 115C-218.35. If the IS operator does not seek conversion to a charter school or fails to receive a charter, the State Board of Education may close the school as provided in subdivision (2) of this subsection.

b. Alternate as operator or return to local school administrative unit. – If the IS operator does not elect to continue the contract, the State Board of Education may select another IS operator for a three-year contract or may develop a transition plan to return the school to the local school administrative unit for the next school year.

(5) Termination of contract on other grounds. – The State Board of Education, upon the recommendation of the ISD Superintendent, may terminate a contract with an IS operator at any time during the contract for financial mismanagement, noncompliance with federal or State laws, failure to comply with the terms of the contract, or evidence of criminal activity. The State Board of Education shall develop a transition plan to return the school to the local school administrative unit. The ISD is authorized to act as a temporary IS operator during the transition period, if necessary.

(b) An innovative school shall remain under the supervision of the ISD for no more than eight years.

(c) The State Board of Education shall make all decisions related to contracts for IS operators no later than May 1, except as provided in subdivision (5) of subsection (a) of this section. (2016-110, s. 1; 2017-57, ss. 7.26E(a), (f); 2018-5, s. 7.20(d).)

§ 115C-75.13. Innovation zones.

(a) If a local board of education transfers a qualifying school to the ISD, the local board of education may ask the State Board of Education to be allowed to create an innovation zone (i) for up to three continually low-performing schools within its local school administrative or (ii) if the local school administrative unit has more than thirty-five percent (35%) of the schools identified in the unit as low-performing, for all of the low-performing schools located in the unit.

The State Board of Education shall grant, upon recommendation of the ISD Superintendent, such requests for the creation of an innovation zone. The State Board of Education shall also authorize the local board of education the flexibility to operate the schools within the innovation zone with the same exemptions from statutes and rules as a charter school authorized under Article 14A of this Chapter and with exemptions from local board of education policies as needed to ensure autonomy under the guidance of the innovation zone office for financial, programmatic, staffing, and time allocation decisions.

(b) The innovation zone created by a local board of education must include all of the following:

(1) Development of a clear and specific plan for improving schools within the innovation zone.

(2) Establishment of an innovation zone office with a leader recommended by the ISD Superintendent to be appointed by the local board of education and approved by the State Board of Education to govern and lead the schools in the innovation zone.

(3) Attraction of high-quality staff at schools in the innovation zone through the use of incentives, favorable working conditions, and development of partnerships to develop human capital.

(4) Accountability for those schools based on established benchmarks and goals for student achievement and for support services provided by the

local school administrative unit based on metrics established by the innovation zone office for effective and efficient delivery.

(5) Support for those schools by the innovation zone office to ensure priority in services from the local school administrative unit, pursuit of outside funding, and technical support, including support from external partners.

(c) A local board of education may maintain an innovation zone created as provided in subsection (a) for up to five consecutive years. The State Board of Education may terminate the innovation zone as follows:

(1) Early termination of innovation zone based on performance. – If, during the five-year period, the average of the annual percentage growth of the schools within the innovation zone does not exceed the average annual percentage growth of other continually low-performing schools for three consecutive years, the State Board of Education, upon the recommendation of the ISD Superintendent, may terminate the innovation zone at the conclusion of the academic year.

(2) Nonrenewal of innovation zone based on performance. – If, by the end of the five-year period, the average annual percentage growth of the schools within the innovation zone over the five-year period does not exceed the average annual percentage growth of other continually low-performing schools during the same term, the State Board of Education shall not permit the local board of education to continue the innovation zone.

(3) State Board of Education optional extension of innovation zone for three years. – If, by the end of the five-year period, the schools within the innovation zone remain continually low-performing schools but have exceeded the average annual percentage growth of other continually low-performing schools, the State Board of Education, upon the recommendation of the ISD Superintendent in his or her discretion, may allow continuation of the innovation zone for an additional three years.

(4) Local board of education option to extend innovation zone for three years. – If, by the end of the five-year period, the schools within the innovation zone receive a grade of C or higher under G.S. 115C-12(9)c1., the local board of education shall have the option to extend the innovation zone for another three years.

(d) A low-performing school in an innovation zone, created as provided in clause (ii) of subsection (a) of this section, shall become an innovative school if that low-performing school does not exceed expected growth in the last two years of the five consecutive years in the innovation zone. (2016-110, s. 1; 2017-57, ss. 7.26E(a), (f).)

SUBCHAPTER IV. EDUCATION PROGRAM.

Article 8.

General Education.

Part 1. Courses of Study.

§§ 115C-81 through 115C-81.4: Repealed by Session Laws 2017-126, ss. 1-4, effective July 20, 2017.

§ 115C-81.5. Standard course of study.

(a) 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 its guide, the State Board of Education shall adopt a plan of education and a standard course of study as provided in G.S. 115C-12(9c) for the public schools of the State. It is the intent of the General Assembly that the focus of State educational funding shall be to ensure that each student receives a sound basic education. It is further a goal of the General Assembly to provide supplemental funds to low-wealth counties to allow those counties to enhance the instructional program and student achievement. Instruction shall be offered in the areas of arts, communication skills, physical education and personal health and safety, mathematics, media and computer skills, science, second languages, social studies, and career and technical education. In addition, instruction shall be offered in all of the areas provided in this Part.

(b) The standard course of study shall provide all of the following:

(1) A core curriculum for all students that takes into account the special needs of children.
(2) A set of competencies, by grade level, for each curriculum area.
(3) A list of textbooks for use in providing the curriculum.
(4) Standards for student performance and promotion based on the mastery of competencies, including standards for graduation, that take into account children with disabilities and, in particular, include appropriate modifications.
(5) A program of remedial education.
(6) Required support programs.
(7) A definition of the instructional day.
(8) Class size recommendations and requirements.
(9) Prescribed staffing allotment ratios.
(10) Material and equipment allotment ratios.
(11) Facilities guidelines that reflect educational program appropriateness, long-term cost efficiency, and safety considerations.
(12) Any other information the Board considers appropriate and necessary. (2017-126, s. 5.)

§ 115C-81.10. Career and technical education.

Instruction in career and technical education shall include the following:

(1) The integration of academic and career and technical education.
(2) A sequential course of study leading to career and college readiness.
(3) Increased student work skill attainment and job placement.

(4) Increased linkages, where geographically feasible, between public schools and community colleges, so the public schools can emphasize academic preparation and the community colleges can emphasize specific job training.

(5) Instruction and experience, to the extent practicable, in all aspects of the industry the students are prepared to enter. (2017-126, s. 5.)

§ 115C-81.15. Conflict resolution and mediation models.

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models, and curricula that address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings. In developing this list, the Board shall emphasize materials, models, and curricula that currently are being used in North Carolina and that the Board determines to be effective. The Board shall include at least one model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum. (2017-126, s. 5.)

§ 115C-81.20. Alcohol and drug use prevention education.

(a) Instruction shall be provided in alcohol and drug use prevention education from kindergarten through high school.

(b) The State Board of Education shall develop and maintain a recommended list of alcohol and drug use prevention education materials that include components for teacher training and ongoing assessment and evaluation to verify success and ensure the use of up-to-date information and strategies.

(c) The Department of Public Instruction shall do the following:

(1) Work to strengthen instructional offerings in the content and skill areas in which alcohol and drug use prevention education is addressed.

(2) Develop curricular materials and resources that meet, extend, and supplement drug and alcohol education as outlined in the standard course of study and the teacher handbook for the competency-based curriculum.

(3) Recommend to the State Board of Education any drug use prevention education support materials that should be removed from or added to the recommended list of curricular resources developed and maintained by the State Board of Education.

(d) Local boards of education may select supplemental alcohol and drug use prevention education materials from the list maintained by the State Board of Education or develop their own supplemental materials to be approved by the State Board of Education.

(e) Local boards of education shall do the following:

(1) Implement an approved alcohol and drug use prevention education as a primary part of their comprehensive health education program.

(2) Provide for ongoing evaluation of drug use prevention education resources, to include participation in ongoing evaluations with the Department of Public Instruction.

(f) The Department of Public Instruction, in conjunction with local school administrative units, shall provide for professional development to train educators and support personnel to implement a comprehensive alcohol and drug use prevention education program.

(g) Sequential, age-appropriate instruction shall be provided that includes all of the following:

(1) Reaches all students in all grades.
(2) Presents a clear and consistent message that the use of alcohol and unlawful drugs and the misuse of other drugs are unhealthy and harmful.
(3) Reflects current research and theory.
(4) Includes all abusable substances.
(5) Utilizes information that is current and accurate.
(6) Involves students in active "hands-on" learning experiences.
(7) Integrates substance abuse education with other health and social issues and other subject and skill areas of the standard course of study.
(8) Promotes understanding and respect for the law and values of society.
(9) Encourages healthy, safe, and responsible attitudes and behaviors.
(10) Includes strategies to involve parents, family members, and the community.
(11) Includes information on intervention and treatment services.
(12) Is continually open to revision, expansion, and improvement. (2017-126, s. 5.)

§ 115C-81.25. Health education.

(a) Comprehensive health education instruction shall be developed and taught to students from kindergarten through ninth grade.

(b) The State Board of Education shall do all of the following:

(1) Supervise the development and operation of the statewide comprehensive school health education program, including curriculum development, teacher professional development, promotion of training in teacher preparation programs, learning material review, and assessment and evaluation of local programs in the same manner as for other programs.
(2) Adopt objectives for the instruction of the subject areas listed in this section that are appropriate for each grade level.
(3) Approve textbooks and other materials incorporating these objectives that local school administrative units may purchase with State funds.

(c) The State Board of Education, through the Department of Public Instruction, shall, on a regular basis, review materials related to these objectives and distribute these reviews to local school administrative units for their information. This program includes age-appropriate instruction in the following subject areas, regardless of whether this

instruction is described as, or incorporated into a description of, "family life education," "family health education," "health education," "family living," "health," "healthful living curriculum," or "self-esteem":

(1) Mental and emotional health.
(2) Drug and alcohol abuse prevention.
(3) Nutrition.
(4) Dental health.
(5) Environmental health.
(6) Family living.
(7) Consumer health.
(8) Disease control.
(9) Growth and development.
(10) First aid and emergency care, including the teaching of cardiopulmonary resuscitation (CPR) and the Heimlich maneuver by using hands-on training with mannequins so that students pass a test approved by the American Heart Association or American Red Cross. For the purposes of this subdivision, schools shall do all of the following:
    a. Use an instructional program developed by the American Heart Association, the American Red Cross, or other nationally recognized programs that is based on the most current national evidence-based emergency cardiovascular care guidelines for CPR.
    b. Maintain documentation in an electronic database that students have successfully completed CPR instruction to meet healthful living essential standards.
    c. Require successful completion of instruction in CPR to be a requirement for high school graduation by the 2014-2015 school year.
(11) Preventing sexually transmitted diseases, including HIV/AIDS, and other communicable diseases. As used in this section, "HIV/AIDS" means Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome.
(12) Reproductive health and safety education.
(13) Bicycle safety.

(d) Parental Review. – The State Board of Education shall make available to all local school administrative units for review by the parents and legal guardians of students enrolled at those units any State-developed objectives for instruction, any approved textbooks, the list of reviewed materials, and any other State-developed or approved materials that pertain to or are intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including HIV/AIDS, to the avoidance of out-of-wedlock pregnancy, or to the reproductive health and safety education curriculum. The review period shall extend for at least 60 days before use.

(e) Duty of Local School Administrative Units. – Each local school administrative unit shall provide a comprehensive school health education program that meets all the requirements of this section and all the objectives established by the State Board. Each

local board of education may expand on the subject areas to be included in the program and on the instructional objectives to be met. (2017-126, s. 5.)

§ 115C-81.30. Reproductive health and safety education provided by local school administrative units.

(a) Each local school administrative unit shall provide a reproductive health and safety education program commencing in the seventh grade. Materials used in this instruction shall be age-appropriate for use with students. Law enforcement agencies, criminal justice agencies, and nongovernmental organizations with experience in sex-trafficking prevention and awareness may provide materials and information. Information conveyed during the instruction shall be objective and based upon scientific research that is peer reviewed and accepted by professionals and credentialed experts in any of the following fields: sexual health education, adolescent psychology, behavioral counseling, medicine, human anatomy, biology, ethics, or health education. Reproductive health and safety instruction provided by the local school administrative units shall do the following:

(1) Teach that abstinence from sexual activity outside of marriage is the expected standard for all school-age children.

(2) Present techniques and strategies to deal with peer pressure and offering positive reinforcement.

(3) Present reasons, skills, and strategies for remaining or becoming abstinent from sexual activity.

(4) Teach that abstinence from sexual activity is the only certain means of avoiding out-of-wedlock pregnancy, sexually transmitted diseases when transmitted through sexual contact, including HIV/AIDS, and other associated health and emotional problems. As used in this section, "HIV/AIDS" means Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome.

(5) Teach that a mutually faithful monogamous heterosexual relationship in the context of marriage is the best lifelong means of avoiding sexually transmitted diseases, including HIV/AIDS.

(6) Teach the positive benefits of abstinence until marriage and the risks of premarital sexual activity.

(7) Provide opportunities that allow for interaction between the parent or legal guardian and the student.

(8) Provide factually accurate biological or pathological information that is related to the human reproductive system.

(9) Teach about the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illegal drugs, and inadequate prenatal care.

(10) Teach about sexually transmitted diseases. Instruction shall include how sexually transmitted diseases are and are not transmitted, the effectiveness and safety of all federal Food and Drug Administration

(FDA)-approved methods of reducing the risk of contracting sexually transmitted diseases, and information on local resources for testing and medical care for sexually transmitted diseases. Instruction shall include the rates of infection among pre-teen and teens of each known sexually transmitted disease and the effects of contracting each sexually transmitted disease. In particular, the instruction shall include information about the effects of contracting the Human Papilloma Virus, including sterility and cervical cancer.

(11) Teach about the effectiveness and safety of all FDA-approved contraceptive methods in preventing pregnancy.

(12) Teach awareness of sexual assault, sexual abuse, and risk reduction. The instruction and materials shall:

a. Focus on healthy relationships.

b. Teach students what constitutes sexual assault and sexual abuse, the causes of those behaviors, and risk reduction.

c. Inform students about resources and reporting procedures if they experience sexual assault or sexual abuse.

d. Examine common misconceptions and stereotypes about sexual assault and sexual abuse.

(13) Teach about sex trafficking prevention and awareness. Each local school administrative unit shall:

a. Collaborate with a diverse group of outside consultants where practical, including law enforcement with expertise in sex-trafficking prevention education, to address the threats of sex trafficking.

b. Collaborate with a diverse group of outside consultants, including law enforcement with expertise in sex trafficking, on a referral protocol for high-risk pupils and minors.

(b) Each local board of education shall adopt a policy and provide a mechanism to allow a parent or a legal guardian to withdraw his or her child from instruction required under subdivisions (10) through (13) of subsection (a) of this section.

(c) Parental Review and Consent. – Each school year, before students may participate in any portion of (i) a program that pertains to or is intended to impart information or promote discussion or understanding in regard to the prevention of sexually transmitted diseases, including HIV/AIDS, or to the avoidance of out-of-wedlock pregnancy or (ii) a reproductive health and safety education program, whether developed by the State or by the local board of education, the parents and legal guardians of those students shall be given an opportunity to review the objectives and materials as provided in G.S. 115C-81.25(d). Local boards of education shall adopt policies to provide opportunities either for parents and legal guardians to consent or for parents and legal guardians to withhold their consent to the students' participation in any or all of these programs.

(d) Information on Contraceptives and Abortion Referral Services. – Students may receive information about where to obtain contraceptives and abortion referral services only in accordance with a local board's policy regarding parental consent. Any instruction

concerning the use of contraceptives or prophylactics shall provide accurate statistical information on their effectiveness and failure rates for preventing pregnancy and sexually transmitted diseases, including HIV/AIDS, in actual use among adolescent populations and shall explain clearly the difference between risk reduction and risk elimination through abstinence. The Department of Health and Human Services shall provide the most current available information at the beginning of each school year.

(e) Prohibition on Distribution of Contraceptives. – Contraceptives, including condoms and other devices, shall not be made available or distributed on school property.

(f) School Health Coordinators. – School health coordinators may be employed to assist in the instruction of any portion of the comprehensive school health education program. Where feasible, a school health coordinator should serve more than one local school administrative unit. Each person initially employed as a State-funded school health coordinator after June 30, 1987, shall have a degree in health education.

(g) Duty of Local School Administrative Units. – Each local school administrative unit shall provide a comprehensive school health education program that meets all the requirements of this section and all the objectives established by the State Board. Each local board of education may expand on the subject areas to be included in the program and on the instructional objectives to be met. (2017-126, s. 5.)

§ 115C-81.35. Honors-level courses in healthful living education.

The State Board of Education shall develop or identify academically rigorous honors-level courses in healthful living education that can be offered at the high school level. These honors-level courses shall be more rigorous than standard-level courses, include advanced content, provide multiple opportunities for students to take greater responsibility for their learning, and require higher quality work from the students than standard courses. (2017-126, s. 5.)

§ 115C-81.36. Advanced courses in mathematics.

(a) When practicable, local boards of education shall offer advanced courses in mathematics in all grades three and higher.

(b) When advanced courses are offered in mathematics, any student scoring a level five on the end-of-grade or end-of-course test for the mathematics course in which the student was most recently enrolled shall be enrolled in the advanced course for the next mathematics course in which the student is enrolled. A student in seventh grade scoring a level five on the seventh grade mathematics end-of-grade test shall be enrolled in a high school level mathematics course in eighth grade. No student who qualifies under this subsection shall be removed from the advanced or high school mathematics course in which the student is enrolled unless a parent or guardian of the student provides written consent for the student to be excluded or removed from that course. (2018-32, s. 2(a).)

§ 115C-81.37: Reserved for future codification purposes.

§ 115C-81.38: Reserved for future codification purposes.

§ 115C-81.39: Reserved for future codification purposes.

§ 115C-81.40. North Carolina history and geography.

The standard course of study shall include the requirement that the public schools provide to all students one yearlong course of instruction on North Carolina history and geography in elementary school and one yearlong course of instruction in middle school on North Carolina history with United States history integrated into this instruction. The course of instruction shall include contributions to the history and geography of the State and the nation by the racial and ethnic groups that have contributed to the development and diversity of the State and nation. Each course of instruction may include up to two weeks of instruction relating to the local area in which the students reside. (2017-126, s. 5.)

§ 115C-81.45. Classes conducted in English; citizenship; and civic literacy.

(a) Except when a board authorizes teaching in a foreign language in order to comply with federal law, local boards of education shall require all teachers and principals to conduct classes except foreign language classes in English. Any teacher or principal who refuses to do so may be dismissed.

(b) Local boards of education shall provide for the efficient teaching at appropriate grade levels of all materials set forth in the standard course of study, including integrated instruction in the areas of citizenship in the United States of America, government of the State of North Carolina, government of the United States, fire prevention, the free enterprise system, and the dangers of harmful or illegal drugs, including alcohol.

(c) Democratic Process and Citizenship Education. –

(1) The State Board of Education shall include instruction in civic and citizenship education in the standard course of study for high school social studies. The State Board of Education is strongly encouraged to include, at a minimum, the following components in the high school civic and citizenship education standard course of study:

a. That students write to a local, State, or federal elected official about an issue that is important to them.

b. Instruction on the importance of voting and otherwise participating in the democratic process, including instruction on voter registration.

c. Information about current events and governmental structure.

d. Information about the democratic process and how laws are made.

(2) The State Board of Education shall include instruction in civic and citizenship education in the standard course of study for middle school social studies. The State Board of Education is strongly encouraged to include, at a minimum, the following components in the middle school civic and citizenship education standard course of study:

a. A tour of representative local government facilities, such as the local jail, the courthouse, or a town hall, to help students understand the way their community is governed.

b. Allowing students to choose and analyze a community problem and offer public policy recommendations on the problem to local officials.
c. Information about getting involved in community groups.

(d) Civic Literacy. –

(1) The State Board of Education shall require during the high school years the teaching of a semester course on the Founding Principles of the United States of America and the State of North Carolina. A passing grade in the course shall be required for graduation from high school, and the course shall include at least the following subjects:

a. The Creator-endowed inalienable rights of the people.
b. Structure of government, separation of powers with checks and balances.
c. Frequent and free elections in a representative government.
d. Rule of law.
e. Equal justice under the law.
f. Private property rights.
g. Federalism.
h. Due process.
i. Individual rights as set forth in the Bill of Rights.
j. Individual responsibility.
k. Constitutional limitations on government power to tax and spend, and prompt payment of public debt.
l. Strong defense and supremacy of civil authority over military.
m. Peace, commerce, and honest friendship with all nations, entangling alliances with none.

(2) The State Board of Education shall require that any high school level curriculum-based tests for the course required in subdivision (1) of this subsection developed and administered statewide beginning with the 2016-2017 academic year include questions related to the philosophical foundations of our form of government and the principles underlying the Declaration of Independence, the United States Constitution and its amendments, and the most important of the Federalist Papers.

(3) The Department of Public Instruction and the local boards of education, as appropriate, shall provide or cause to be provided curriculum content for the semester course required in subdivision (1) of this subsection and professional development to ensure that the intent and provisions of this subsection are carried out. The curriculum content established shall include a review of the contributions made by Americans of all races.

(4) The Department of Public Instruction shall submit a biennial report by October 15 of each odd-numbered year to the Joint Legislative Education Oversight Committee covering the implementation of this subsection. (2017-126, s. 5.)

§ 115C-81.50. Student councils.

All high schools and middle schools shall be encouraged to have elected student councils through which students have input into policies and decisions that affect them. All other schools are encouraged to have student councils.

The purpose of these student councils is to build civic skills and attitudes such as participation in elections, discussion and debate of issues, and collaborative decision making. Schools shall encourage active, broad-based participation in these student councils. (2017-126, s. 5.)

§ 115C-81.55. Current events.

Schools should encourage discussions of current events in a wide range of classes, especially social studies and language arts classes. All high schools and middle schools are encouraged to have at least two classes per grade level to offer interactive current events discussions at least every four weeks. (2017-126, s. 5.)

§ 115C-81.60. Character education.

(a) Each local board of education shall develop and implement character education instruction with input from the local community. The instruction shall be incorporated into the standard curriculum and should address the following traits:

(1) Courage. – Having the determination to do the right thing even when others don't and the strength to follow your conscience rather than the crowd; and attempting difficult things that are worthwhile.

(2) Good judgment. – Choosing worthy goals and setting proper priorities; thinking through the consequences of your actions; and basing decisions on practical wisdom and good sense.

(3) Integrity. – Having the inner strength to be truthful, trustworthy, and honest in all things; acting justly and honorably.

(4) Kindness. – Being considerate, courteous, helpful, and understanding of others; showing care, compassion, friendship, and generosity; and treating others as you would like to be treated.

(5) Perseverance. – Being persistent in the pursuit of worthy objectives in spite of difficulty, opposition, or discouragement; and exhibiting patience and having the fortitude to try again when confronted with delays, mistakes, or failures.

(6) Respect. – Showing high regard for authority, for other people, for self, for property, and for country; and understanding that all people have value as human beings.

(7) Responsibility. – Being dependable in carrying out obligations and duties; showing reliability and consistency in words and conduct; being accountable for your own actions; and being committed to active involvement in your community.

(8) Self-discipline. – Demonstrating hard work and commitment to purpose; regulating yourself for improvement and restraining from inappropriate behaviors; being in proper control of your words, actions, impulses, and

desires; choosing abstinence from premarital sex, drugs, alcohol, and other harmful substances and behaviors; and doing your best in all situations.

(b) In addition to the instruction under subsection (a) of this section, local boards of education are encouraged to include instruction on the following responsibilities:

(1) Respect for school personnel. – In the school environment, respect includes holding teachers, school administrators, and all school personnel in high esteem and demonstrating in words and deeds that all school personnel deserve to be treated with courtesy and proper deference.

(2) Responsibility for school safety. – Helping to create a harmonious school atmosphere that is free from threats, weapons, and violent or disruptive behavior; cultivating an orderly learning environment in which students and school personnel feel safe and secure; and encouraging the resolution of conflicts and disagreements through peaceful means, including peer mediation. Instruction in this responsibility should include a consistent and age-appropriate antiviolence message and a conflict resolution component for students in kindergarten through grade 12. These messages should include media-awareness education to help children recognize stereotypes and messages portraying violence.

(3) Service to others. – Engaging in meaningful service to their schools and their communities. Schools may teach service-learning by (i) incorporating it into their standard curriculum or (ii) involving a classroom of students or some other group of students in one or more hands-on community service projects. All schools are encouraged to provide opportunities for student involvement in community service or service-learning projects.

(4) Good citizenship. – Obeying the laws of the nation and this State; abiding by school rules; and understanding the rights and responsibilities of a member of a republic. (2017-126, s. 5.)

§ 115C-81.65. Financial literacy.

(a) Instruction shall be provided in personal financial literacy for all students. In addition to the requirements in subsection (b) of this section, the State Board of Education shall determine the other components of personal financial literacy that will be covered in the curriculum. The State Board shall also review the high school standard course of study to determine into which courses and grade levels personal financial literacy shall be integrated.

(b) Each student shall receive personal financial literacy instruction that shall include:

(1) The true cost of credit.

(2) Choosing and managing a credit card.

(3) Borrowing money for an automobile or other large purchase.

(4) Home mortgages.

(5) Credit scoring and credit reports.
(6) Other relevant financial literacy issues. (2017-126, s. 5.)

§ 115C-81.70. Disability history and awareness.

(a) Each local board of education shall provide instruction on disability, people with disabilities, and the disability rights movement in conjunction with Disability History and Awareness Month, established pursuant to G.S. 103-11.

(b) This instruction shall be incorporated through measures that include any of the following:

(1) Supplementing existing lesson plans.
(2) Holding school assemblies.
(3) Hosting disability-focused film festivals.
(4) Organizing other school activities.

Local boards of education are encouraged to incorporate individuals with disabilities or knowledgeable guest speakers from the disability community into the delivery of this instruction. (2017-126, s. 5.)

§ 115C-81.75. Cursive writing.

The standard course of study shall include the requirement that the public schools provide instruction in cursive writing so that students create readable documents through legible cursive handwriting by the end of fifth grade. (2017-126, s. 5.)

§ 115C-81.80. Multiplication tables.

The standard course of study shall include the requirement that students enrolled in public schools memorize multiplication tables to demonstrate competency in efficiently multiplying numbers. (2017-126, s. 5.)

§ 115C-81.81. Annual report on cursive writing and multiplication tables.

The State Board of Education and the Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee by March 30 of each year on the compliance of each local school administrative unit with the requirements regarding cursive writing pursuant to G.S. 115C-81.75 and the memorization of multiplication tables pursuant to G.S. 115C-81.80. The report shall include at least the following information:

(1) The percentage of local school administrative units in the State complying and not complying with G.S. 115C-81.75 and a list of both sets of units.
(2) The percentage of local school administrative units in the State complying and not complying with G.S. 115C-81.80 and a list of both sets of units.
(3) A list of all instructional strategies used by each local school administrative unit to comply with G.S. 115C-81.75 categorized by unit.
(4) A list of each instructional strategy identified pursuant to subdivision (3) of this section and the corresponding percentage of local school

administrative units in the State using that strategy to comply with G.S. 115C-81.75.

(5) If, in any given year, one or more local school administrative units does not respond to inquiries from the Department of Public Instruction related to this section, the percentage of local school administrative units in the State that were nonresponsive and a list of those units. (2018-32, s. 1(a).)

§ 115C-81.82: Reserved for future codification purposes.

§ 115C-81.83: Reserved for future codification purposes.

§ 115C-81.84: Reserved for future codification purposes.

§ 115C-81.85. Instruction in American Sign Language.

(a) The State Board of Education shall encourage schools to offer American Sign Language classes in high schools as a modern foreign language.

(b) The State Board of Education shall adopt and implement standards for the certification of teachers of American Sign Language and shall set standards for teacher preparation programs that prepare students for certification as American Sign Language teachers. (2017-126, s. 5.)

§ 115C-82: Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1086, s. 89(d).

§ 115C-83: Repealed by Session Laws 1997-18, s. 4.

Part 1A. North Carolina Read to Achieve Program.

§ 115C-83.1. State goal.

The goal of the State is to ensure that every student read at or above grade level by the end of third grade and continue to progress in reading proficiency so that he or she can read, comprehend, integrate, and apply complex texts needed for secondary education and career success. (2012-142, s. 7A.1(b).)

§ 115C-83.2. Purposes.

(a) The purposes of this Part are to ensure that (i) difficulty with reading development is identified as early as possible; (ii) students receive appropriate instructional and support services to address difficulty with reading development and to remediate reading deficiencies; and (iii) each student and his or her parent or guardian be continuously informed of the student's academic needs and progress.

(b) In addition to the purposes listed in subsection (a) of this section, the purpose of this Part is to determine that progression from one grade to another be based, in part, upon proficiency in reading. (2012-142, s. 7A.1(b).)

§ 115C-83.3. Definitions.

The following definitions apply in this Part:

(1) "Accelerated reading class" means a class where focused instructional supports and services are provided to increase a student's reading level at least two grades in one school year.

(2) "Alternative assessment" means a valid and reliable standardized assessment of reading comprehension, approved by the State Board of Education, that is not the same test as the State-approved standardized test of reading comprehension administered to third grade students. The State Board of Education shall (i) provide several valid and reliable alternative assessments to local school administrative units upon request, (ii) approve valid and reliable alternative assessments submitted by local school administrative units, and (iii) establish achievement level ranges for each approved alternative assessment. The State Board of Education shall annually review all alternative assessments to ensure ongoing relevance, validity, and reliability.

(3) "Difficulty with reading development" means not demonstrating appropriate developmental abilities in any of the major reading areas, including, but not limited to, oral language, phonological or phonemic awareness, vocabulary, fluency, or comprehension, according to observation-based, diagnostic, or formative assessments.

(4) "Instructional supports and services" mean intentional strategies used with a majority of students to facilitate reading development and remediate emerging difficulty with reading development. Instructional supports and services include, but are not limited to, small group instruction, reduced teacher-student ratios, frequent progress monitoring, and extended learning time.

(4a) "Reading camp" means an additional educational program outside of the instructional calendar provided by the local school administrative unit to (i) any third grade student who does not demonstrate reading proficiency and (ii) any first or second grade student who demonstrates reading comprehension below grade level as identified through administration of formative and diagnostic assessments in accordance with G.S. 115C-83.6. Parents or guardians of the student not demonstrating reading proficiency or demonstrating reading comprehension below grade level shall make the final decision regarding the student's reading camp attendance. Reading camps shall (i) offer at least 72 hours of reading instruction to yield positive reading outcomes for participants; (ii) be taught by compensated, licensed teachers selected based on demonstrated student outcomes in reading proficiency or in improvement of difficulties with reading development; and (iii) allow volunteer mentors to read with students at times other than during the 72 hours of reading instruction. The 72 hours of reading instruction shall be provided over no less than

three weeks for students in schools using calendars other than year-round calendars.

(5) "Reading deficiency" means not reading at the third grade level by the end of the student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.

(6) "Reading interventions" mean evidence-based strategies frequently used to remediate reading deficiencies and include, but are not limited to, individual instruction, tutoring, or mentoring that target specific reading skills and abilities.

(7) "Reading proficiency" means reading at or above the third grade level by the end of a student's third grade year, demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students.

(8) "Student reading portfolio" means a compilation of independently produced student work selected by the student's teacher, beginning during the first half of the school year, and signed by the teacher and principal, as an accurate picture of the student's reading ability. The student reading portfolio shall include an organized collection of evidence of the student's mastery of the State's reading standards that are assessed by the State-approved standardized test of reading comprehension administered to third grade students. A single piece of evidence may show mastery of up to two standards. For each benchmark, there shall be three examples of student work demonstrating mastery by a grade of seventy percent (70%) or above.

(9) Recodified as subdivision (4a).

(10) "Transitional third and fourth class combination" means a classroom specifically designed to produce learning gains sufficient to meet fourth grade performance standards while continuing to remediate areas of reading deficiency. (2012-142, s. 7A.1(b); 2014-5, ss. 1—3; 2015-241, s. 8.48(a).)

§ 115C-83.4. Comprehensive plan for reading achievement.

(a) The State Board of Education shall develop, implement, and continuously evaluate a comprehensive plan to improve reading achievement in the public schools. The plan shall be based on reading instructional practices with strong evidence of effectiveness in current empirical research in reading development. The plan shall be developed with the active involvement of teachers, college and university educators, parents and guardians of students, and other interested parties. The plan shall, when appropriate to reflect research, include revision of the standard course of study or other curricular standards, revision of teacher licensure and renewal standards, and revision of teacher education program standards.

(b) The State Board of Education shall report biennially to the Joint Legislative Education Oversight Committee by October 15 of each even-numbered year on the implementation, evaluation, and revisions to the comprehensive plan for reading achievement and shall include recommendations for legislative changes to enable implementation of current empirical research in reading development. (2012-142, s. 7A.1(b); 2014-115, s. 80.)

§ 115C-83.4A: Recodified as G.S. 115C-174.26 in Part 5 of Article 10A of Chapter 115C, effective June 10, 2014.

§ 115C-83.5. Developmental screening and kindergarten entry assessment.

(a) The State Board of Education shall ensure that every student entering kindergarten shall be administered a developmental screening of early language, literacy, and math skills within 30 days of enrollment.

(b) The State Board of Education shall ensure that every student entering kindergarten shall complete a kindergarten entry assessment within 60 days of enrollment.

(c) The developmental screening instrument may be composed of subsections of the kindergarten entry assessment.

(d) The kindergarten entry assessment shall (i) address the five essential domains of school readiness: language and literacy development, cognition and general knowledge, approaches toward learning, physical well-being and motor development, and social and emotional development and (ii) yield both qualitative and quantitative data in each of these domains. Data obtained through administration of the kindergarten entry assessment shall be used to populate relevant fields in a longitudinal data base. The language and literacy component of the kindergarten entry assessment may be used as a formative and diagnostic reading assessment as provided in G.S. 115C-83.6.

(e) The kindergarten entry assessment shall be (i) administered at the classroom level in all local school administrative units; (ii) aligned to North Carolina's early learning and development standards and to the standard course of study; and (iii) reliable, valid, and appropriate for use with all children, including those with disabilities and those who are English language learners.

(f) The results of the developmental screening and the kindergarten entry assessment shall be used to inform the following:

(1) The status of children's learning at kindergarten entry.
(2) Instruction of each child.
(3) Efforts to reduce the achievement gap at kindergarten entry.
(4) Continuous improvement of the early childhood system. (2012-142, s. 7A.1(b); 2014-5, s. 4.)

§ 115C-83.6. (For applicability, see Editor's notes) Facilitating early grade reading proficiency.

(a) Kindergarten, first, second, and third grade students shall be assessed with valid, reliable, formative, and diagnostic reading assessments made available to local school

administrative units by the State Board of Education pursuant to G.S. 115C-174.11(a). Difficulty with reading development identified through administration of formative and diagnostic assessments shall be addressed with instructional supports and services. Parents or guardians of first and second grade students demonstrating reading comprehension below grade level as identified through assessments administered pursuant to this subsection shall be encouraged to enroll their student in a reading camp provided by the local school administrative unit. Parents or guardians of a student identified as demonstrating reading comprehension below grade level shall make the final decision regarding a student's reading camp attendance.

(a1) Kindergarten through third grade reading assessments shall yield data that can be used with the Education Value-Added Assessment System (EVAAS) to analyze student data to identify root causes for difficulty with reading development and to determine actions to address them.

(a2) The Department of Public Instruction shall provide for EVAAS analysis all formative and diagnostic assessment data collected pursuant to this section for kindergarten through third grade.

(b) Formative and diagnostic assessments and resultant instructional supports and services shall address oral language, phonological and phonemic awareness, phonics, vocabulary, fluency, and comprehension using developmentally appropriate practices. These assessments may be administered by computer or other electronic device.

(c) Local school administrative units are encouraged to partner with community organizations, businesses, and other groups to provide volunteers, mentors, or tutors to assist with the provision of instructional supports and services that enhance reading development and proficiency. (2012-142, s. 7A.1(b); 2015-241, s. 8.48(b); 2017-57, s. 7.27(a); 2018-5, s. 7.24(b); 2018-97, s. 2.10.)

§ 115C-83.7. Elimination of social promotion.

(a) The State Board of Education shall require that a student be retained in the third grade if the student fails to demonstrate reading proficiency appropriate for a third grade student, as demonstrated on a State-approved standardized test of reading comprehension administered to third grade students. The test may be readministered once prior to the end of the school year.

(b) Students may be exempt from mandatory retention in third grade for good cause, but shall continue to be eligible to participate in reading camps, receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

(1) Limited English Proficient students with less than two school years of instruction in an English as a Second Language program.

(2) Students with disabilities, as defined in G.S. 115C-106.3(1), and whose individualized education program indicates (i) the use of the NCEXTEND1 alternate assessment, (ii) at least a two school year delay in educational performance, or (iii) receipt of intensive reading interventions for at least two school years.

(3) Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment approved by the State Board of Education.

(4) Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students. Student reading portfolio and review processes used by local school administrative units shall be approved by the State Board of Education.

(5) Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second, or third grades.

(c) The superintendent shall determine whether a student may be exempt from mandatory retention on the basis of a good cause exemption. The following steps shall be taken in making the determination:

(1) The teacher of a student eligible for a good cause exemption shall submit documentation of the relevant exemption and evidence that promotion of the student is appropriate based on the student's academic record to the principal. Such evidence shall be limited to the student's individual education program, if applicable, alternative assessment, or student reading portfolio.

(2) The principal shall review the documentation and make an initial determination whether the student should be promoted. If the principal determines the student should be promoted, the principal shall make a written recommendation of promotion to the superintendent for final determination. The superintendent's acceptance or rejection of the recommendation shall be in writing. (2012-142, s. 7A.1(b); 2014-5, s. 5; 2015-46, s. 2.)

§ 115C-83.8. Successful reading development for retained students.

(a) Parents or guardians of students not demonstrating reading proficiency shall be encouraged to enroll their student in a reading camp provided by the local school administrative unit. Parents or guardians of a student not demonstrating reading proficiency shall make the final decision regarding a student's reading camp attendance. Local school administrative units shall provide at least one opportunity for students not participating in a reading camp to demonstrate reading proficiency appropriate for third grade students on an alternative assessment or through a student reading portfolio process approved by the State Board of Education prior to retaining the student.

(b) Students retained under G.S. 115C-83.7(a) shall be provided with a teacher selected based on demonstrated student outcomes in reading proficiency and placed in an accelerated reading class or a transitional third and fourth grade class combination, as appropriate. Classroom instruction shall include at least 90 minutes of daily, uninterrupted, evidence-based reading instruction, not to include independent reading time, and other appropriate instructional supports and services and reading interventions.

(c) The State Board of Education shall establish a midyear promotion policy for any student retained under G.S. 115C-83.7(a) who, by November 1, demonstrates reading proficiency through administration of the alternative assessment of reading comprehension or student reading portfolio review. Principals shall use the provisions under G.S. 115C-288(a) to grade and classify students demonstrating reading proficiency after the November 1 midyear promotion deadline.

(d) Repealed by Session Laws 2013-360, s. 8.30, effective July 1, 2013.

(e) Parents or guardians of students who have been retained twice under the provisions of G.S. 115C-83.7(a) shall be offered supplemental tutoring for the retained student in evidence-based reading services outside the instructional day. (2012-142, s. 7A.1(b); 2013-360, s. 8.30; 2014-5, s. 6.)

§ 115C-83.9. Notification requirements to parents and guardians.

(a) Parents or guardians shall be notified in writing, and in a timely manner, that the student shall be retained, unless he or she is exempt from mandatory retention for good cause, if the student is not demonstrating reading proficiency by the end of third grade. Parents or guardians shall receive this notice when a kindergarten, first, second, or third grade student (i) is demonstrating difficulty with reading development; or (ii) is not reading at grade level.

(b) Parents or guardians of any student who is to be retained under the provisions of G.S. 115C-83.7(a) shall be notified in writing of the reason the student is not eligible for a good cause exemption as provided in G.S. 115C-83.7(b). Written notification shall also include a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(c) Parents or guardians of students retained under G.S. 115C-83.7(a) shall receive at least monthly written reports on student progress toward reading proficiency. The evaluation of the student's progress shall be based upon the student's classroom work, observations, tests, assessments, and other relevant information.

(d) Teachers and principals shall provide opportunities, including, but not limited to, information sessions, to discuss with parents and guardians the notifications listed in this section. (2012-142, s. 7A.1(b); 2014-5, s. 7; 2015-46, s. 3.)

§ 115C-83.10. Accountability measures.

(a) Each local board of education shall publish annually on a Web site maintained by that local school administrative unit and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

(1) The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.

(2) The number and percentage of third grade students who take and pass an alternative assessment of reading comprehension and the name of each alternative assessment used for this purpose with the number of students who passed it.

(3) The number and percentage of third grade students retained for not demonstrating reading proficiency.

(4) The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.7(b).

(5) The number and percentage of first grade students demonstrating and not demonstrating reading comprehension at grade level.

(6) The number and percentage of second grade students demonstrating and not demonstrating reading comprehension at grade level.

(7) For each grade level, the number and percentage of students eligible for priority enrollment in reading camp under G.S. 115C-83.11(b) and, for each grade level, the number and percentage of those students who attend reading camp.

(b) Each local board of education shall report annually in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

(1) A description of all reading interventions provided to students who have been retained under G.S. 115C-83.7(a).

(2) The number of first and second grade students attending a reading camp offered by the local board.

(3) The license area or areas, years of licensed teaching experience, grade level assignment, and any other specific subject-area assignments of each teacher providing instruction at a reading camp.

(4) The number and percentage of teachers providing instruction at a reading camp who were paid a reading performance bonus during the school year immediately preceding the reading camp and the grade level on which the bonus was based.

(b1) Each local board of education shall report annually in writing to the State Board of Education by November 15 of each year, for the prior school year, (i) the number and percentage of third grade students who did not demonstrate proficiency upon entering reading camp and who became proficient after completing reading camp and (ii) for each grade level, the number and percentage of first and second grade students who demonstrated reading comprehension below grade level upon entering camp and who demonstrated reading comprehension at or above grade level after completing reading camp.

(c) The State Board of Education shall establish a uniform format for local boards of education to report the required information listed in subsections (a) and (b) of this section and shall provide the format to local boards of education no later than 90 days prior to the annual due date. The State Board of Education shall compile annually this information and submit a State-level summary to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Joint Legislative Education Oversight Committee by December 15, 2016, and annually thereafter. The

State-level summary shall include, for each local school administrative unit, every component listed in subsections (a), (b), and (b1) of this section.

(d) The State Board of Education and the Department of Public Instruction shall provide technical assistance as needed to aid local school administrative units to implement all provisions of this Part.

(e) Local boards of education shall fully complete all information required by this section in the uniform format provided by the State Board. (2012-142, s. 7A.1(b); 2014-115, s. 81; 2015-241, s. 8.48(c); 2017-102, s. 48(g); 2018-5, s. 7.24(a).)

§ 115C-83.11. Continued support for students demonstrating reading proficiency and appropriate reading development.

(a) Parents or guardians of a student demonstrating reading proficiency appropriate for a third grade student as provided under G.S. 115C-83.7 or a first or second grade student demonstrating appropriate developmental abilities in reading comprehension may choose to enroll the student in the reading camp as defined in G.S. 115C-83.3(4a) but may be charged an attendance fee. Local boards of education may establish a fee amount to be equal to the per student program cost of participating in the reading camp, not to exceed eight hundred twenty-five dollars ($825.00).

(b) Priority enrollment in the reading camp is for (i) third grade students not demonstrating reading proficiency as provided under G.S. 115C-83.8 and (ii) first and second grade students demonstrating reading comprehension below grade level under G.S. 115C-83.6. Local boards of education shall establish application procedures and enrollment priorities for reading camps for students demonstrating reading proficiency. (2014-5, s. 8; 2015-241, s. 8.48(d).)

§ 115C-83.12: Reserved for future codification purposes.

§ 115C-83.13: Reserved for future codification purposes.

§ 115C-83.14: Reserved for future codification purposes.

Part 1B. School Performance.

§ 115C-83.15. School achievement, growth, performance scores, and grades.

(a) School Scores and Grades. – The State Board of Education shall award school achievement, growth, and performance scores and an associated performance grade as required by G.S. 115C-12(9)c1., and calculated as provided in this section.

(b) Calculation of the School Achievement Score. – In calculating the overall school achievement score earned by schools, the State Board of Education shall total the sum of points earned by a school as follows:

(1) For schools serving any students in kindergarten through eighth grade, the State Board shall assign points on the following measures available for that school:

a. One point for each percent of students who score at or above proficient on annual assessments for mathematics in grades three through eight. For the purposes of this Part, an annual assessment for mathematics shall include any mathematics course with an end-of-course test.

b. One point for each percent of students who score at or above proficient on annual assessments for reading in grades three through eight.

c. One point for each percent of students who score at or above proficient on annual assessments for science in grades five and eight.

d. One point for each percent of students who progress in achieving English language proficiency on annual assessments in grades three through eight.

(2) For schools serving any students in ninth through twelfth grade, the State Board shall assign points on the following measures available for that school:

a. One point for each percent of students who score at or above proficient on either the Algebra I or Integrated Math I end-of-course test or, for students who completed Algebra I or Integrated Math I before ninth grade, another mathematics course with an end-of-course test.

b. One point for each percent of students who score at or above proficient on the English II end-of-course test.

c. One point for each percent of students who score at or above proficient on the Biology end-of-course test.

d. One point for each percent of students who complete Algebra II or Integrated Math III with a passing grade.

e. One point for each percent of students who achieve the minimum score required for admission into a constituent institution of The University of North Carolina on a nationally normed test of college readiness.

f. One point for each percent of students enrolled in Career and Technical Education courses who meet the standard when scoring at Silver, Gold, or Platinum levels on a nationally normed test of workplace readiness.

g. One point for each percent of students who graduate within four years of entering high school.

h. One point for each percent of students who progress in achieving English language proficiency.

In calculating the overall school achievement score earned by schools, the State Board of Education shall (i) use a composite approach to weigh the achievement elements based on the number of students measured by any given achievement element and (ii) proportionally adjust the scale to account for the absence of a school achievement element for award of scores to a school that does not have a measure of one of the school achievement elements annually assessed for the grades taught at that school. The overall school achievement score shall be translated to a 100-point scale and used for school reporting purposes as provided in G.S. 115C-12(9)c1., 115C-218.65, 115C-238.66, and 116-239.8.

(c) Calculation of the School Growth Score. – Using the Education Value-Added Assessment System (EVAAS), the State Board shall calculate the overall growth score

earned by schools. In calculating the total growth score earned by schools, the State Board of Education shall weight student growth on the achievement measures as provided in subsection (b) of this section that have available growth values; provided that for schools serving students in grades nine through 12, the growth score shall only include growth values for measures calculated under sub-subdivisions a. and b. of subdivision (2) of subsection (b) of this section. The numerical values used to determine whether a school has met, exceeded, or has not met expected growth shall be translated to a 100-point scale and used for school reporting purposes as provided in G.S. 115C-12(9)c1., 115C-218.65, 115C-238.66, and 116-239.8.

(d) Calculation of the Overall School Performance Scores and Grades. – The State Board of Education shall calculate the overall school performance score by adding the school achievement score, as provided in subsection (b) of this section, and the school growth score, as determined using EVAAS as provided in subsection (c) of this section, earned by a school. The school achievement score shall account for eighty percent (80%), and the school growth score shall account for twenty percent (20%) of the total sum. For all schools, the total school performance score shall be converted to a 100-point scale and used to determine an overall school performance grade. The overall school performance grade shall be based on the following scale and shall not be modified to add any other designation related to other performance measures, such as a "plus" or "minus":

(1) A school performance score of at least 90 is equivalent to an overall school performance grade of A.
(2) A school performance score of at least 80 is equivalent to an overall school performance grade of B.
(3) A school performance score of at least 70 is equivalent to an overall school performance grade of C.
(4) A school performance score of at least 60 is equivalent to an overall school performance grade of D.
(5) A school performance score of less than 60 points is equivalent to an overall school performance grade of F.

(d1) Establishment of Subgroups of Students. – The State Board shall establish the minimum number of students in a subgroup served by a school that is necessary to disaggregate information on student performance and to determine a subgroup performance score and grade for the following subgroups of students:

(1) Economically disadvantaged students.
(2) Students from major racial and ethnic groups.
(3) Children with disabilities.
(4) English learners.

(d2) Calculation of the School Performance Scores and Grades for Certain Subgroups of Students Served by a School. – In addition to the overall school performance scores and grades awarded under this section, for each school that serves a minimum number of students in a subgroup of students listed in subsection (d1) of this section, the State Board of Education shall calculate school performance scores and shall determine a corresponding school performance grade for each subgroup using the same method as set

forth in subsection (d) of this section. School performance scores for subgroups of students shall not be included in the calculation of the overall school performance scores and grades under subsection (d) of this section.

(d3) Report of Subgroup Performance Scores and Grades. – The subgroup performance scores and grades shall be reported separately on the annual school report card provided under G.S. 115C-12(9)c1., 115C-218.65, 115C-238.66, and 116-239.8 in a way that provides the following information:

(1) For the current year and the previous two years, the achievement score for each subgroup of students defined in subsection (d1) of this section for the school.

(2) The statewide average achievement score for each subgroup defined in subsection (d1) of this section.

(3) The difference between the achievement score for all students in the school and the achievement score for each subgroup that meets the minimum number of students defined in subsection (d1) of this section.

(4) Based on the information reported in subdivision (3) of this subsection, the State Board shall determine and identify schools that are closing achievement gaps, experiencing a widening of gaps, or seeing no significant gap changes.

(e) Elementary and Middle School Reading and Math Achievement Scores. – For schools serving students in kindergarten through eighth grade, the school achievement scores in reading and mathematics, respectively, shall be reported separately on the annual school report card provided under G.S. 115C-12(9)c1., 115C-218.65, 115C-238.66, and 116-239.8.

(f) Indication of Growth. – In addition to awarding the overall school scores for achievement, growth, and performance and the performance grade, using EVAAS, the State Board shall designate that a school has met, exceeded, or has not met expected growth. The designation of student growth shall be clearly displayed in the annual school report card provided under G.S. 115C-12(9)c1., 115C-218.65, 115C-238.66, and 116-239.8.

(g) Access to Annual Report Card Information on the Department's Web Site. – Beginning with data collected in the 2017-2018 school year, the State Board of Education shall provide user-friendly access to the public on the annual report cards issued for local school administrative units and individual schools provided under G.S. 115C-12(9)c1., 115C-218.65, 115C-238.66, and 116-239.8 through the Department of Public Instruction's Web site. The annual report card shall be designed and organized to display the following information more prominently than any other information:

(1) A summary for each local school administrative unit and for each individual school of the school performance grades, whether the school has met, exceeded, or has not met expected growth, and any other information required to be provided as part of the annual report card.

(2) The percentage of schools receiving an overall school performance letter grade of A, B, C, D, or F earned by each school located within a local school administrative unit and statewide.

(3) The number of schools that have met, exceeded, or have not met expected growth by each school located within a local school administrative unit and statewide.

(4) A Web page for each individual school that prominently displays the school's performance grades, whether the school has met, exceeded, or has not met expected growth, and the school's performance and growth scores in a way that is easy for the user to read.

(5) The ability to easily compare annual report card information, including school performance grades and whether schools have met, exceeded, or have not met expected growth, for local school administrative units and for individual schools for a time span of at least three years. (2013-360, s. 9.4(b); 2013-363, s. 3.6; 2014-5, ss. 13, 14; 2014-101, s. 7; 2016-94, s. 11.6(c); 2017-57, s. 7.26(c); 2017-197, s. 2.5; 2017-206, s. 1(a).)

§ 115C-83.16. School performance indicators for the purpose of compliance with federal law.

(a) The State Board of Education shall use the school performance scores and grades as calculated under G.S. 115C-83.15 to satisfy the federal requirement under the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESSA), P.L. 114-95, to meaningfully differentiate the performance of schools on an annual basis. For the purpose of compliance with federal law, the indicators shall be defined as follows:

(1) For schools serving any students in kindergarten through eighth grade, the State Board shall define the indicators as follows:

a. Academic indicators. –

1. The academic achievement indicator shall include the following measures:

I. Proficiency on annual assessments for mathematics in grades three through eight.

II. Proficiency on annual assessments for reading in grades three through eight.

2. The other academic indicator shall include the following measures:

I. Proficiency on annual assessments for science in grade five.

II. Proficiency on annual assessments for science in grade eight.

3. The English language proficiency indicator shall be the percentage of students who progress in achieving English language proficiency on annual assessments in grades three through eight.

b. School quality and student success indicator. – The measure of school quality and student success shall be the growth score earned by schools.

(2) For schools serving any students in ninth through twelfth grade, the State Board shall define the indicators as follows:

a. Academic indicators. –

1. The academic achievement indicator shall include the following measures:

I. Proficiency on either the Algebra I or Integrated Math I end-of-course test or, for students who completed Algebra I or Integrated Math I before ninth grade, another mathematics course with an end-of-course test.

II. Proficiency on the English II end-of-course test.

III. The growth score earned by schools.

2. Repealed by Session Laws 2017-206, s. 1(b), effective August 30, 2017, and applicable beginning with the 2017-2018 school year.

3. The graduation rate indicator shall be the percentage of students who graduate within four years of entering high school.

4. The English language proficiency indicator shall be the percentage of students who progress in achieving English language proficiency.

b. School quality and student success indicator. – The school quality and student success indicator shall be made up of the following measures:

1. Proficiency on the Biology end-of-course test.

2. The percentage of students who complete Algebra II or Integrated Math III with a passing grade.

3. The percentage of students who achieve the minimum score required for admission into a constituent institution of The University of North Carolina on a nationally normed test of college readiness.

4. The percentage of students enrolled in Career and Technical Education courses who meet the standard when scoring at Silver, Gold, or Platinum levels on a nationally normed test of workplace readiness.

(b) Notwithstanding subsection (a) of this section and only for the purpose of conforming with ESSA, the State Board may label measures as indicators different from those described in subsection (a) of this section; provided that each measure shall be calculated in accordance with the requirements of G.S. 115C-83.15. (2017-57, s. 7.26(d); 2017-206, s. 1(b).)

§ 115C-83.17. Definitions.

The following definitions apply in this Part:

(1) Achievement score. – A numerical score on a scale of zero to 100 that is based on the sum of points earned by a school or by a subgroup of students pursuant to G.S. 115C-83.15.

(2) Growth score. – A numerical score measuring student growth calculated for a school or for a subgroup of students pursuant to G.S. 115C-83.15.

(3) Overall school performance grade. – The letter grade earned by a school for all students served by a school pursuant to G.S. 115C-83.15(d).

(4) Overall school performance score. – The numerical score earned by a school that is calculated by adding the school achievement score and the school growth score earned by a school pursuant to G.S. 115C-83.15(d).

(5) Subgroup performance grade. – The letter grade earned by a school for a subgroup of students served by the school pursuant to G.S. 115C-83.15(d2).

(6) Subgroup performance score. – The numerical score earned by a school that is calculated by adding the subgroup achievement score and the subgroup growth score earned by a school pursuant to G.S. 115C-83.15(d2). (2017-57, s. 7.26(d).)

Part 2. Calendar.

§ 115C-84: Repealed by Session Laws 1997-443, s. 8.38(a).

§ 115C-84.1: Repealed by Session Laws 1997-443, s. 1.

§ 115C-84.2. School calendar.

(a) School Calendar. – Each local board of education shall adopt a school calendar consisting of 215 days all of which shall fall within the fiscal year. A school calendar shall include the following:

(1) A minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months. The local board shall designate when the instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement weather.

(1a) Repealed by Session Laws 2004-180, s. 1, effective August 9, 2004.

(2) A minimum of 10 annual vacation leave days.

(3) The same or an equivalent number of legal holidays occurring within the school calendar as those designated by the State Human Resources Commission for State employees.

(4) Repealed by Session Laws 2011-145, s. 7.29(a), effective July 1, 2011.

(5) The remaining days scheduled by the local board in consultation with each school's principal for use as teacher workdays, additional instructional days, or other lawful purposes. Before consulting with the local board, each principal shall work with the school improvement team to determine the days to be scheduled and the purposes for which they should be scheduled. Days may be scheduled and planned for different purposes for different personnel and there is no requirement to schedule the same dates for all personnel. In order to make up days for school closing because of inclement weather, the local board may designate any of the days in this subdivision as additional make-up days to be scheduled after the last day of student attendance.

Local boards and individual schools are encouraged to use the calendar flexibility in order to meet the annual performance standards set by the State Board. Local boards of education shall consult with parents and the employed public school personnel in the development of the school calendar.

Local boards shall designate at least two days scheduled under subdivision (5) of this subsection as days on which teachers may take accumulated vacation leave. Local boards may designate the remaining days scheduled in subdivision (5) of this subsection as days on which teachers may take accumulated vacation leave, but local boards shall give teachers at least 14 calendar days' notice before requiring a teacher to work instead of taking vacation leave on any of these days. A teacher may elect to waive this notice requirement for one or more of these days.

(a1) Report on School Start and Release Times. – As part of the reporting requirements under the Uniform Education Reporting System pursuant to G.S. 115C-12(18), each local board of education shall report to the State Board of Education on the start time and release time for each school under control of the local board of education. For the purposes of this subsection, "start time" shall mean the time of day when academic classes begin for the majority of students enrolled in the school, and "release time" shall mean the time of day when academic classes end for the majority of students enrolled in the school. Each local board of education shall also identify and include additional information in the report regarding any schools that have a start time or release time that does not conform to the definitions set forth in this subsection.

(b) Limitations. – The following limitations apply when developing the school calendar:

(1) The total number of teacher workdays for teachers employed for a 10-month term shall not exceed 195 days.

(2) The calendar shall include at least 42 consecutive days when teacher attendance is not required unless: (i) the school is a year-round school; or (ii) the teacher is employed for a term in excess of 10 months. At the request of the local board of education or of the principal of a school, a teacher may elect to work on one of the 42 days when teacher attendance is not required in lieu of another scheduled workday.

(3) School shall not be held on Sundays.

(4) Veterans Day shall be a holiday for all public school personnel and for all students enrolled in the public schools. The month of November shall be designated "Veterans' History Awareness Month."

(c) Emergency Conditions. – During any period of emergency in any section of the State where emergency conditions make it necessary, the State Board of Education may order general, and if necessary, extended recesses or adjournment of the public schools.

(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. Except for year-round schools, the opening date for students shall be no earlier than the Monday closest to August 26, and the closing date for students shall be no later than the Friday closest to June 11. On a showing of good cause, the State Board of Education may waive the requirement that the opening date for students be no earlier than the Monday closest to August 26 and may allow the local board of education to set an opening date no earlier than the Monday closest to August 19, to the extent that school calendars are able to provide sufficient days to accommodate anticipated makeup days due to school closings. A local board may revise the scheduled closing date if necessary in order to comply with the minimum requirements for instructional days or instructional time. For purposes of this subsection, the term "good cause" means that schools in any local school administrative unit in a county have been closed eight days per year during any four of the last 10 years because of severe weather conditions, energy shortages, power failures, or other emergency situations.

The required opening and closing dates under this subsection shall not apply to any school that a local board designated as having a modified calendar for the 2003-2004 school year or to any school that was part of a planned program in the 2003-2004 school year for a system of modified calendar schools, so long as the school operates under a modified calendar.

(e) Nothing in this section prohibits a local board of education from offering supplemental or additional educational programs or activities outside the calendar adopted under this section. (1997-443, s. 8.38(c); 1998-212, s. 9.18(b); 1999-373, s. 1; 1999-463, Ex. Sess., s. 7A; 2003-8, s. 1; 2003-131, s. 1; 2004-180, s. 1; 2004-203, s. 44; 2006-264, s. 25; 2010-10, s. 1(a); 2010-114, s. 1; 2011-93, s. 1; 2011-145, ss. 7.13(c), (d), 7.29(a); 2011-391, s. 14(b); 2012-142, s. 7A.11(a); 2012-145, s. 2.5; 2013-382, s. 9.1(c); 2016-94, s. 8.24(a); 2017-65, s. 1.)

Part 3. Textbooks.

§ 115C-85. Textbook needs are determined by course of study.

When the State Board of Education has adopted, upon the recommendation of the Superintendent of Public Instruction, a standard course of study at each instructional level in the elementary school and the secondary school, setting forth what subjects shall be taught at each level, it shall proceed to select and adopt textbooks.

As used in this part, "textbook" means systematically organized material comprehensive enough to cover the primary objectives outlined in the standard course of study for a grade or course. Formats for textbooks may be print or nonprint, including

hardbound books, softbound books, activity-oriented programs, classroom kits, and technology-based programs that require the use of electronic equipment in order to be used in the learning process.

Textbooks adopted in accordance with the provisions of this Part shall be used by the public schools of the State except as provided in G.S. 115C-98(b1). (1955, c. 1372, art. 24, s. 1; 1959, c. 693, s. 1; 1969, c. 519, s. 1; 1981, c. 423, s. 1; 1993 (Reg. Sess., 1994), c. 677, s. 20; 1995 (Reg. Sess., 1996), c. 716, s. 18.)

§ 115C-86. State Board of Education to select and adopt textbooks.

The Board shall select and adopt for a period determined to be most advantageous to the State public school system for the exclusive use in the public schools of North Carolina the basic textbooks or series of books needed for instructional purposes at each instructional level on all subject matter required by law to be taught in elementary and secondary schools of North Carolina. (1955, c. 1372, art. 24, s. 2; 1959, c. 693, s. 2; 1965, c. 584, s. 18; 1969, c. 519, s. 1; 1981, c. 423, s. 1.)

§ 115C-87. Appointment of Textbook Commission.

Shortly after assuming office, the Governor shall appoint a Textbook Commission of 23 members who shall hold office for four years, or until their successors are appointed and qualified. The members of the Commission shall be appointed by the Governor upon recommendation of the Superintendent. Five of these members shall be teachers or principals in grades K-5; five shall be teachers or principals in grades 6-8; four shall be superintendents, teachers, or principals in grades 9-12; one shall be a superintendent of a local school administrative unit, three shall be parents of students in grades K-5 at the time of appointment; three shall be parents of students in grades 6-8 at the time of appointment; and two shall be parents of students in grades 9-12 at the time of appointment. The Governor shall fill all vacancies by appointment for the unexpired term. The Commission shall elect a chairman, subject to the approval of the Superintendent. The Commission shall meet four times a year or at the call of the chair. The members shall be entitled to compensation for each day spent on the work of the Commission as approved by the Board and to reimbursement for travel and subsistence expense incurred in the performance of their duties at the rates specified in G.S. 138-5(a). Compensation shall be paid from funds available to the State Board of Education. (1955, c. 1372, art. 24, s. 3; 1969, c. 519, s. 1; 1977, c. 1113; 1981, c. 423, s. 1; 1999-237, s. 8.30(a).)

§ 115C-88. Commission to evaluate textbooks offered for adoption.

(a) The Commission shall evaluate all textbooks offered for adoption.

Each proposed textbook shall be read by at least one expert certified in the discipline for which the textbook would be used. The Commission may use external experts if no Commission member or advisory committee member qualifies as an expert certified in a particular discipline.

The Commission may consider any review of a proposed textbook by other experts certified in the discipline who are not involved in the textbook adoption process. However,

these reviews may not substitute for the direct examination of the proposed textbook by a Commission member, an advisory committee member, or any other expert retained by the Commission.

(b) Each member shall examine carefully and file a written evaluation of each proposed textbook for which the member is responsible.

The evaluation report shall give special consideration to the suitability of the textbook to the instructional level for which it is offered, the content or subject matter, whether the textbook is aligned with the Standard Course of Study, and other criteria prescribed by the Board.

Each evaluation report shall be signed by the member making the report and filed with the Board not later than a day fixed by the Board when the call for adoption is made. (1955, c. 1372, art. 24, s. 4; 1969, c. 519, s. 1; 1981, c. 423, s. 1; 1993 (Reg. Sess., 1994), c. 777, s. 3(a); 1999-237, s. 8.30(b).)

§ 115C-89. Selection of textbooks by Board.

At the next meeting of the Board after the reports have been filed, the Textbook Commission and the Board shall jointly examine the reports. From the books evaluated the Board shall select those that it thinks will meet the teaching requirements of the State public schools in the instructional levels for which they are offered. The Board shall request sealed bids from the publishers on all the books being considered.

The Board shall make all necessary rules and regulations concerning requests for bids, notification to publishers of calls for adoption, execution and delivery of contracts, requirement of performance bonds, cancellation clauses, and such other material matters as may affect the validity of the contracts. (1955, c. 1372, art. 24, s. 5; 1969, c. 519, s. 1; 1981, c. 423, s. 1; 1989, c. 798, s. 1.)

§ 115C-90. Adoption of textbooks and contracts with publishers.

The publishers' sealed bids shall be opened in the presence of two persons designated by the State Board of Education and one person designated by the Superintendent of Public Instruction. The Board may then adopt the books required by the courses of study and enter into contracts with the publisher of adopted books. It may refuse to adopt any of the books offered at the prices bid and call for new bids. When bids are accepted and a contract entered into, the contract may require, in the Board's discretion, that the total sales of each book in the State of North Carolina be reported annually to the Board.

All textbook contracts shall include a clause granting to the State Board of Education the license to produce Braille, large print, and audio-cassette tape copies of the textbooks for use in the State public schools. Also, the General Assembly urges the State Board of Education to request such a license from textbook publishers with whom a contract was entered into prior to August 1, 1987. (1955, c. 1372, art. 24, s. 6; 1969, c. 519, s. 1; 1981, c. 423, s. 1; 1983, c. 549, s. 1; 1987, c. 738, s. 190; 1987 (Reg. Sess., 1988), c. 1025, s. 10.)

§ 115C-91. Continuance and discontinuance of contracts with publishers.

When an existing or future contract expires, the Board may, with the publisher's approval, continue the contract for any particular book or books for a period not less than one or more than five years. If a publisher desires to terminate a contract that has been extended beyond the original contract period, he shall give notice to the Board 90 days prior to May 1. The Board may then proceed to a new adoption. (1955, c. 1372, art. 24, s. 7; 1969, c. 519, s. 1; 1981, c. 423, s. 1.)

§ 115C-92. Procedure for change of textbook.

The Superintendent may at any time communicate to the Board that a particular book is unsatisfactory for the schools, whereupon the Board may call for a new selection and adoption. If the Board votes to change a textbook, it shall give the publisher 90 days' notice prior to May 1, after which it may adopt a new book or books on the subject for which a book is sought. (1955, c. 1372, art. 24, s. 7; 1969, c. 519, s. 1; 1981, c. 423, s. 1.)

§ 115C-93. Advice from and suits by Attorney General.

The form and legality of contracts between the Board and publishers of textbooks shall be subject to the approval of the Attorney General.

When requested by the Board, the Attorney General shall bring suit against any publisher who fails to keep his contract as to prices, distribution, adequate supply of books in the edition adopted, or in any other way violates the terms of his contract. The suit shall be brought for an amount sufficient to enforce the contract or to compensate the State for any loss sustained by the publisher's failure to keep his contract. (1955, c. 1372, art. 24, s. 8; 1969, c. 519, s. 1; 1981, c. 423, s. 1.)

§ 115C-94. Publishers to register.

Any publisher who submits books for adoption shall register in the office of the Superintendent of Public Instruction the names of all agents or other employees authorized to represent that company in the State, and this registration list shall be open to the public for inspection. (1955, c. 1372, art. 24, s. 9; 1969, c. 519, s. 1; 1981, c. 423, s. 1.)

§ 115C-95. Sale of books at lower price reduces price to State.

Every contract made by the Board with the publisher of any school textbook on the State-adopted list shall be deemed to have written therein a condition providing that if that publisher, during the life of his contract with this State, contracts with any other governmental unit or places that textbook on sale anywhere in the United States for a price less than that stipulated in his contract with the State of North Carolina, the publisher shall immediately furnish that textbook to this State at a price not greater than that for which the book is furnished, sold, or placed on sale anywhere else in the nation. (1955, c. 1372, art. 24, s. 10; 1969, c. 519, s. 1; 1981, c. 423, s. 1.)

§ 115C-96. Powers and duties of the State Board of Education in regard to textbooks.

The children of the public elementary and secondary schools of the State shall be provided with free basic textbooks within the appropriation of the General Assembly for

that purpose. To implement this directive, the State Board of Education shall evaluate annually the amount of money necessary to provide textbooks based on the actual cost and availability of textbooks and shall request sufficient appropriations from the General Assembly.

The State Board of Education shall administer a fund and establish rules and regulations necessary to:

(1) Acquire by contract such basic textbooks as are or may be on the adopted list of the State of North Carolina which the Board finds necessary to meet the needs of the State public school system and to carry out the provisions of this Part.

(2) Provide a system of distribution of these textbooks and distribute the books that are provided without using any depository or warehouse facilities other than those operated by the State Board of Education.

(3) Provide for the free use, with proper care and return, of elementary and secondary basic textbooks. The title of said books shall be vested in the State. (1955, c. 1372, art. 25, s. 1; 1965, c. 584, s. 19; 1969, c. 519, s. 1; 1981, c. 423, s. 1; 1991 (Reg. Sess., 1992), c. 900, s. 81(a).)

§ 115C-97. State Board of Education authorized to discontinue handling supplementary and library books.

The State Board of Education may discontinue the adoption of supplementary textbooks and, at the expiration of existing contracts, may discontinue the purchase, warehousing, and distribution of supplementary textbooks. The Board may also discontinue the purchase and resale of library books. Funds appropriated to the State Board of Education for supplementary textbooks shall be transferred to the State Public School Fund for allotment to each local school administrative unit, based on its average daily membership, for the purchase of supplementary textbooks, library books, periodicals, and other instructional materials. (1969, c. 519, s. 1; 1981, c. 423, s. 1.)

§ 115C-98. Local boards of education to provide for local operation of the textbook program, the selection and procurement of other instructional materials, and the use of nonadopted textbooks.

(a) Local boards of education shall adopt rules not inconsistent with the policies of the State Board of Education concerning the local operation of the textbook program.

(b) Local boards of education shall adopt written policies concerning the procedures to be followed in their local school administrative units for the selection and procurement of supplementary textbooks, library books, periodicals, audiovisual materials, and other supplementary instructional materials needed for instructional purposes in the public schools of their units.

Local boards of education shall have sole authority to select and procure supplementary instructional materials, whether or not the materials contain commercial advertising, to determine if the materials are related to and within the limits of the prescribed curriculum, and to determine when the materials may be presented to students during the school day.

Supplementary materials and contracts for supplementary materials are not subject to approval by the State Board of Education.

Supplementary books and other instructional materials shall neither displace nor be used to the exclusion of basic textbooks.

(b1) A local board of education may establish a community media advisory committee to investigate and evaluate challenges from parents, teachers, and members of the public to textbooks and supplementary instructional materials on the grounds that they are educationally unsuitable, pervasively vulgar, or inappropriate to the age, maturity, or grade level of the students. The State Board of Education shall review its rules and policies concerning these challenges and shall establish guidelines to be followed by community media advisory committees.

The local board, at all times, has sole authority and discretion to determine whether a challenge has merit and whether challenged material should be retained or removed.

(b2) Local boards of education may:

(1) Select, procure, and use textbooks that have not been adopted by the State Board of Education for use throughout the local school administrative unit for selected grade levels and courses; and

(2) Approve school improvement plans developed under G.S. 115C-105.27 that include provisions for using textbooks that have not been adopted by the State Board of Education for selected grade levels and courses.

All textbook contracts made under this subsection shall include a clause granting to the local board of education the license to produce braille, large print, and audiocassette tape copies of the textbooks for use in the local school administrative unit.

(c) Funds allocated by the State Board of Education or appropriated in the current expense or capital outlay budgets of the local school administrative units, may be used for the above-stated purposes. (1969, c. 519, s. 1; 1981, c. 423, s. 1; 1989 (Reg. Sess., 1990), c. 1074, s. 23(a); 1995 (Reg. Sess., 1996), c. 716, ss. 8.7, 19; 2011-145, s. 7.13(e); 2011-391, s. 14(b).)

§ 115C-99. Legal custodians of textbooks furnished by State.

Local boards of education are the custodians of all textbooks purchased by the local boards with State funds. They shall provide adequate and safe storage facilities for the proper care of these textbooks and emphasize to all students the necessity for proper care of textbooks. (1955, c. 1372, art. 25, s. 3; 1969, c. 519, s. 1; 1981, c. 423, s. 1; 1993 (Reg. Sess., 1994), c. 777, s. 3(b).)

§ 115C-100. Rental fees for textbooks prohibited; damage fees authorized.

No local board of education may charge any pupil a rental fee for the use of textbooks. A pupil's parents or legal guardians may be charged damage fees for abuse or loss of textbooks under rules adopted by the State Board of Education. All money collected from the sale of textbooks purchased with State funds under the provisions of this Part shall be paid annually as collected to the State Board of Education. (1969, c. 519, s. 1; 1981, c. 423, s. 1; 1983, c. 549, s. 2; 1985, c. 581, s. 1; 1993 (Reg. Sess., 1994), c. 777, s. 3(c).)

§ 115C-101. Duties and authority of superintendents of local school administrative units.

The superintendent of each local school administrative unit, as an official agent of the State Board of Education, shall administer the provisions of this Part and the rules and regulations of the Board insofar as they apply to his unit. The superintendent of each local school administrative unit shall have authority to require the cooperation of principals and teachers so that the children may receive the best possible service, and so that all the books and moneys may be accounted for properly. If any principal or teacher fails to comply with the provisions of this section, his superintendent shall withhold his salary vouchers until the duties imposed by this section have been performed.

If any superintendent fails to comply with the provisions of this section, the State Superintendent, as secretary to the State Board of Education, shall notify the State Board of Education and the State Treasurer. The State Board and the State Superintendent shall withhold the superintendent's salary vouchers, and the State Treasurer shall make no payment until the State Superintendent notifies him that the provisions of this section have been complied with. (1955, c. 1372, art. 25, s. 8; 1969, c. 519, s. 1; 1981, c. 423, s. 1.)

§ 115C-102. Right to purchase; disposal of textbooks and materials.

(a) Any parent, guardian, or person in loco parentis may purchase any instructional material needed for any child in the public schools of the State from the board of education of the local school administrative unit in which the child is enrolled or, in the case of basic textbooks, from the State Board of Education.

(b) Notwithstanding Article 3A of Chapter 143 of the General Statutes, G.S. 143-49(4), or any other provision of law, the State Board of Education may adopt rules authorizing local boards of education to dispose of discontinued instructional material, including State-adopted textbooks. (1955, c. 1372, art. 25, s. 2; 1969, c. 519, s. 1; 1981, c. 423, s. 1; 1991, c. 328.)

§§ 115C-102.1 through 115C-102.4. Reserved for future codification purposes.

Part 3A. School Technology.

§ 115C-102.5. Commission on School Technology created; membership.

(a) There is created the Commission on School Technology. The Commission shall be located administratively in the Department of Public Instruction.

The purpose of the Commission shall be to advise the State Board of Education on the development of a State School Technology Plan that (i) ensures the effective use of technology is built into the North Carolina Public School System for the purpose of preparing a globally competitive workforce and citizenry for the 21st century and (ii) ensures equity and access to school technology for all segments of the public school population in North Carolina.

The Commission shall meet at least twice each fiscal year and shall provide input and feedback on the State School Technology Plan prior to approval.

(b) The Commission shall consist of the following members:

(1) The State Superintendent of Public Instruction or a designee;

(2) One representative of The University of North Carolina, appointed by the President of The University of North Carolina;

(3) One representative of the North Carolina Community College System, appointed by the President of the North Carolina Community College System;

(4) Repealed by Session Laws 2009-451, s. 7.31, effective July 1, 2009.

(5) Two members appointed by the Governor;

(6) Two members appointed by the President Pro Tempore of the Senate;

(7) Two members appointed by the Speaker of the House of Representatives; and

(8) Repealed by Session Laws 2009-451, s. 7.31, effective July 1, 2009.

(9) The State Chief Information Officer, or a designee.

In appointing members pursuant to subdivisions (5), (6), and (7) of this subsection, the appointing persons shall select individuals with technical or applied knowledge or experience in learning and instructional management technologies or individuals with expertise in curriculum or instruction who have successfully used learning and instructional management technologies.

No producers, vendors, or consultants to producers or vendors of learning or instructional management technologies shall serve on the Commission.

Members shall serve for two-year terms. Vacancies in terms of members shall be filled by the appointing officer. Persons appointed to fill vacancies shall qualify in the same manner as persons appointed for full terms.

(c) Repealed by Session Laws 1997-443, s. 8.26(a).

(d) Members of the Commission who are also members of the General Assembly shall be paid subsistence and travel expenses at the rate set forth in G.S. 120-3.1. Members of the Commission who are officials or employees of the State shall receive travel allowances at the rate set forth in G.S. 138-6. All other members of the Commission shall be paid the per diem and allowances set forth in G.S. 138-5.

(d1) The Chair of the State Board of Education shall select the Commission member or members who shall serve as chair or cochairs of the Commission.

(e) The Department of Public Instruction shall provide requested professional and clerical staff to the Commission. (1993, c. 321, s. 135(a); c. 522, s. 20; 1993 (Reg. Sess., 1994), c. 591, s. 11(a); 1997-148, s. 7; 1997-443, s. 8.26(a); 1998-131, s. 7; 1998-220, s. 1; 2004-199, s. 4; 2009-451, s. 7.31.)

§ 115C-102.6. Duty to propose a State school technology plan.

The State Board of Education shall propose a State school technology plan that ensures the effective use of technology is built into the North Carolina Public School System for the purpose of preparing a globally competitive workforce and citizenry for the 21st century. The Commission on School Technology will advise the State Board of Education on the State School Technology Plan and its components. (1993, c. 321, s. 135(a); 1993 (Reg. Sess., 1994), c. 769, s. 19.26(a); 2009-451, s. 7.31.)

§ 115C-102.6A. Elements of the State school technology plan.

(a) The State school technology plan shall be a comprehensive State implementation plan for using funds from the State School Technology Fund and other sources to improve student performance in the public schools through the use of learning and instructional management technologies. The purpose of the plan shall be to provide a cost-effective foundation of flexible technology and infrastructure to promote substantial gains in student achievement.

(b) Repealed by Session Laws 2009-451, s. 7.31, effective July 1, 2009.

(c) Components of the State school technology plan shall include at least the following:

(1) Common technical standards and uniform practices and procedures that provide statewide economies of scale in procurements, training, support, planning, and operations.

(2) Conceptual technical architecture that includes:

a. Principles – Statements of direction, goals, and concepts to guide the development of technical architecture;

b. Standards for interoperability – Detailed specifications to ensure hardware, software, databases, and other products that may have been developed independently or purchased from different vendors or manufacturers will work together, to the extent that interoperability facilitates meeting instructional or administrative goals; and

c. Implementation strategies – Approaches or guidelines for developing and installing the components of the technical infrastructure.

(3) A quality assurance policy for all school technology projects, training programs, systems documentation, and maintenance plans.

(4) Policies and procedures for the fair and competitive procurement of school technology that provide local school administrative units with a vendor-neutral operating environment in which different school technology hardware, software, and networks operate together easily and reliably, to the extent feasible consistent with meeting instructional or administrative goals. The operating environment includes all hardware and software components and configurations necessary to accomplish the integrated functions for school technology such as (i) types and sizes of computer platforms, telecommunications equipment, and associated communications protocols; (ii) operating systems for the computer processors; (iii) applications and other operating and support software; and (iv) other equipment, items, and software, such as printers, terminals, data and image storage devices, and other input, output, and storage devices.

(5) A comprehensive policy for inventory control.

(6) Parameters for continuous, ongoing training for all personnel involved in the use of school technology. Training shall focus on the integration of technology and instruction and on the use of particular applications.

(7) Recommendations to the State Board of Education of requirements for preservice teacher training on the integration of teaching and school technology.
(8) Proposals for leadership training on the use of school technology to improve instruction and as a management tool.
(9) Development of expertise at the State and regional levels on school technology.
(10) Flexibility to enable local school administrative units and individual schools to meet individual school unit and building needs.
(11) Flexibility to meet the needs of all students, allow support to students with a wide range of abilities, and ensure access to challenging curricula and instruction for children at risk of school failure.
(12) Use of technologies to support challenging State, federal, and local educational performance goals.
(13) Effective and integrated use of technologies compatible with (i) the standard course of study, (ii) the State assessment program, and (iii) related student data management.
(14) Use of technologies as a communication, instructional, and management tool and for problem-solving, exploration, and advanced skills.
(15) Proposals for addressing equipment needs for State curricula areas.
(16) Specifications for minimum components of local school system technology plans.
(17) A baseline template for:
    a. Technology and service application infrastructure, including broadband connectivity, personnel recommendations, and other resources needed to operate effectively from the classroom desktop to local, regional, and State networks, and
    b. An evaluation component that provides for local school administrative unit accountability for maintaining quality upgradeable systems. (1993 (Reg. Sess., 1994), c. 769, s. 19.26(b); 2005-276, s. 7.43(a); 2009-451, s. 7.31.)

§ 115C-102.6B. Approval of State school technology plan.

(a) The State Board of Education shall review, revise as needed, and approve the State School Technology Plan at a minimum every two years in the odd-numbered year, beginning in 2011. The plan shall be updated more often, as required, as in cases where significant changes occur related to Board goals, curriculum standards, and available technology.

(b) The Board shall submit the plan to the State Chief Information Officer for approval of the technical components of the plan set out in G.S. 115C-102.6A(1) through (4). At least one-fourth of the members of any technical committee that reviews the plan for the State Chief Information Officer shall be people actively involved in primary or secondary education.

(c) Repealed by Session Laws 2009-451, s. 7.31, effective July 1, 2009. (1993 (Reg. Sess., 1994), c. 769, s. 19.26(b); 1997-443, s. 8.26(b); 2004-129, s. 29; 2009-451, s. 7.31; 2009-570, s. 37; 2010-96, s. 13; 2014-115, s. 82; 2015-241, s. 8.25(c).)

§ 115C-102.6C: Repealed by Session Laws 2011-145, 7.13(aa), effective July 1, 2011.

§ 115C-102.6D. Establishment of the State School Technology Fund; allocation and use of funds.

(a) There is established under the control and direction of the State Board of Education the State School Technology Fund. This fund shall be a nonreverting special revenue fund consisting of any monies appropriated to it by the General Assembly and any monies credited to it under G.S. 20-81.12 from the sale of School Technology special license plates.

(b) Funds in the State School Technology Fund shall be allocated to local school administrative units as directed by the General Assembly. Funds allocated to each local school administrative unit shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(c) Repealed by Session Laws 2009-451, s. 7.31, effective July 1, 2009.

(d) Repealed by Session Laws 2011-145, s. 7.13(bb), effective July 1, 2011. (1993 (Reg. Sess., 1994), c. 769, s. 19.26(b); 1997-484, s. 7; 2009-451, s. 7.31; 2011-145, s. 7.13(bb).)

§ 115C-102.7. Monitoring and evaluation of State and local school system technology plans; reports.

(a) The Department of Public Instruction shall monitor and evaluate the development and implementation of the State technology plan. The evaluation shall consider the effects of technology on student learning, the effects of technology on students' workforce readiness, the effects of technology on teacher productivity, and the cost-effectiveness of the technology.

(a1) Repealed by Session Laws 1997-18, s. 15(k).

(b) Repealed by Session Laws 2009-451, s. 7.31, effective July 1, 2009.

(c) Repealed by Session Laws 2011-145, s. 7.13(cc), effective July 1, 2011. (1993, c. 321, s. 135(a); 1993 (Reg. Sess., 1994), c. 769, s. 19.26(c); 1997-18, s. 15(k); 2004-129, s. 31; 2005-276, s. 7.43(c); 2009-451, s. 7.31; 2011-145, s. 7.13(cc).)

§ 115C-102.8: Repealed by Session Laws 1997-18, s. 5.

Part 3B. Technology Alliance.

§ 115C-102.15: Repealed by Session Laws 2009-451, s. 7.15(a), effective July 1, 2009.

Part 4. Fees.

§ 115C-103. Fees.

Fees, charges and costs may be collected from students, their parents or guardians, and school personnel in accordance with the provisions of G.S. 115C-47(6). (1981, c. 423, s. 1; 1985, c. 581, s. 2.)

Part 5. Interstate Compact on Education.

§ 115C-104. Enactment of Compact.

The Compact for Education is hereby entered into and enacted into law, with all jurisdictions legally joining therein. Pursuant to Article III(9) of the Compact, the commission shall file a copy of its bylaws and any amendment thereto with the Secretary of State of North Carolina. The form of the Compact is substantially as follows:

COMPACT FOR EDUCATION.

Article I. Policy and Purpose.

It is the purpose of this Compact to:

(1) Establish and maintain close cooperation and understanding among executive, legislative, professional, educational and lay leadership on a nationwide basis at the state and local levels.

(2) Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

(3) Provide a clearinghouse of information on matters relating to educational problems and how they are being met in different places throughout the nation, so that the executive and legislative branches of state government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

(4) Facilitate the improvement of state and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advances in educational opportunities, methods and facilities.

(5) It is the policy of this Compact to encourage and promote local and state initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and states.

(6) The party states recognize that each of them has an interest in the quality and quantity of education furnished in each of the other states, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the nation, and because of the products and services contributing to the health, welfare

and economic advancement of each state which are supplied in significant part by persons educated in other states.

Article II. State Defined.

As used in this Compact, "state" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Article III. The Commission.

(1) The education commission of the states, hereinafter called "the commission," is hereby established. The commission shall consist of seven members representing each party state. One of such members shall be the governor; two shall be members of the state legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the governor, unless the laws of the state otherwise provide. If the laws of a state prevent legislators from serving on the commission, six members shall be appointed and serve at the pleasure of the governor, unless the laws of the state otherwise provide. In addition to any other principles or requirements which a state may establish for the appointment and service of its members of the commission, the guiding principle for the composition of the membership on the commission from each party state shall be that the members representing such state shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the state government, higher education, the state education system, local education, lay and professional, public and nonpublic educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the governor, having responsibility for one or more programs of public education. In addition to the members of the commission representing the party states, there may be not to exceed 10 nonvoting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

(2) The members of the commission shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners are present. The commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the

commission may delegate the exercise of any of its powers to the steering committee or the executive director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III(10).

(3) The commission shall have a seal.

(4) The commission shall elect annually, from among its members, a chairman, who shall be a governor, a vice-chairman and a treasurer. The commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the commission, and together with the treasurer and such other personnel as the commission may deem appropriate shall be bonded in such amount as the commission shall determine. The executive director shall be secretary.

(5) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the commission, and shall fix the duties and compensation of such personnel. The commission in its bylaws shall provide for the personnel policies and programs of the commission.

(6) The commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.

(7) The commission may accept for any of its purposes and functions under this Compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the commission pursuant to this paragraph or services borrowed pursuant to paragraph (6) of this article shall be reported in the annual report of the commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

(8) The commission may establish and maintain such facilities as may be necessary for the transaction of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(9) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof

and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(10) The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year. The commission may make such additional reports as it may deem desirable.

Article IV. Powers.

In addition to authority conferred on the commission by other provisions of the Compact, the commission shall have authority to:

(1) Collect, correlate, analyze and interpret information and data concerning educational needs and resources.

(2) Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.

(3) Develop proposals for adequate financing of education as a whole and at each of its many levels.

(4) Conduct or participate in research of the types referred to in this article in any instance where the commission finds that such research is necessary for the advancement of the purposes and policies of this Compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.

(5) Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

(6) Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this Compact.

Article V. Cooperation with Federal Government.

(1) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the commission by not to exceed 10 representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, and may be drawn from any one or more branches of the federal government, but no such representatives shall have a vote on the commission.

(2) The commission may provide information and make recommendations to any executive or legislative agency or officer of the federal government concerning the common educational policies of the states, and may advise with any such agencies or officers concerning any matter of mutual interest.

Article VI. Committees.

(1) To assist in the expeditious conduct of its business when the full commission is not meeting, the commission shall elect a steering committee of 32 members which, subject to the provisions of this Compact and consistent with the policies of the commission, shall be constituted and function as provided in the bylaws of the commission. One fourth of the voting membership of the steering committee shall consist of governors, one fourth shall consist of legislators, and the remainder shall consist of other members of the commission. A federal representative on the commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the commission shall be elected as follows: 16 for one year and 16 for two years. The chairman, vice-chairman, and treasurer of the commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two-term limitation.

(2) The commission may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the states concerned, be established to consider any matter of special concern to two or more of the party states.

(3) The commission may establish such additional committees as its bylaws may provide.

Article VII. Finance.

(1) The commission shall advise the governor or designated officer or officers of each party state of its budget and estimated expenditures for

such period as may be required by the laws of that party state. Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

(2) The total amount of appropriation requests under any budget shall be apportioned among the party states. In making such apportionment, the commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party states.

(3) The commission shall not pledge the credit of any party states. The commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III(7) of this Compact, provided that the commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it pursuant to Article III(7) thereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the commission.

(5) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(6) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

Article VIII. Eligible Parties' Entry into and Withdrawal.

(1) This Compact shall have as eligible parties all states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a governor, the term "governor," as used in this Compact, shall mean the closest equivalent official of such jurisdiction.

(2) Any state or other eligible jurisdiction may enter into this Compact and it shall become binding thereon when it has adopted the same: Provided that in order to enter into initial effect, adoption by at least 10 eligible party jurisdictions shall be required.

(3) Adoption of the Compact may be either by enactment thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1967. During any period when a state is participating in this Compact through gubernatorial action, the governor shall appoint those persons who, in addition to himself, shall serve as the members of the commission from his state, and shall provide to the commission an equitable share of the financial support of the commission from any source available to him.

(4) Except for a withdrawal effective on December 31, 1967, in accordance with paragraph (3) of this article, any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article IX. Construction and Severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating therein, the Compact shall remain in full force and effect as to the state affected as to all severable matters. (1967, c. 1020; 1981, c. 423, s. 1; 1991, c. 369, s. 1.)

§ 115C-105: Repealed by Session Laws 1991, c. 369, s. 2.

Article 8A.

North Carolina Education Standards and Accountability Commission.

§§ 115C-105.1 through 115C-105.10: Repealed by Session Laws 1997-443, s. 8.27(c).

§§ 115C-105.11 through 115C-105.19. Reserved for future codification purposes.

Article 8B.

School-Based Management and Accountability Program.

Part 1. Implementation of Program.

§ 115C-105.20. School-Based Management and Accountability Program.

(a) 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 its guide, the State Board of Education shall develop a School-Based Management and Accountability Program. The primary goal of the Program shall be to improve student performance.

(b) In order to support local boards of education and schools in the implementation of this Program, the State Board of Education shall adopt guidelines, including guidelines to:

(1) Assist local boards and schools in the development and implementation of school-based management under Part 2 of this Article.

(2) Recognize the schools that meet or exceed their goals.

(3) Identify low-performing schools under G.S. 115C-105.37, and create assistance teams that the Board may assign to schools identified as low-performing under G.S. 115C-105.37. The assistance teams should consist of currently practicing teachers and staff, representatives of institutions of higher education, school administrators, and others the State Board considers appropriate.

(4) Enable assistance teams to make appropriate recommendations under G.S. 115C-105.38.

(5) Establish a process to resolve disputes between local boards and schools in the development and implementation of school improvement plans under G.S. 115C-105.27. This process shall provide for final resolution of the disputes. (1989, c. 778, s. 3; 1991 (Reg. Sess., 1992), c. 900, s. 75.1(a); 1993, c. 321, s. 144.2(a); 1995, c. 272, s. 1; 1995 (Reg. Sess., 1996), c. 716, ss. 2, 3; 2011-145, s. 7.13(f); 2011-391, s. 14(b).)

§ 115C-105.21. Local participation in the Program.

(a) Local school administrative units shall participate in the School-Based Management and Accountability Program.

(b) The School-Based Management and Accountability Program shall provide increased local control of schools with the goal of improving student performance. Local boards of education:

(1) Are allowed increased flexibility in the expenditure of State funds, in accordance with G.S. 115C-105.25; and

(2) May be granted waivers of certain State laws, regulations, and policies that inhibit their ability to reach local accountability goals, in accordance with G.S. 115C-105.26.

(c) The School-Based Management and Accountability Program shall be based upon an accountability, recognition, assistance, and intervention process in order to hold each school and the school's personnel accountable for improved student performance in

the school. (1989, c. 778, s. 3; 1991, c. 331, s. 1; 1993, c. 263, s. 1; c. 522, s. 3; 1995, c. 272, s. 2; c. 450, s. 12; 1995 (Reg. Sess., 1996), c. 716, ss. 2, 3.)

§ 115C-105.22. Reserved for future codification purposes.

§ 115C-105.23. Reserved for future codification purposes.

§ 115C-105.24. Reserved for future codification purposes.

Part 2. School-Based Management.

§ 115C-105.25. Budget flexibility.

(a) Consistent with improving student performance, a local board shall provide maximum flexibility to schools in the use of funds to enable the schools to accomplish their goals.

(b) Subject to the following limitations, local boards of education may transfer and may approve transfers of funds between funding allotment categories:

(1) Repealed by Session Laws 2013-360, s. 8.14, effective July 1, 2013.

(1a) Funds for career and technical education and other purposes may be transferred only as permitted by federal law and the conditions of federal grants or as provided through any rules that the State Board of Education adopts to ensure compliance with federal regulations.

(1b) No funds shall be transferred out of the children with disabilities allotment category.

(2), (2a) Repealed by Session Laws 2013-360, s. 8.14, effective July 1, 2013.

(3) No funds shall be transferred into the central office administration allotment category.

(3a) No funds shall be transferred out of the teacher assistants allotment category.

(3b) No funds shall be transferred out of the academically or intellectually gifted children allotment category.

(4), (5) Repealed by Session Laws 2013-360, s. 8.14, effective July 1, 2013.

(5a) **(Effective until July 1, 2021)** Positions allocated for classroom teachers may be converted to dollar equivalents to contract for visiting international exchange teachers through a visiting international exchange teacher program approved by the State. These positions shall be converted at the statewide average salary for classroom teachers, including benefits. The converted funds shall be used only to provide visiting international exchange teachers with salaries commensurate with their experience levels, to provide any State-approved bonuses, and to cover the costs associated with supporting visiting international exchange teachers within the local school administrative unit, including programming and related activities, background checks, medical coverage, and other program administration services in accordance with

the federal regulations for the Exchange Visitor Program, 22 C.F.R. Part 62.

(5a) **(Effective July 1, 2021)** No positions shall be transferred out of the allocation for classroom teachers for kindergarten through twelfth grade, except as provided in this subdivision. Positions allocated for classroom teachers may be converted to dollar equivalents to contract for visiting international exchange teachers through a visiting international exchange teacher program approved by the State. These positions shall be converted at the statewide average salary for classroom teachers, including benefits. The converted funds shall be used only to provide visiting international exchange teachers with salaries commensurate with their experience levels, to provide any State-approved bonuses, and to cover the costs associated with supporting visiting international exchange teachers within the local school administrative unit, including programming and related activities, background checks, medical coverage, and other program administration services in accordance with the federal regulations for the Exchange Visitor Program, 22 C.F.R. Part 62.

(5b) **(Effective until July 1, 2021)** Except as provided in subdivision (5a) of this subsection, positions allocated for classroom teachers and instructional support personnel may be converted to dollar equivalents for any purpose authorized by the policies of the State Board of Education. These positions shall be converted at the salary on the first step of the "A" Teachers Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

(5b) **(Effective July 1, 2021)** Positions allocated for instructional support personnel may be converted to dollar equivalents for any purpose authorized by the policies of the State Board of Education. These positions shall be converted at the salary on the first step of the "A" Teachers Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

(5c) Funds allocated for school building administration may be converted for any purpose authorized by the policies of the State Board of Education. For funds related to principal positions, the salary transferred shall be based on the first step of the Principal III Salary Schedule. For funds related to assistant principal months of employment, the salary transferred shall be based on the first step of the Assistant Principal Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

(5d) No positions shall be transferred out of the allocation for program enhancement teachers for kindergarten through fifth grade except as provided in this subdivision. Positions allocated for program enhancement teachers for kindergarten through fifth grade may be

converted into positions allocated for classroom teachers for kindergarten through twelfth grade. For the purposes of this subdivision, the term "program enhancement" is as defined in G.S. 115C-301(c2).

(6) through (9) Repealed by Session Laws 2013-360, s. 8.14, effective July 1, 2013.

(10) Funds to carry out the elements of the Excellent Public Schools Act that are contained in Section 7A.1 of S.L. 2012-142 shall not be transferred.

(10a) No funds shall be transferred out of the limited English proficiency allotment category.

(11) No funds shall be transferred into or out of the driver education allotment category.

(12) Funds allotted for textbooks and digital resources may only be used for the purchase of textbooks and digital resources. These funds shall not be transferred out of the allotment for any other purpose.

(c) To ensure that parents, educators, and the general public are informed on how State funds have been used to address local educational priorities, each local school administrative unit shall publish information from the prior fiscal year on its Web site by October 15 of each year, as follows:

(1) A description of each program report code, written in plain English, and a summary of the prior fiscal year's expenditure of State funds within each program report code.

(2) A description of each object code within a program report code, written in plain English, and a summary of the prior fiscal year's expenditure of State funds for each object code.

(3) A description of each allotment transfer that increased or decreased the initial allotment amount by more than five percent (5%), including all of the following information:

a. The amount of the transfer.

b. The allotment category into which the funds were transferred.

c. The purpose code for the funds following the transfer.

d. A description of any teacher positions fully or partially funded as a result of the transfer, including all subject areas taught by the teacher in the position.

e. The educational priorities that necessitated the transfer.

(4) Repealed by Session Laws 2017-57, s. 7.13(b), effective July 1, 2018.

(5) A chart that clearly reflects how the local school administrative unit spent State funds.

(d) The local school administrative unit shall maintain information published pursuant to subsection (c) of this section on its Web site for at least three years after it is published.

(e) No later than December 1 of each year, the Department of Public Instruction shall collect the information reported by local school administrative units pursuant to subsection (c) of this section and report the aggregated information, including available

data from the two previous fiscal years, to the Joint Legislative Education Oversight Committee and the Fiscal Research Division. (1995 (Reg. Sess., 1996), c. 716, s. 3; 1996, 2nd Ex. Sess., c. 18, ss. 18.24(h)-(k); 1998-212, s. 9.20(b); 1999-237, s. 8.25(c); 2001-424, s. 28.22; 2005-276, s. 7.22(a); 2006-69, s. 3(b); 2011-145, s. 7.13(g); 2011-391, s. 14(b); 2013-360, s. 8.14; 2015-241, ss. 8.33, 8.39(c), 8.47(a); 2016-94, ss. 8.5, 8.16; 2017-57, ss. 7.1(b), 7.2(b), 7.12, 7.13(a), (b), 7.23J(a), 8.3(d); 2017-197, s. 2.4; 2018-2, s. 4(a), (b); 2018-5, ss. 7.11(a), 8.2(g).)

§ 115C-105.26. Waivers of State laws or rules.

(a) Except as otherwise provided for in this section, the State Board of Education shall not grant waivers of State laws or rules to local boards of education. If permitted under this section, a request for a waiver by a local board of education shall (i) identify the school or schools making the request, (ii) identify the State law or rule requesting to be waived, (iii) set out with specificity the circumstances under which the waiver may be used, and (iv) explain how the requested waiver will permit the school to improve student performance.

(b) The State Board of Education may grant waivers to local boards of education of State laws and rules pertaining to the following:

(1) Class size requirements only as provided in G.S. 115C-301(g).

(2) Repealed by Session Laws 2015-241, s. 8A.6(a), effective July 1, 2015.

(3) School calendar requirements in order to provide sufficient days to accommodate anticipated makeup days due to school closings only as provided in G.S. 115C-84.2(d).

(c) through (e) Repealed by Session Laws 2015-241, s. 8A.6(a), effective July 1, 2015.

(f) The State Board shall act within 60 days of receipt of all requests for waivers under this section.

(g) The State Board shall, on a regular basis, review all waivers it has granted to determine whether any rules should be repealed or modified or whether the Board should recommend to the General Assembly the repeal or modification of any laws.

(h) By October 15 of each year, the State Board shall report to the Joint Legislative Education Oversight Committee with a list of the specific waivers granted to each local board of education under this section. The State Board may include any legislative recommendations identified under subsection (g) of this section in its report. (1995 (Reg. Sess., 1996), c. 716, s. 3; 1999-237, s. 8.25(b); 2006-153, s. 2; 2011-145, s. 7.13(h); 2011-391, s. 14(b); 2013-360, s. 9.7(a); 2015-241, s. 8A.6(a).)

§ 115C-105.27. Development and approval of school improvement plans.

(a) School Improvement Team. – The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school shall constitute a school improvement team. The team shall develop a school improvement plan to improve student performance.

Representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants shall be elected by their respective groups by secret ballot.

Unless the local board of education has adopted an election policy, parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. Parents serving on school improvement teams shall reflect the racial and socioeconomic composition of the students enrolled in that school and shall not be members of the building-level staff.

Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with teachers, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation.

(a1) Open Meetings. – School improvement team meetings are subject to the open meetings requirements of Article 33C of Chapter 143 of the General Statutes. Deliberations on the school safety components of the plan shall be in closed session in accordance with G.S. 143-318.11(a)(8). The principal shall ensure that these requirements are met.

(a2) Public Records. – The school improvement plan, except for the school safety components of the plan, is a public record subject to Chapter 132 of the General Statutes and shall be posted on the school Web site. The names of the members of the school improvement team, their positions, and the date of their election to the school improvement team shall also be posted on the Web site.

The school safety components of the plan are not public records subject to Chapter 132 of the General Statutes.

(b) School Improvement Plan. – In order to improve student performance, the school improvement team at each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35 and the goals set out in the mission statement for the public schools adopted by the State Board of Education. All school improvement plans shall be, to the greatest extent possible, data-driven. School improvement teams shall use the Education Value-Added Assessment System (EVAAS) or a compatible and comparable system approved by the State Board of Education to (i) analyze student data and identify root causes for problems, (ii) determine actions to address them, and (iii) appropriately place students in courses such as Algebra I. School improvement plans shall contain clear, unambiguous targets, explicit indicators and actual measures, and expeditious time frames for meeting the measurement standards.

The strategies for improving student performance:

(1) Shall include a plan for the use of staff development funds that may be made available to the school by the local board of education to implement the school improvement plan. The plan may provide that a portion of these funds is used for mentor training and for release time and substitute teachers while mentors and teachers mentored are meeting;

(1a) Repealed by Session Laws 2012-142, s. 7A.1(c), effective July 2, 2012.

(2) Shall include a plan to address school safety and discipline concerns;

(3) May include a decision to use State funds in accordance with G.S. 115C-105.25;

(4) Shall include a plan that specifies the effective instructional practices and methods to be used to improve the academic performance of students identified as at risk of academic failure or at risk of dropping out of school;

(5) May include requests for waivers of State laws, rules, or policies for that school. A request for a waiver shall meet the requirements of G.S. 115C-105.26;

(6) Shall include a plan to provide a duty-free lunch period for every teacher on a daily basis or as otherwise approved by the school improvement team; and

(7) Shall include a plan to provide duty-free instructional planning time for every teacher under G.S. 115C-301.1, with the goal of providing an average of at least five hours of planning time per week; [and]

(8) Shall include a plan to identify and eliminate unnecessary and redundant reporting requirements for teachers and, to the extent practicable, streamline the school's reporting system and procedures, including requiring forms and reports to be in electronic form when possible and incorporating relevant documents into the student accessible components of the Instructional Improvement System.

(c) School Vote on the Plan. – Support among affected staff members is essential to successful implementation of a school improvement plan to address improved student performance at that school. The principal of the school shall present the proposed school improvement plan to all of the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for their review and vote. The vote shall be by secret ballot. The principal shall submit the school improvement plan to the local board of education only if the proposed school improvement plan has the approval of a majority of the staff who voted on the plan.

(c1) Consideration of the School Safety Components of the Plan. – The superintendent shall review the school safety components of the school improvement plans and make written recommendations on them to the local board of education. Prior to a vote to accept a school's improvement plan in accordance with G.S. 115C-105.27(d), the local board of education shall review the school safety components of the plan for that school in closed session. The board shall make findings on the safety components of the plan. Neither the safety components of the plan nor the board's findings on the safety components of the plan shall be set out in the minutes of the board.

(d) Adoption of the Plan. – The local board of education shall accept or reject the school improvement plan. The local board shall not make any substantive changes in any school improvement plan that it accepts. If the local board rejects a school improvement plan, the local board shall state with specificity its reasons for rejecting the plan; the school improvement team may then prepare another plan, present it to the principals, assistant

principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for a vote, and submit it to the local board to accept or reject. If no school improvement plan is accepted for a school within 60 days after its initial submission to the local board, the school or the local board may ask to use the process to resolve disagreements recommended in the guidelines developed by the State Board under G.S. 115C-105.20(b)(5). If this request is made, both the school and local board shall participate in the process to resolve disagreements. If there is no request to use that process, then the local board may develop a school improvement plan for the school. The General Assembly urges the local board to utilize the school's proposed school improvement plan to the maximum extent possible when developing such a plan.

(e) Effective Period of the Plan. – A school improvement plan shall remain in effect for no more than two years; however, the school improvement team may amend the plan as often as is necessary or appropriate. If, at any time, any part of a school improvement plan becomes unlawful or the local board finds that a school improvement plan is impeding student performance at a school, the local board may vacate the relevant portion of the plan and may direct the school to revise that portion. The procedures set out in this subsection shall apply to amendments and revisions to school improvement plans.

(f) Elimination of Other Unnecessary Plans. – If a local board of education finds that a school improvement plan adequately covers another plan that the local school administrative unit is otherwise required to prepare, the local school administrative unit shall not be required to prepare an additional plan on the matter.

(g) Compliance With Requirements. – Any employee, parent, or other interested individual or organization is encouraged to notify the principal of any concerns regarding compliance with this section. In addition, any employee, parent, or other interested individual or organization may submit in writing to the superintendent concerns regarding compliance with this section. The superintendent shall make a good-faith effort to investigate the concern. The superintendent shall upon request provide a written response to the concern. (1989, c. 778, s. 3; 1991 (Reg. Sess., 1992), c. 900, s. 75.1(b); 1993, c. 38, s. 1; c. 263, s. 2; c. 321, s. 144.2(b); 1995, c. 272, s. 3; c. 450, s. 13; 1995 (Reg. Sess., 1996), c. 716, ss. 2, 3; 1997-159, s. 1; 1997-443, s. 8.29(r)(2); 1999-271, s. 1; 1999-397, s. 1; 2000-67, s. 8.1; 2001-424, s. 28.30(c); 2006-153, s. 1; 2009-223, s. 2; 2010-110, s. 1; 2011-145, s. 7.13(i), (x); 2011-379, s. 6(b); 2011-391, s. 14(b); 2012-77, s. 2; 2012-142, s. 7A.1(c); 2013-226, s. 11(a); 2013-360, s. 8.41(a).)

§§ 115C-105.28, 115C-105.29: Repealed by Session Laws 1995 (Regular Session, 1996), c. 716, s. 3.

§ 115C-105.30. Distribution of staff development funds.

Any funds the local board of education makes available to an individual school building to implement the school improvement plan at that school shall be used in accordance with that plan.

Each local board shall distribute seventy-five percent (75%) of the funds in the staff development funding allotment to the schools to be used in accordance with that school's

school improvement plan. By October 1 of each year, the principal shall disclose to all affected personnel the total allocation of all funds available to the school for staff development and the superintendent shall disclose to all affected personnel the total allocation of all funds available at the system level for staff development. At the end of the fiscal year, the principal shall make available to all affected personnel a report of all disbursements from the building-level staff development funds, and the superintendent shall make available to all affected personnel a report of all disbursements at the system level of staff development funds. (1993, c. 321, s. 144.2(c); 1995 (Reg. Sess., 1996), c. 716, ss. 2, 3; 2011-145, s. 7.13(j); 2011-391, s. 14(b).)

§ 115C-105.31: Repealed by Session Laws 2011-266, s. 1.18, effective July 1, 2011.

§ 115C-105.32. Parent involvement programs and conflict resolution programs as part of school improvement plans.

A school is encouraged to include a comprehensive parent involvement program as part of its school improvement plan under G.S. 115C-105.27. The State Board of Education shall develop a list of recommended strategies that it determines to be effective, which building level committees may use to establish parent involvement programs designed to meet the specific needs of their schools. The Board shall make the list available to local school administrative units and school buildings by the beginning of the 1994-95 school year.

A school is encouraged to review its need for a comprehensive conflict resolution program as part of the development of its school improvement plan under G.S. 115C-105.27. If a school determines that this program is needed, it may select from the list developed by the State Board of Education under G.S. 115C-81.15 or may develop its own materials and curricula to be approved by the local board of education. (1993, c. 509, ss. 2, 3; 1995 (Reg. Sess., 1996), c. 716, ss. 2, 3; 2011-145, s. 7.13(*l*); 2011-391, s. 14(b); 2017-126, s. 13.)

§ 115C-105.33. Safe and orderly schools.

A school improvement team or a parent organization at a school may ask the local board of education to provide assistance in promoting or restoring safety and an orderly learning environment at a school. The school improvement team or parent organization shall file a copy of this request with the State Board. If the local board fails to provide adequate assistance to the school, then the school improvement team or parent organization may ask the State Board to provide an assistance team to the school.

The State Board may provide an assistance team, established under G.S. 115C-105.38, to a school in order to promote or restore safety and an orderly learning environment at that school if one of the following applies:

(1) The local board of education or superintendent requests that the State Board provide an assistance team to a school and the State Board determines that the school needs assistance.

(2) The State Board determines within 10 days after its receipt of the request for assistance from a school improvement team or parent organization of a school that the school needs assistance and that the local board has failed to provide adequate assistance to that school.

If an assistance team is assigned to a school under this section, the team shall spend a sufficient amount of time at the school to assess the problems at the school, assist school personnel with resolving those problems, and work with school personnel and others to develop a long-term plan for restoring and maintaining safety and an orderly learning environment at the school. The assistance team also shall make recommendations to the local board of education and the superintendent on actions the board and the superintendent should consider taking to resolve problems at the school. These recommendations shall be in writing and are public records. If an assistance team is assigned to a school under this section, the powers given to the State Board and the assistance team under G.S. 115C-105.38 and G.S. 115C-105.39 shall apply as if the school had been identified as low-performing under this Article. (1997-443, s. 8.29(a)(2); 2011-145, s. 7.13(m); 2011-391, s. 14(b).)

§ 115C-105.34. Reserved for future codification purposes.

Part 3. School-Based Accountability.

§ 115C-105.35. Annual performance goals.

(a) The School-Based Management and Accountability Program shall (i) focus on student performance in the basics of reading, mathematics, and communications skills in elementary and middle schools, (ii) focus on student performance in courses required for graduation and on other measures required by the State Board in the high schools, and (iii) hold schools accountable for the educational growth of their students. To those ends, the State Board shall design and implement an accountability system that sets annual performance standards for each school in the State in order to measure the growth in performance of the students in each individual school.

(b) For purposes of this Article, the State Board shall include a "closing the achievement gap" component in its measurement of educational growth in student performance for each school. The "closing the achievement gap" component shall measure and compare the performance of each subgroup in a school's population to ensure that all subgroups as identified by the State Board are meeting State standards.

(c) Repealed by Session Laws 2015-241, s. 8A.4(a), effective July 1, 2015. (1995 (Reg. Sess., 1996), c. 716, s. 3; 2001-424, s. 28.30(a); 2003-284, s. 7.40(c); 2004-124, s. 7.12(a); 2015-241, ss. 8.25(d), 8A.4(a).)

§ 115C-105.36: Repealed by Session Laws 2015-65, s. 1.2, effective June 11, 2015.

§ 115C-105.37. Identification of low-performing schools.

(a) Identification of Low-Performing Schools. – The State Board of Education shall identify low-performing schools on an annual basis. Low-performing schools are those that

earn an overall school performance grade of D or F and a school growth score of "met expected growth" or "not met expected growth" as defined by G.S. 115C-83.15.

(a1) Plan for Improvement of Low-Performing Schools. – If a school has been identified as low-performing as provided in this section and the school is not located in a local school administrative unit identified as low-performing under G.S. 115C-105.39A, the following actions shall be taken:

(1) The superintendent shall proceed under G.S. 115C-105.39.

(2) Within 30 days of the initial identification of a school as low-performing by the State Board, the superintendent shall submit to the local board of education a preliminary plan for improving both the school performance grade and school growth score, including how the superintendent and other central office administrators will work with the school and monitor the school's progress.

(3) Within 30 days of its receipt of the preliminary plan, the local board shall vote to approve, modify, or reject this plan. Before the local board votes on the preliminary plan, it shall make the plan available to the public, including the personnel assigned to that school and the parents and guardians of the students who are assigned to the school, and shall allow for written comments.

(4) The local board shall submit a final plan to the State Board within five days of the local board's approval of the plan. The State Board shall review the plan expeditiously and, if appropriate, may offer recommendations to modify the plan. The local board shall consider any recommendations made by the State Board and, if necessary, amend the plan and vote on approval of any changes to the final plan.

(5) The local board of education shall provide access to the final plan on the local school administrative unit's Web site. The State Board of Education shall also provide access to each low-performing school plan on the Department of Public Instruction's Web site.

(b) Parental Notice of Low-Performing School Status. – Each school that the State Board identifies as low-performing shall provide written notification to the parents and guardians of students attending that school within 30 days of the identification that includes the following information:

(1) A statement that the State Board of Education has found that the school has earned an overall school performance grade of D or F and a school growth score of "met expected growth" or "not met expected growth" and has been identified as a low-performing school as defined by G.S. 115C-105.37. The statement shall include an explanation of the school performance grades and growth scores.

(2) The school performance grade and growth score earned.

(3) Information about the preliminary plan developed under subsection (a1) of this section and the availability of the final plan on the local school administrative unit's Web site.

(4) The meeting date for when the preliminary plan will be considered by the local board of education.

(5) A description of any additional steps the school is taking to improve student performance. (1995 (Reg. Sess., 1996), c. 716, s. 3; 1997-221, s. 20(b); 1997-443, s. 8.45; 1998-59, s. 1; 2001-424, s. 29.4(a); 2015-241, s. 8A.4(b); 2017-57, s. 7.26(f).)

§ 115C-105.37A. Continually low-performing schools; definition; assistance and intervention; reassignment of students.

(a) Definition of Continually Low-Performing Schools. – A continually low-performing school is a school that has received State-mandated assistance and has been designated by the State Board as low performing for at least two of three consecutive years. If the State Board identifies a school as continually low performing:

(1) The school improvement team at that school shall review its school improvement plan to ensure consistency with the plan adopted pursuant to G.S. 115C-105.38(b)(3), and

(2) The plan must be reviewed and approved by the State Board of Education.

(b) Assistance to Schools That Are Low Performing for Two Years. – If a school that has received State-mandated assistance is designated by the State Board as low performing for two consecutive years or for two of three consecutive years, the State Board shall provide a series of progressive assistance and intervention strategies to that school. These strategies shall be designed to improve student achievement and to maintain student achievement at appropriate levels and may include, to the extent that funds are available for this purpose, assistance such as reductions in class size, extension of teacher and assistant principal contracts, extension of the instructional year, and grant-based assistance.

(c) Intervention in Schools That Are Low Performing for Three or More Years. – The State Board of Education shall develop and implement a series of actions for providing assistance and intervention to schools that have previously received State-mandated assistance and have been designated by the State Board as low performing for three or more consecutive years or for at least three out of four years. These actions shall be the least intrusive actions that are consistent with the need to improve student achievement at each such school and shall be adapted to the unique characteristics of each such school and the effectiveness of other actions developed or implemented to improve student achievement at each such school.

(d) The State Board of Education shall report annually to the Superintendent of the North Carolina Innovative School District on any schools identified under this section as qualifying schools as defined in G.S. 115C-75.5 for consideration to be selected as innovative schools in accordance with Article 7A of this Chapter. (2001-424, s. 29.3; 2009-223, s. 3; 2011-145, s. 7.13(n); 2011-391, s. 14(b); 2016-110, s. 2; 2017-57, ss. 7.26E(b), (f).)

§ 115C-105.37B. Reform of continually low-performing schools.

(a) Notwithstanding any other provision of this Article, the State Board of Education is authorized to approve a local board of education's request to reform any school in its administrative unit which the State Board of Education has identified as one of the continually low-performing schools in North Carolina.

If the State Board of Education approves a local board of education's request to reform a school, the State Board of Education may authorize the local board of education to adopt one of the following models in accordance with State Board of Education requirements:

(1) Transformation model, which would address the following four specific areas critical to transforming a continually low-performing school:
   a. Developing and increasing teacher and school leader effectiveness.
   b. Comprehensive instructional reform strategies.
   c. Increasing learning time and creating community-oriented schools.
   d. Providing operational flexibility and sustained support.

(2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Article 14A of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by Part 3 of Article 22 of this Chapter.

(3) Turnaround model, which would involve, among other actions, replacing the principal, if the principal has been in that position for at least three years, and rehiring no more than fifty percent (50%) of the school's staff, adopting a new governance structure at the school consistent with this Article, and implementing an instructional program aligned with the Standard Course of Study.

(4) School closure model, in which a local school administrative unit would close the school consistent with G.S. 115C-72 and enroll the students who attended the school in other, higher-achieving schools in the local school administrative unit consistent with Article 25 of this Chapter.

(b) The State Board of Education shall adopt rules to develop requirements for the models for school reform established in subsection (a) of this section.

(c) The State Board shall establish a procedure to implement this section. This procedure shall include annual reporting requirements from local boards that are authorized to use one of the models under this section and shall include a procedure for removing or continuing the authorization.

(d) Nothing in this section shall be construed to limit the authority of a local board of education as otherwise provided in this Chapter. (2010-1, s. 1; 2011-164, s. 2(b); 2013-360, s. 9.7(b); 2014-101, s. 7.)

§ 115C-105.38. Assistance teams; review by State Board.

(a) The State Board of Education may assign an assistance team to any school identified as low-performing under this Article or to any other school that requests an assistance team and that the State Board determines would benefit from an assistance team. The State Board shall give priority to low-performing schools in which the educational performance of the students is declining. The Department of Public Instruction shall, with the approval of the State Board, provide staff as needed and requested by an assistance team.

(b) When assigned to an identified low-performing school, an assistance team shall:

(1) Review and investigate all facets of school operations and assist in developing recommendations for improving student performance at that school.

(2) Evaluate at least semiannually the personnel assigned to the school and make findings and recommendations concerning their performance.

(3) Collaborate with school staff, central offices, and local boards of education in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to alleviate problems and improve student performance at that school.

(4) Make recommendations as the school develops and implements this plan.

(5) Review the school's progress.

(6) Report, as appropriate, to the local board of education, the community, and the State Board on the school's progress. If an assistance team determines that an accepted school improvement plan developed under G.S. 115C-105.27 is impeding student performance at a school, the team may recommend to the local board that it vacate the relevant portions of that plan and direct the school to revise those portions.

(b1) Report to the State Board of Education if a school and its local board of education are not responsive to the team's recommendations. A copy of that report shall be made available to the local board, and the local board shall have an opportunity to respond. Notwithstanding G.S. 115C-36 and other provisions of this Chapter, if the State Board confirms that the school and local board have failed to take appropriate steps to improve student performance at that school, the State Board shall assume all powers and duties previously conferred upon that local board and that school and shall have general control and supervision of all matters pertaining to that school until student performance at the school meets or exceeds the standards set for the school. The State Board may, as it considers appropriate, delegate any powers and duties to that local board or school before the school meets or exceeds those standards.

(c) If a school fails to improve student performance after assistance is provided under this section, the assistance team may recommend that the assistance continues or that the State Board take further action under G.S. 115C-105.39.

(d) The State Board shall annually review the progress made in identified low-performing schools. (1995 (Reg. Sess., 1996), c. 716, s. 3; 2002-178, s. 7; 2011-145, s. 7.13(o); 2011-391, s. 14(b).)

§ 115C-105.38A. Teacher competency assurance.

(a) General Knowledge Test. –

(1) Each assistance team assigned to a low-performing school during the 1997-98 school year shall review the team's evaluations of certified staff members to determine which staff members have been designated by the team as Category 3 teachers. The assistance team shall then determine whether lack of general knowledge contributed to the Category 3 designation. If the assistance team determines that a certified staff member's lack of general knowledge contributed to that staff member being designated as a Category 3 teacher, the assistance team shall submit the staff member's name to the State Board. Upon receipt of the notification, the State Board shall require that the certified staff members identified by the assistance teams demonstrate their general knowledge by acquiring a passing score on a test designated by the State Board. The State Board shall administer the general knowledge test required under this subdivision at the end of the 1997-98 school year.

(2) During the 1998-99 school year and thereafter, either the principal assigned to a low-performing school or the assistance team assigned to a low-performing school may recommend to the State Board that a certified staff member take a general knowledge test. A principal or an assistance team may make this recommendation if the principal or the assistance team determines that the certified staff member's performance is impaired by the staff member's lack of general knowledge. After receipt of the notification, but prior to the end of the fiscal year, the State Board shall require that all certified staff members identified under this subdivision demonstrate their general knowledge by acquiring a passing score on a test designated by the State Board.

(b) Repealed by Session Laws 1998-5, s. 1, effective June 9, 1998.

(c) Remediation. – Certified staff members who do not acquire a passing score on the test required under subsection (a) of this section shall engage in a remediation plan based upon the deficiencies identified by the test, or an assistance team, or a principal. The remediation plan for deficiencies of individual certified staff members shall consist of up to a semester of university or community college training or coursework or other similar activity to correct the deficiency. The remediation shall be developed by the State Board of Education in consultation with the Board of Governors of The University of North Carolina. The State Board shall reimburse the institution providing the remediation any tuition and fees incurred under this section. If the remediation plan requires that the staff member engage in a full-time course of study or training, the staff member shall be considered on leave with pay.

(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the licensed staff member shall take the general knowledge test a second time. If the licensed staff member fails to acquire a passing score on the

second test, the State Board shall begin a dismissal proceeding under G.S. 115C-325(q)(2a) or G.S. 115C-325.13.

(e) Repealed by Session Laws 1998-5, s. 1, effective June 9, 1998.

(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under G.S. 115C-325.12.

(2) The dismissal of a teacher, assistant principal, director, or supervisor under G.S. 115C-325(q)(2) or G.S. 115C-325.13.

(3) The dismissal or demotion of an employee for any of the grounds listed under G.S. 115C-325(e) or G.S. 115C-325.4.

(4) The nonrenewal of a school administrator's or teacher's contract of employment.

(5) Repealed by Session Laws 2013-360, s. 9.7(c), effective July 1, 2014.

(g) Repealed by Session Laws 1998-5, s. 1, effective June 9, 1998. (1997-221, s. 3(a); 1998-5, s. 1; 2013-360, ss. 9.7(c), (o); 2017-157, s. 2(n).)

§ 115C-105.39. Dismissal or removal of personnel; appointment of interim superintendent.

(a) Within 30 days of the initial identification of a school as low-performing by the State Board under G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the school's principal: (i) recommend to the local board that the principal be retained in the same position, (ii) recommend to the local board that the principal be retained in the same position and a plan of remediation should be developed, (iii) recommend to the local board that the principal be transferred, or (iv) proceed under G.S. 115C-325.4 to dismiss or demote the principal. The superintendent may only recommend a principal be retained in the same position without a plan for remediation if the principal has been at the school for less than two years or, in the case of a principal having been at the school for two years or more, if the school has both met student growth and has improved student achievement scores under G.S. 115C-83.15 for the prior school year. The principal shall not be transferred to another principal position unless (i) it is in a school classification in which the principal previously demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation to the principal for at least one year following the transfer to assure the principal does not impede student performance at the school to which the principal is being transferred; and (iii) the parents of the students at the school to which the principal is being transferred are notified. The principal shall not be transferred to another low-performing school in the local school administrative unit. If the superintendent intends to recommend demotion or dismissal, the superintendent shall notify the local board. Within 15 days of (i) receiving notification that the superintendent intends to proceed under G.S. 115C-325.4 or (ii) its decision concerning the superintendent's recommendation, but no later than September 30, the local board shall submit to the State Board a written notice of the action taken and the basis for that action. If the State Board does not assign an assistance team to that school or if the State Board assigns an assistance team to that school and the superintendent proceeds under

G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall take no further action. If the State Board assigns an assistance team to the school and the superintendent is not proceeding under G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall vote to accept, reject, or modify the local board's recommendations. The State Board shall notify the local board of its action within five days. If the State Board rejects or modifies the local board's recommendations and does not recommend dismissal of the principal, the State Board's notification shall include recommended action concerning the principal's assignment or terms of employment. Upon receipt of the State Board's notification, the local board shall implement the State Board's recommended action concerning the principal's assignment or terms of employment unless the local board asks the State Board to reconsider that recommendation. The State Board shall provide an opportunity for the local board to be heard before the State Board acts on the local board's request for a reconsideration. The State Board shall vote to affirm or modify its original recommended action and shall notify the local board of its action within five days. Upon receipt of the State Board's notification, the local board shall implement the State Board's final recommended action concerning the principal's assignment or terms of employment. If the State Board rejects or modifies the local board's action and recommends dismissal of the principal, the State Board shall proceed under G.S. 115C-325.12.

(b) The State Board shall proceed under G.S. 115C-325(q)(2) or G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with G.S. 115C-325(q)(2) or G.S. 115C-325.13.

(c) The State Board may appoint an interim superintendent in a local school administrative unit:

(1) Upon the identification of more than half the schools in that unit as low-performing under G.S. 115C-105.37; or

(2) Upon the recommendation from an assistance team assigned to a school located in that unit that has been identified as low-performing under G.S. 115C-105.37. This recommendation shall be based upon a finding that the superintendent has failed to cooperate with the assistance team or has otherwise hindered that school's ability to improve.

The State Board may assign any of the powers and duties of the local superintendent and the local finance officer to the interim superintendent that the Board considers are necessary or appropriate to improve student performance in the local school administrative unit. The interim superintendent shall perform all of these assigned powers and duties. The State Board of Education may terminate the contract of any local superintendent entered into on or after July 1, 1996, when it appoints an interim superintendent. The Administrative Procedure Act shall apply to that decision. Neither party to that contract is entitled to damages.

(d) In the event the State Board has appointed an interim superintendent and the State Board determines that the local board of education has failed to cooperate with the interim superintendent or has otherwise hindered the ability to improve student

performance in that local school administrative unit or in a school in that unit, the State Board may suspend any of the powers and duties of the local board of education that the State Board considers are necessary or appropriate to improve student performance in the local school administrative unit. The State Board shall perform all of these assigned powers and duties for a period of time to be specified by the State Board.

(e) If the State Board suspends any of the powers and duties of the local board of education under subsection (d) of this section and subsequently determines it is necessary to change the governance of the local school administrative unit in order to improve student performance, the State Board may recommend this change to the General Assembly, which shall consider, at its next session, the future governance of the identified local school administrative unit. (1995 (Reg. Sess., 1996), c. 716, s. 3; 1998-59, s. 2; 2013-360, ss. 9.7(d), (p); 2016-94, s. 8.31(a); 2017-157, s. 2(n).)

§ 115C-105.39A. Identification of low-performing local school administrative units.

(a) Identification of Low-Performing Local School Administrative Units. – The State Board of Education shall identify low-performing local school administrative units on an annual basis. A low-performing local school administrative unit is a unit in which the majority of the schools in that unit that earned an overall school performance grade and school growth score as provided in G.S. 115C-83.15 have been identified as low-performing schools, as provided in G.S. 115C-105.37.

(b) Plan for Improvement of Low-Performing Local School Administrative Units. – Once a local school administrative unit has been identified as low-performing under this section, the following actions shall be taken:

(1) The superintendent shall proceed under G.S. 115C-105.39.

(2) Within 30 days of the identification of a local school administrative unit as low-performing by the State Board, the superintendent shall submit to the local board of education a preliminary plan for improving both the school performance grade and school growth score of each low-performing school in the unit, including how the superintendent and other central office administrators will work with each low-performing school and monitor the low-performing school's progress and how current local school administrative unit policy should be changed to improve student achievement throughout the local school administrative unit.

(3) Within 30 days of its receipt of the preliminary plan, the local board shall vote to approve, modify, or reject this plan. Before the local board votes on the plan, it shall make the plan available to the public, including the personnel assigned to each low-performing school and the parents and guardians of the students who are assigned to each low-performing school, and shall allow for written comments.

(4) The local board shall submit a final plan to the State Board within five days of the local board's approval of the plan. The State Board shall review the plan expeditiously and, if appropriate, may offer recommendations to modify the plan. The local board shall consider any

recommendations made by the State Board and, if necessary, amend the plan and vote on approval of any changes to the final plan.

(5) The local board of education shall provide access to the final plan on the local school administrative unit's Web site. The State Board of Education shall also provide access to each low-performing local school administrative unit plan on the Department of Public Instruction's Web site.

(c) Parental Notice of Low-Performing Local School Administrative Unit Status. – Each local school administrative unit that the State Board identifies as low-performing shall provide written notification to the parents and guardians of all students attending any school in the local school administrative unit within 30 days of the identification that includes the following information:

(1) A statement that the State Board of Education has found that a majority of the schools in the local school administrative unit have earned an overall school performance grade of D or F and a school growth score of "met expected growth" or "not met expected growth" and have been identified as low-performing schools as defined by G.S. 115C-105.37. The statement shall also include an explanation of the school performance grades and school growth scores.

(2) The percentage of schools identified as low-performing.

(3) Information about the preliminary plan developed under subsection (b) of this section and the availability of the final plan on the local school administrative unit's Web site.

(4) The meeting date for when the preliminary plan will be considered by the local board of education.

(5) A description of any additional steps the local school administrative unit and schools are taking to improve student performance.

(6) For notifications sent to parents and guardians of students attending a school that is identified as low-performing under G.S. 115C-105.37, a statement that the State Board of Education has found that the school has earned an overall school performance grade of D or F and a school growth score of "met expected growth" or "not met expected growth" and has been identified as a low-performing school as defined by G.S. 115C-105.37. This notification also shall include the overall school performance grade and school growth score the school earned and an explanation of the school performance grades and school growth scores. (2015-241, s. 8A.4(c); 2017-57, s. 7.26(g).)

§ 115C-105.40. Student academic performance standards.

The State Board of Education shall develop a plan to create rigorous student academic performance standards for kindergarten through eighth grade and student academic performance standards for courses in grades 9-12. The performance standards shall align, whenever possible, with the student academic performance standards developed for the

National Assessment of Educational Progress (NAEP). The plan also shall include clear and understandable methods of reporting individual student academic performance to parents. (1997-221, s. 3(e).)

§ 115C-105.41. Students who have been placed at risk of academic failure and transition plans.

(a) In order to implement Part 1A of Article 8 of this Chapter, local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning in kindergarten. Identification shall occur as early as can reasonably be done and can be based on grades, observations, diagnostic and formative assessments, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests.

(b) Local boards of education shall adopt policies that direct school improvement teams to develop plans to include successful transition between elementary and middle school years and between the middle school and high school years for students at risk, as defined by the State Board of Education. (2001-424, s. 28.17(e); 2009-542, s. 1; 2010-162, s. 1; 2011-145, s. 7.13(ee); 2011-391, s. 14(a); 2012-77, s. 4; 2012-142, s. 7A.1(d); 2013-226, s. 2; 2015-46, s. 1.)

§ 115C-105.42. Reserved for future codification purposes.

§ 115C-105.43. Reserved for future codification purposes.

§ 115C-105.44. Reserved for future codification purposes.

Article 8C.

Local Plans For Alternative Schools/Alternative Learning Programs and Maintaining Safe and Orderly Schools.

§ 115C-105.45. Legislative findings.

The General Assembly finds that all schools should be safe, secure, and orderly. If students are to aim for academic excellence, it is imperative that there is a climate of respect in every school and that every school is free of disruption, drugs, violence, and weapons. All schools must have plans, policies, and procedures for dealing with disorderly and disruptive behavior.

All schools and school units must have effective measures for assisting students who are at risk of academic failure or of engaging in disruptive and disorderly behavior. (1997-443, s. 8.29(r)(1).)

§ 115C-105.46. State Board of Education responsibilities.

In order to implement this Article, the State Board of Education:

(1) through (4) Repealed by Session Laws 2011-145, s. 7.13(y), effective July 1, 2011.

(5) Shall adopt policies that define who is an at-risk student. (1997-443, s. 8.29(r)(1); 1999-397, s. 2; 2000-140, s. 22; 2011-145, s. 7.13(y).)

§ 115C-105.47: Repealed by Session Laws 2011-145, s. 7.13(z), effective July 1, 2011.

§ 115C-105.47A. Proposals to establish alternative learning programs or alternative schools.

(a) Before establishing any alternative learning program or alternative school, the local board of education shall develop a proposal to implement the program or school that includes all of the following:

(1) The educational and behavioral goals for students assigned to the program or school.

(2) The policies and procedures for the operation of the program or school based on the State Board's standards adopted under G.S. 115C-12(24). The policies and procedures shall address the assignment of students to the program or school.

(3) Identified strategies that will be used to improve student achievement and behavior.

(4) Documentation that similar programs and schools in or out of the State, or both, have demonstrated success in improving the academic achievement and behavior of students assigned to them.

(5) The estimated actual cost of operating the program or school. To the extent practicable, this shall include the cost of:

a. Staffing the program or school with teachers who have at least four years' teaching experience and who have received an overall rating of at least above standard on a formal evaluation and are certified in the areas and grade levels being taught;

b. Providing optimum learning environments, resources and materials, and high quality, ongoing professional development that will ensure students who are placed in the program or school are provided enhanced educational opportunities in order to achieve their full potential;

c. Providing support personnel, including school counselors, psychiatrists, clinical psychologists, social workers, nurses, and other professionals to help students and their families work out complex issues and problems;

d. Maintaining safe and orderly learning environments; and

e. Providing transitional supports for students exiting the program or school and reentering the referring school.

(6) Documented support of school personnel and the community for the implementation of the program or school.

(b) After the local board completes the proposal under subsection (a) of this section, the board shall submit the proposal to the State Board of Education for its review. The State Board shall review the proposal expeditiously and, if appropriate, may offer recommendations to modify the proposal. The local board shall consider any recommendations made by the State Board before implementing the alternative learning program or alternative school. (2005-446, s. 2.)

§ 115C-105.48. Placement of students in alternative schools/alternative learning programs.

(a) Prior to referring a student to an alternative school or an alternative learning program, the referring school shall:

(1) Document the procedures that were used to identify the student as being at risk of academic failure or as being disruptive or disorderly.

(2) Provide the reasons for referring the student to an alternative school or an alternative learning program.

(3) Provide to the alternative school or alternative learning program all relevant student records, including anecdotal information.

(b) When a student is placed in an alternative school or an alternative learning program, the appropriate staff of the alternative school or alternative learning program shall meet to review the records forwarded by the referring school and to determine what support services and intervention strategies are recommended for the student. The parents shall be encouraged to provide input regarding the students' needs. (1999-397, s. 2.)

§ 115C-105.49. School safety exercises.

(a) At least once annually, each local school administrative unit shall require each school under its control to hold a full school-wide tabletop exercise and drill based on the procedures documented in its School Risk Management Plan (SRMP). The drill shall include a practice school lockdown due to an intruder on school grounds. Each school is encouraged to hold a tabletop exercise and drill for multiple hazards included in its SRMP. Schools are strongly encouraged to include local law enforcement agencies and emergency management agencies in their tabletop exercises and drills. The purpose of the tabletop exercises and drills shall be to permit participants to (i) discuss simulated emergency situations in a low-stress environment, (ii) clarify their roles and responsibilities and the overall logistics of dealing with an emergency, and (iii) identify areas in which the SRMP needs to be modified.

(b) For the purposes of this section, a tabletop exercise is an exercise involving key personnel conducting simulated scenarios related to emergency planning.

(c) For the purposes of this section, a drill is a school-wide practice exercise in which simulated scenarios related to emergency planning are conducted.

(d) The Department of Public Safety, Division of Emergency Management, and the Center for Safer Schools shall provide guidance and recommendations to local school administrative units on the types of multiple hazards to plan and respond to, including intruders on school grounds. (2013-360, s. 8.38; 2015-241, s. 8.26(b).)

§ 115C-105.49A. School Risk and Response Management System.

(a) The Department of Public Safety, Division of Emergency Management, and the Center for Safer Schools shall construct and maintain a statewide School Risk and Response Management System (SRRMS). The system shall fully integrate and leverage existing data and applications that support school risk planning, exercises, monitoring, and emergency response via 911 dispatch.

(b) In constructing the SRRMS, the Division of Emergency Management and the Center for Safer Schools, in collaboration with the Department of Public Instruction, Division of School Operations, shall leverage the existing enterprise risk management database, the School Risk Management Planning tool managed by the Division of Emergency Management. The Division of Emergency Management shall also leverage the local school administrative unit schematic diagrams of school facilities. Where technically feasible, the SRRMS shall integrate any anonymous tip lines established pursuant to G.S. 115C-105.51 and any 911-initiated panic alarm systems authorized as part of a SRMP pursuant to G.S. 115C-47(40). The Division of Emergency Management and the Center for Safer Schools shall collaborate with the Department of Public Instruction, Division of School Operations, and the North Carolina 911 Board in the design, implementation, and maintenance of the SRRMS.

(c) All data and information acquired and stored in the SRRMS as provided in subsections (a) and (b) of this section 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. (2015-241, s. 8.26(c); 2018-97, s. 2.4(b).)

§ 115C-105.50: Reserved for future codification purposes.

§ 115C-105.51. (Effective until July 1, 2019) Anonymous tip lines and monitoring and response applications.

(a) Each local school administrative unit is encouraged to develop and operate an anonymous tip line, in coordination with local law enforcement and social services agencies, to receive anonymous information on internal or external risks to the school population, school buildings, and school-related activities. The Department of Public Instruction, in consultation with the Department of Public Safety, may develop standards and guidelines for the development, operation, and staffing of tip lines.

(b) The Department of Public Instruction and the Center for Safer Schools, in collaboration with the Department of Public Safety, Division of Emergency Management, shall implement and maintain an anonymous safety tip line application for purposes of receiving anonymous student information on internal or external risks to the school population, school buildings, and school-related activities.

(c) The Department of Public Safety, Division of Emergency Management, and the Center for Safer Schools, in collaboration with the Department of Public Instruction and the North Carolina 911 Board, shall implement and maintain a statewide panic alarm system for the purposes of launching real-time 911 messaging to public safety answering points of internal and external risks to the school population, school buildings, and school-related activities. The Department of Public Safety, in consultation with the Department of Public Instruction and the North Carolina 911 Board, may develop standards and guidelines for the operations and use of the panic alarm tool.

(d) The Department of Public Safety shall ensure that the anonymous safety tip line application is integrated with and supports the statewide School Risk and Response Management System (SRRMS) as provided in G.S. 115C-105.49A. Where technically

feasible and cost efficient, the Department of Public Safety is encouraged to implement a single solution supporting both the anonymous safety tip line application and panic alarm system.

(e) All data and information acquired and stored by the anonymous safety tip line application 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.

(f) Notwithstanding subsection (e) of this section, the Division may collect the annual aggregate number and type of tips sent to the anonymous tip line. The collection of this aggregate data shall not have any identifying information on the reporter of the tip, including, but not limited to, the school where the incident was reported and the date the tip was reported. (2013-360, s. 8.40; 2015-241, s. 8.26(d); 2017-102, s. 41.5.)

§ 115C-105.51. (Effective July 1, 2019) Anonymous tip lines and monitoring and response applications.

(a) The governing body of each public secondary school shall develop and operate an anonymous tip line, in coordination with local law enforcement and social services agencies, to receive anonymous information on internal or external risks to the school population, school buildings, and school-related activities. The Department of Public Instruction, in consultation with the Department of Public Safety, may develop standards and guidelines for the development, operation, and staffing of tip lines. The governing body of each public secondary school may use the anonymous safety tip line application developed pursuant to subsection (b) of this section, or another application that meets standards and guidelines developed by the Department of Public Instruction, to achieve the purposes of this subsection.

(b) The Department of Public Instruction and the Center for Safer Schools, in collaboration with the Department of Public Safety, Division of Emergency Management, shall implement and maintain an anonymous safety tip line application available statewide for purposes of receiving anonymous student information on internal or external risks to the school population, school buildings, and school-related activities. Public secondary schools shall inform students about the application and provide opportunities for students to learn about its purpose and function. The governing body of each public secondary school shall work with the Department of Public Instruction, Division of School Operations, and the Center for Safer Schools to ensure that employees of the public secondary schools receive adequate training in its operation.

(c) The Department of Public Safety, Division of Emergency Management, and the North Carolina 911 Board, in collaboration with the Department of Public Instruction, Division of School Operations, and the Center for Safer Schools, shall implement and maintain a statewide panic alarm system for the purposes of launching real-time 911 messaging to public safety answering points of internal and external risks to the school population, school buildings, and school-related activities. The Department of Public Safety, in consultation with the Department of Public Instruction and the North Carolina 911 Board, may develop standards and guidelines for the operations and use of the panic alarm tool.

(d) The Department of Public Instruction and the Department of Public Safety shall ensure that the anonymous safety tip line application is integrated with and supports the statewide School Risk and Response Management System (SRRMS) as provided in G.S. 115C-105.49A. Where technically feasible and cost efficient, the Department of Public Instruction and the Department of Public Safety are encouraged to implement a single solution supporting both the anonymous safety tip line application and panic alarm system.

(e) All data and information acquired and stored by the anonymous safety tip line application 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.

(f) Notwithstanding subsection (e) of this section, the Department of Public Instruction, Division of School Operations, may collect the annual aggregate number and type of tips sent to the anonymous tip line. The collection of this aggregate data shall not have any identifying information on the reporter of the tip, including, but not limited to, the school where the incident was reported and the date the tip was reported.

(g) For the purposes of this section, a "public secondary school" is any of the following types of public school serving grades six or higher:

(1) A school under the control of a local school administrative unit.
(2) A school under the control of the State Board of Education, including schools operated under Article 7A and Article 9C of this Chapter.
(3) A school under the control of The University of North Carolina.
(4) A charter school.
(5) A regional school. (2013-360, s. 8.40; 2015-241, s. 8.26(d); 2017-102, s. 41.5; 2018-5, s. 7.26(a).)

§ 115C-105.52. School crisis kits.

The Center for Safer Schools, in consultation with the Department of Public Safety and the Department of Public Instruction, Division of School Operations, may develop and adopt policies on the placement of school crisis kits in schools and on the contents of those kits. The kits should include, at a minimum, basic first-aid supplies, communications devices, and other items recommended by the International Association of Chiefs of Police.

The principal of each school, in coordination with the law enforcement agencies that are part of the local board of education's School Risk Management Plan, may place one or more crisis kits at appropriate locations in the school. (2013-360, s. 8.42; 2015-241, s. 8.26(e); 2018-97, s. 2.4(c).)

§ 115C-105.53. Schematic diagrams and emergency access to school buildings for local law enforcement agencies.

(a) Each local school administrative unit shall provide the following to local law enforcement agencies: (i) schematic diagrams, including digital schematic diagrams, and (ii) either keys to the main entrance of all school buildings or emergency access to key storage devices such as KNOX® boxes for all school buildings. Local school administrative units shall provide updates of the schematic diagrams to local law

enforcement agencies when substantial modifications such as new facilities or modifications to doors and windows are made to school buildings. Local school administrative units shall also be responsible for providing local law enforcement agencies with updated access to school buildings when changes are made to the locks of the main entrances or to key storage devices such as KNOX® boxes.

(b) The Department of Public Instruction, in consultation with the Department of Public Safety, shall develop standards and guidelines for the preparation and content of schematic diagrams and necessary updates. Local school administrative units may use these standards and guidelines to assist in the preparation of their schematic diagrams.

(c) Schematic diagrams 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. (2014-100, s. 8.20(b); 2015-241, s. 8.26(f).)

§ 115C-105.54. Schematic diagrams and emergency response information provided to Division of Emergency Management.

(a) Each local school administrative unit shall provide the following to the Division of Emergency Management (Division) at the Department of Public Safety: (i) schematic diagrams, including digital schematic diagrams, and (ii) emergency response information requested by the Division for the School Risk Management Plan (SRMP). Local school administrative units shall also provide updated schematic diagrams and emergency response information to the Division when such updates are made. The Division shall ensure that the diagrams and emergency response information are securely stored and distributed as provided in the SRMP to first responders, emergency personnel, and school personnel and approved by the Department of Public Instruction.

(b) The schematic diagrams and emergency response information 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. (2014-100, s. 8.20(b); 2015-241, s. 8.26(g).)

§ 115C-105.55. Establish Task Force for Safer Schools.

(a) Task Force Established. – There is hereby created the Task Force for Safer Schools within the North Carolina Department of Public Instruction.

(b) Membership. – The Task Force shall consist of 25 members. The composition of the Task Force shall include all of the following:

(1) The Secretary of the Department of Public Safety or the Secretary's designee.
(2) The Secretary of the Department of Health and Human Services or the Secretary's designee.
(3) A member of the State Board of Education appointed by the Governor.
(4) Two local school board members appointed by the Chair of the State Board of Education.

(5) A representative from the North Carolina Department of Public Safety, Division of Emergency Management, appointed by the Secretary of the Department of Public Safety.
(6) A representative from the North Carolina Justice Academy appointed by the Attorney General.
(7) A member of the Governor's Crime Commission appointed by the Governor.
(8) Two local law enforcement officers appointed by the Governor.
(9) Two public school administrators appointed by the Chair of the State Board of Education.
(10) A public school teacher appointed by the Chair of the State Board of Education.
(11) A public school psychologist appointed by the Governor.
(12) A public school resource officer appointed by the Governor.
(13) Two high school students currently enrolled at public high schools appointed by the Governor.
(14) A parent of a currently enrolled public school student appointed by the Governor.
(15) A juvenile justice professional appointed by the Governor.
(16) A North Carolina licensed social worker appointed by the Governor.
(17) A North Carolina licensed school counselor appointed by the Governor.
(18) An expert in gang intervention and prevention in schools appointed by the Governor.
(19) Three at-large members appointed by the Governor.

(c) Appointment of Chair and Vice-Chair. – The Governor shall appoint a Chair and Vice-Chair from among the membership of the Task Force. The Chair and Vice-Chair shall serve at the pleasure of the Governor.

(d) Terms; Vacancies. – Effective December 1, 2016, all members shall be appointed for a term of four years. Members may be reappointed to successive terms. Any appointment to fill a vacancy on the Task Force created by the resignation, dismissal, death, disability, or disqualification of a member shall be for the balance of the unexpired term.

(e) Removal. – The Governor shall have the authority to remove any member of the Task Force for misfeasance, malfeasance, or nonfeasance, pursuant to the provisions of G.S. 143B-13.

(f) Per Diem, Etc. – Members of the Task Force may receive necessary per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. (2016-126, 4th Ex. Sess., s. 41.1(b).)

§ 115C-105.56. Task Force for Safer Schools; powers and duties.

The Task Force shall have all of the following duties:

(1) To serve as an advisory board to the Center for Safer Schools.
(2) To provide guidance and recommendations to the Governor, Superintendent of Public Instruction, and the General Assembly to

improve statewide policy to enhance statewide and local capacities to create safer schools.

(3) To encourage interagency collaboration among State and local government agencies to achieve effective policies and streamline efforts to create safer schools.

(4) To Assist the Center for Safer Schools in collecting and disseminating information on recommended best practices and community needs related to creating safer schools in North Carolina.

(5) Other duties as assigned by the State Board of Education. (2016-126, 4th Ex. Sess., s. 41.1(b).)

§ 115C-105.57. Center for Safer Schools.

(a) Center for Safer Schools Established. – There is established the Center for Safer Schools. The Center for Safer Schools shall be administratively located in the Department of Public Instruction. The Center for Safer Schools shall consist of an executive director appointed by the Superintendent of Public Instruction and such other professional, administrative, technical, and clerical personnel as may be necessary to assist the Center for Safer Schools in carrying out its powers and duties.

(b) Executive Director. – The Executive Director shall report to and serve at the pleasure of the Superintendent of Public Instruction at a salary established by the Superintendent within the funds appropriated for this purpose.

(c) Powers and Duties. – The Center for Safer Schools shall have all powers and duties provided in this Article.

(d) Agency Cooperation. – All State agencies and departments shall cooperate with the Center for Safer Schools in carrying out its powers and duties, as necessary, in accordance with this Article. (2018-97, s. 2.4(d).)

Article 9.

Education of Children With Disabilities.

Part 1. State Policy.

§ 115C-106: Repealed by Session Laws 2006-69, s. 1, effective from and after July 1, 2006.

Part 1A. General Provisions.

§ 115C-106.1. State goal.

The goal of the State is to provide full educational opportunity to all children with disabilities who reside in the State. (1973, c. 1293, ss. 2-4; 1975, c. 563, ss. 1-5; 1977, c. 927, ss. 1, 2; 1979, 2nd Sess., c. 1295; 1981, c. 423, s. 1; 1997-443, s. 11A.47; 2006-69, s. 2.)

§ 115C-106.2. Purposes.

(a) The purposes of this Article are to (i) ensure that all children with disabilities ages three through 21 who reside in this State have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and

prepares them for further education, employment, and independent living; (ii) ensure that the rights of these children and their parents are protected; and (iii) enable the State Board of Education and local educational agencies to provide for the education of all children with disabilities.

(b) In addition to the purposes listed in subsection (a) of this section, the purpose of this Article is to enable the State Board of Education and local educational agencies to implement IDEA in this State. If this Article is silent or conflicts with IDEA, and if IDEA has specific language that is mandatory, then IDEA controls.

(c) Notwithstanding any other section of this Article, the State Board of Education may set standards for the education of children with disabilities that are higher than those required by IDEA. (1973, c. 1293, ss. 2-4; 1975, c. 563, ss. 1-5; 1977, c. 927, ss. 1, 2; 1979, 2nd Sess., c. 1295; 1981, c. 423, s. 1; 1997-443, s. 11A.47; 2006-69, s. 2; 2007-292, s. 2.)

§ 115C-106.3. Definitions.

The following definitions apply in this Article:

(1) Child with a disability. – A child with at least one disability who because of that disability requires special education and related services.

(2) Disability. – Includes intellectual disability; hearing impairment, including deafness; speech or language impairment; visual impairment, including blindness; serious emotional disturbance; orthopedic impairment; autism; traumatic brain injury; other health impairments, specific learning disability, or other disability as may be required to be included under IDEA. For a child ages three through seven, this term also includes developmental delay.

(3) Dispute. – A disagreement between the parties.

(3a) Educational services. – All of the following:

a. The necessary instructional hours per week in the form and format as determined by the child's IEP team and consistent with federal and State law. The instruction shall be delivered by an appropriately qualified teacher to the extent required by federal and State law, which requires a free appropriate public education and the opportunity for a sound basic education.

b. Related services included in the child's IEP.

c. Behavior intervention services to the extent required by federal law.

(4) Free appropriate public education. – Special education and related services that satisfy all of the following:

a. Are provided at public expense, under public supervision and direction, and without charge.

b. Meet the standards of the State Board.

c. Include an appropriate preschool, elementary school, or secondary school education in the State.

d. Are provided in conformity with an individualized education program.

(5) Hearing officers. – Include administrative law judges as defined in G.S. 150B-2(1) and hearing review officers.

(5a) Homebound instruction. – Educational services provided to a student outside the school setting.

(6) IDEA. – The Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., (2004), as amended, and federal regulations adopted under this act.

(7) IEP Team. – As defined in IDEA.

(8) Individualized education program (IEP). – A written statement for each child with a disability that is developed, reviewed, implemented, and revised consistent with IDEA and State law.

(9) Infant or toddler with a disability. – As defined in IDEA.

(10) Least restrictive environment. – To the maximum extent appropriate, children with disabilities are educated with children who do not have disabilities, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(11) Local educational agency. – Includes any of the following that provides special education and related services to children with disabilities:

a. A local school administrative unit.

b. A charter school.

c. The Department of Health and Human Services.

d. The Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

e. Repealed by Session Laws 2017-186, s. 2(yyyy), effective December 1, 2017.

f. Any other State agency or unit of local government.

(12) Mediation. – An informal process conducted by a mediator with the objective of helping parties voluntarily settle their dispute.

(13) Mediator. – A neutral person who acts to encourage and facilitate a resolution of a dispute.

(14) Parent. – Any of the following:

a. A natural, adoptive, or foster parent.

b. A guardian, but not the State if the child is a ward of the State.

c. An individual acting in the place of a natural or adoptive parent, including a grandparent, stepparent, or other relative, and with whom the child lives.

d. An individual who is legally responsible for the child's welfare.

e. A surrogate if one is appointed under G.S. 115C-109.2.

(15) Party or parties. – The local educational agency or the parents, or both.

(16) Petition. – A request for a due process hearing as provided for under IDEA.

(17) Preschool child with a disability. – A child with one or more disabilities who meets all of the following criteria:

a. Has reached his or her third birthday and whose parents have requested services from the public schools.

b. Is not eligible to enroll in public kindergarten.

c. Because of the disability, needs special education and related services in order to prepare the child to benefit from the educational programs provided by the public schools, beginning with kindergarten.

(18) Related services. – As defined in IDEA.

(18a) Residence. – The place where a child with a disability is entitled to be enrolled in a North Carolina public school under G.S. 115C-366 except for the age requirements of that section. This definition does not apply to children with disabilities who were (i) enrolled in a particular local school administrative unit on the last day of school for the 2006-2007 school year, or (ii) enrolled in and attending a school in a particular local school administrative unit on August 1, 2007, for the 2007-2008 school year for as long as they live within and are continuously enrolled in that local school administrative unit. "Reside" means to have a residence as defined in this subdivision.

(19) Rules. – Includes rules, policies, and procedures. Rules as defined in G.S. 150B-2(8a) shall be adopted in accordance with Article 2A of Chapter 150B of the General Statutes.

(20) Special education. – Specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability. The term includes instruction in physical education and instruction conducted in a classroom, the home, a hospital or institution, and other settings. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 1983, c. 247, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 1034, ss. 23, 24; 1985, c. 479, s. 26(a);1985, c. 780, ss. 3, 4; 1989(Reg. Sess., 1990), c. 1003, s. 5; 1996, 2nd Ex. Sess., ch. 18, s. 18.24(b); 2006-69, s. 2; 2007-292, s. 1; 2007-429, s. 1; 2008-90, s. 1; 2011-145, s. 19.1(h), (l); 2017-186, s. 2(yyyy); 2018-47, s. 9.)

§ 115C-107: Repealed by Session Laws 2006-69, s. 1, effective from and after July 1, 2006.

Part 1B. Provision of Free Appropriate Public Education.

§ 115C-107.1. Free appropriate public education; ages.

(a) A free appropriate public education shall be made available to the following:

(1) All children with disabilities who reside in the State, who are the ages of three through 21, who have not graduated from high school, and who require special education and related services.

(2) Any child with a disability who is receiving special education and related services and who has not graduated from high school until the end of the school year in which that child reaches the age of 22.

(3) Children with disabilities who require special education and related services and who are suspended or expelled from school and entitled to continuing education services as provided in IDEA.

(b) A free appropriate public education is not required to be provided to infants and toddlers with disabilities. However, early intervention services shall be made available to these children under G.S. 143B-139.6A.

(c) If funds are made available, the State Board and the Secretary of Health and Human Services may adopt an agreement to allow the continuation of early intervention services for children with a disability who are at least three years old but before they enter kindergarten or are eligible to enter kindergarten. If an agreement is adopted under this subsection, then a free appropriate public education is not required to be provided to any child with a disability who continues to receive early intervention services in accordance with that agreement.

(d) Nothing in this Article requires a free appropriate public education to be made available to any individual aged 18 through 21 who, in the educational placement immediately before that individual's incarceration in an adult correctional facility, was not actually identified as being a child with a disability and did not have an IEP. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 1989 (Reg. Sess., 1990), c. 1003, s. 5; 1997-443, s. 11A.118(a); 1998-202, s. 4(h); 2000-137, s. 4(k); 2006-69, s. 2.)

§ 115C-107.2. Duties of State Board of Education.

(a) The State Board of Education shall adopt rules to ensure that:

(1) The requirements of this Article and IDEA are met.

(2) All educational programs under the supervision of any local educational agency for children with disabilities meet all of the following requirements:

a. The programs are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities.

b. The programs meet the State Board's educational standards.

c. With respect to homeless children, the programs meet the requirements of 20 U.S.C. § 1431, McKinney-Vento Homeless Assistance Act.

(b) The rules adopted under subsection (a) of this section shall include rules that:

(1) Establish standards for the programs of special education to be administered by local educational agencies and by the State Board.

(2) Ensure that children with disabilities are educated in the least restrictive environment.

(3) Ensure that local school administrative units make available special education and related services to all preschool children with disabilities whose parents request these services.

(4) Provide for public hearings, adequate notice of these hearings, and an opportunity for comment from the general public before the adoption of the rules required by this Article.

(5) Are required in order to receive federal funding under IDEA.

(6) Provide that, where a local educational agency finds that appropriate services are available from other public agencies or private organizations, the local educational agency may contract for those services rather than provide them directly.

(7) Enable local educational agencies to identify, evaluate, place, and make other educational decisions for children with disabilities.

(8) Provide procedural safeguards for children with disabilities and their parents.

(9) Designate a person in the Department of Public Instruction who is charged with receiving and responding to notices or other legal documents under Part 1D of this Article.

(10) Support and facilitate local educational agency and school-level system improvement designed to enable children with disabilities to meet the challenging State student academic achievement standards.

(c) Rules adopted under this section shall be consistent with IDEA and shall comply with G.S. 115C-12(19). Local educational agencies, parents, and other individuals concerned with the education of children with disabilities shall be consulted in the development of rules adopted under this Article.

(d) The State Board shall develop forms for local educational agencies to use in order to comply with this Article. The forms shall comply with G.S. 115C-12(19), and whenever practicable, (i) limit the requirement for narrative reporting to essential components requiring personalized student information and (ii) be in an electronic format.

(e) The State Board shall provide technical assistance to local educational agencies at their request.

(f) The State Board shall develop any plans that meet the criteria of IDEA and are required to be submitted to the United States Department of Education.

(g) The State Board shall make available to hearing officers training related to IDEA and its legal interpretations in order to facilitate hearings and reviews under G.S. 115C-109.6. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 1983, c. 247, ss. 3, 4; 1989, c. 585, s. 3; 1989 (Reg. Sess., 1990), c. 1003, s. 5; 1996, 2nd Ex. Sess., c. 18, ss. 18.24(c), (d); 1997-443, s. 11A.118(a); 1998-202, s. 4(g); 2000-137, s. 4(j); 2006-69, s. 2; 2013-226, s. 10.)

§ 115C-107.3. Child find.

(a) The Board shall require an annual census of all children with disabilities residing in the State, subdivided for "identified" and "suspected" children with disabilities, to be taken in each school year. Suspected children are those in the formal process of being evaluated or identified as children with disabilities. The census shall be conducted annually and shall be completed by October 15, submitted to the Governor and General Assembly and made available to the public by January 15 annually.

(b) In taking the census, the Board requires the cooperation, participation, and assistance of all local educational agencies. Therefore, each local educational agency shall cooperate and participate with and assist the Board in conducting the census.

(c) The census shall include the number of children identified and suspected with disabilities, their age, the nature of their disability, their county or city of residence, their local school administrative unit residence, whether they are being provided special educational or related services and if so by what local educational agency, the identity of each local educational agency having children with disabilities in its care, custody, management, jurisdiction, control, or

programs, the number of children with disabilities being served by each local educational agency, and any other information or data that the Board requires. The census shall be of children with disabilities between the ages three through 21 but is not required to include children with disabilities that have graduated from high school. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 1983, c. 247, ss. 3, 4; 1989, c. 585, s. 3; 1996, 2nd Ex. Sess., c. 18, ss. 18.24(c), (d); 1997-443, s. 11A.118(a); 1998-202, s. 4(g); 2000-137, s. 4(j); 2006-69, s. 2; 2007-292, s. 3.)

§ 115C-107.4. Monitoring and enforcement.

(a) The State Board shall monitor all local educational agencies to determine compliance with this Article and IDEA. The State Board also shall monitor the effectiveness of IEPs in meeting the educational needs of children with disabilities.

(b) The State Board shall implement an effective and efficient system of incentives and sanctions for local educational agencies in order to improve results for children with disabilities and meet the requirements of this Article and IDEA. The system, which must be based on a continuum of recognition and sanctions, shall:

(1) Identify and recognize local educational agencies that achieve or exceed targets and indicators as determined by the State Board, demonstrate significant improvement over time, and show growth on targets and indicators as determined by each local educational agency.

(2) Provide consequences for local educational agencies that are substantially noncompliant with statutory and regulatory requirements under this Article and IDEA.

(c) The system of incentives developed under subsection (b) of this section may include commendations, public recognition, allocation of grant funds if available, and any other incentives as considered appropriate by the State Board.

(d) The system of sanctions developed under subsection (b) of this section shall include the following:

(1) Level One – Needs Assistance: When the State Board determines (i) a local school educational agency has been in noncompliance for two years and (ii) that agency needs assistance in implementing the requirements of this Article and IDEA, the State Board shall take one or more of the following actions:

a. The Board may direct the local educational agency to allocate additional time and resources for technical assistance and guidance related to areas of noncompliance.

b. The Board may impose special conditions on that agency's application for IDEA funds and receipt of State funds.

c. The Board may direct how that local educational agency utilizes IDEA and State funds to address the remaining findings of noncompliance. The local educational agency must track the use of these funds to show how the funds are targeted to address areas of noncompliance.

(2) Level Two – Needs Intervention: If the State Board determines (i) that the local educational agency has been in noncompliance for three years and (ii) that agency needs assistance in implementing this Article and IDEA, the following apply:

a. The Board may take any of the actions described in subdivision (1) of this subsection.
b. The Board shall withhold, in whole or in part, any further payments of IDEA and State funds to the agency.
c. The Board shall require the agency to enter into a compliance agreement.

(3) Level Three – Needs Substantial Intervention: In addition to the sanctions described in subdivisions (1) and (2) of this subsection, if at any time the State Board determines a local educational agency (i) needs substantial intervention in implementing the requirements of this Article and IDEA, or (ii) has established a substantial failure to comply with this Article and IDEA, the Board shall take one or more of the following actions:
a. The Board shall direct the agency to implement a compliance agreement, billed to that agency.
b. The Board shall recover IDEA and State funds.
c. The Board shall refer the agency for appropriate enforcement under State or federal law.

(e) In addition to the consequences required under subsections (b) and (d) of this section, the State Board shall develop sanctions for local educational agencies that fail to implement a corrective action or hearing decision. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 1983, c. 247, ss. 3, 4; 1989, c. 585, s. 3; 1996, 2nd Ex. Sess., c. 18, ss. 18.24(c), (d); 1997-443, s. 11A.118(a); 1998-202, s. 4(g); 2000-137, s. 4(j); 2006-69, s. 2.)

§ 115C-107.5. Annual reports.

The State Board shall report annually to the Joint Legislative Education Oversight Committee on the implementation of this Article and the educational performance of children with disabilities. Each annual report shall include a copy of the following documents that were submitted, received, or made public during the year: (i) the most recent State performance plan and any amendments to that plan submitted to the Secretary of Education, (ii) compliance and monitoring reports submitted to the Secretary of Education, (iii) the annual report submitted to the Secretary of Education on the performance of the State under its performance plan, and (iv) any other information required under IDEA to be made available to the public. In addition, the annual report shall include an analysis of the educational performance of children with disabilities in the State and a summary of disputes under Part 1D of this Chapter. The report shall be filed no later than October 15 each year and may be filed electronically. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 1983, c. 247, ss. 3, 4; 1989, c. 585, s. 3; 1996, 2nd Ex. Sess., c. 18, ss. 18.24(c), (d); 1997-443, s. 11A.118(a); 1998-202, s. 4(g); 2000-137, s. 4(j); 2006-69, s. 2.)

§ 115C-107.6. Duties of local educational agencies.

(a) Each local educational agency, in providing for the education of children with disabilities within its jurisdiction, must comply with IDEA and the rules adopted by the State Board under this Article. In addition, each local educational agency shall have in effect policies, procedures, and programs that are consistent with this Article, IDEA, and rules adopted by the State Board.

(b) No child with disabilities shall be prevented from attending the public schools of the local educational agency in which the child resides or from which the child receives services or from attending any other public program of free appropriate public education based solely on the fact that the child has a disability. If it appears the child should receive a program of free appropriate public education in a program operated by or under the supervision of the Department of Health and Human Services or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the local school administrative unit shall confer with the appropriate Department of Health and Human Services or Division of Adult Correction and Juvenile Justice of the Department of Public Safety staff for their participation and determination of the appropriateness of placement in that program and development of the child's individualized education program.

(c) No matriculation or tuition fees or other fees or charges shall be required or asked of children with disabilities or their parents except those fees or charges that are required uniformly of all public school pupils. The provision of a free appropriate public education within the facilities of the Department of Health and Human Services and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may not prevent that Department from charging for other services or treatment.

(d) Each child with a disability shall be educated in accordance with that child's IEP and in the least restrictive environment for that child.

(e) Each local educational agency may use the forms developed under G.S. 115C-107.2(d). (1977, c. 927, s. 1; 1981, c. 423, s. 1; 1983, c. 247, ss. 3, 4; 1989, c. 585, s. 3; 1996, 2nd Ex. Sess., c. 18, ss. 18.24(c), (d); 1997-443, s. 11A.118(a); 1998-202, s. 4(g); 2000-137, s. 4(j); 2006-69, s. 2; 2007-292, s. 4; 2011-145, s. 19.1(l); 2017-186, s. 2(zzzz).)

§ 115C-107.7. Discipline, corporal punishment, and homebound instruction.

(a) The policies and procedures for the discipline of students with disabilities shall be consistent with federal laws and regulations.

(a1) Any corporal punishment administered on students with disabilities shall be consistent with the requirements of G.S. 115C-390.4.

(b) If a change of placement occurs under the discipline regulations of IDEA, a local educational agency shall not assign a student to homebound instruction without a determination by the student's IEP team that the homebound instruction is the least restrictive alternative environment for that student. If it is determined that the homebound instruction is the least restrictive alternative environment for the student, the student's IEP team shall meet to determine the nature of the homebound educational services to be provided to the student. In addition, the continued appropriateness of the homebound instruction shall be evaluated monthly by the designee or designees of the student's IEP team.

(c) A local educational agency shall be deemed to have a "basis of knowledge" that a child is a child with a disability if, prior to the behavior that precipitated the disciplinary action, the behavior and performance of the child clearly and convincingly establishes the need for special education. Prior disciplinary infractions shall not, standing alone,

constitute clear and convincing evidence. (2006-69, s. 2; 2007-425, s. 1; 2008-90, ss. 2, 3; 2010-36, s. 1; 2010-159, s. 1; 2012-77, s. 5; 2012-149, s. 11.5; 2012-194, ss. 48, 52.)

§ 115C-108: Repealed by Session Laws 2006-69, s. 1, effective from and after July 1, 2006.

Part 1C. Interagency Coordination.

§ 115C-108.1. State Board lead agency.

(a) The Board shall cause all local educational agencies to provide special education and related services to children with disabilities in their care, custody, management, jurisdiction, control, or programs.

(b) The jurisdiction of the Board with respect to the design and content of special education programs or related services for children with disabilities extends to and over the Department of Health and Human Services, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety.

(c) All provisions of this Article that are specifically applicable to local school administrative units also are applicable to the Department of Health and Human Services, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and their divisions and agencies; all duties, responsibilities, rights, and privileges specifically imposed on or granted to local school administrative units by this Article also are imposed on or granted to the Department of Health and Human Services, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, and their divisions and agencies. However, with respect to children with disabilities who are residents or patients of any State-operated or State-supported residential treatment facility, including a school for the deaf, school for the blind, mental hospital or center, mental retardation center, or in a facility operated by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, or any of their divisions and agencies, the Board may contract with the Department of Health and Human Services, and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety for the provision of special education and related services and the power to review, revise, and approve any plans for special education and related services to those residents.

(d) The Department of Health and Human Services and the Department of Public Safety shall submit to the Board their plans for the education of children with disabilities in their care, custody, or control. The Board may grant specific exemptions for programs administered by the Department of Health and Human Services or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety when compliance by them with the Board's standards would, in the Board's judgment, impose undue hardship on that department or division and when other procedural due process requirements, substantially equivalent to those required under this Article and IDEA, are assured in programs of special education and related services furnished to children with disabilities served by that department. Further, the Board shall recognize that inpatient and residential special education programs within the Departments of Health and Human Services or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may

require more program resources than those necessary for optimal operation of these programs in local school administrative units.

(e) The Board shall support and encourage joint and collaborative special education planning and programming at local levels to include local school administrative units and the programs and agencies of the Departments of Health and Human Services or the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. (2006-69, s. 2; 2011-145, ss. 19.1(h), (*l*); 2012-83, ss. 38, 39; 2017-186, s. 2(aaaaa).)

§ 115C-108.2. Interlocal cooperation.

The Board, any two or more local educational agencies, and any other agency and any State department, agency, or division having responsibility for the education, treatment, or habilitation of children with disabilities may enter into interlocal cooperative undertakings under Part 1 of Article 20 of Chapter 160A of the General Statutes or into undertakings with a State agency such as the Departments of Public Instruction, Health and Human Services, or Public Safety, or their divisions, agencies, or units, for the purpose of providing for the special education and related services, treatment, or habilitation of these children within the jurisdiction of the agency or unit, and shall do so when it is unable to provide the appropriate public special education or related services for these children. In entering into such undertakings, the local agency and State department, agency, or division shall also contract to provide the special education or related services that are educationally appropriate to the children with disabilities for whose benefit the undertaking is made and provide these services by or in the local agency unit or State department, agency, or division located in the place most convenient to these children. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 1997-443, s. 11A.118(a); 1998-202, s. 4(m); 2000-137, s. 4(p); 2006-69, s. 2; 2017-186, s. 2(bbbbb).)

§ 115C-109: Repealed by Session Laws 2006-69, s. 1, effective from and after July 1, 2006.

Part 1D. Procedural Safeguards.

§ 115C-109.1. Handbook for parents.

The State Board of Education shall make available to parents a handbook of procedural safeguards. This handbook for parents shall be made available at least once each school year, except that a copy also shall be given to the parent (i) upon the initial referral or parental request for an evaluation; (ii) upon the first occurrence of the filing of a petition under G.S. 115C-109.6 and IDEA; (iii) upon the parent's request; and (iv) upon any revision to the content of the handbook. This handbook for parents shall include a full explanation of the procedural safeguards under this Article and IDEA, be written in the native language of the parent unless it clearly is not feasible to do so, be written in an easily understood manner, and include information required under IDEA to be included.

The State Board shall place a current copy of the handbook for parents on its Internet Web site. (2006-69, s. 2.)

§ 115C-109.2. Adult children with disabilities; surrogate parents.

(a) When a child with a disability reaches the age of 18, all of the following apply:

(1) Notices required under this Article shall be provided to both the child and the child's parent.
(2) All other rights accorded to parents under this Article and IDEA transfer to the child.
(3) The local educational agency shall notify the child and the child's parent of these transfer rights.

(b) Notwithstanding subsection (a) of this section, for a child with a disability who has reached the age of majority under State law and who has not been determined to be incompetent but is determined to not have the ability to provide informed consent with respect to his or her education program, the State Board shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility under this section.

(c) A reasonable effort must be made to appoint a surrogate for a child with a disability within 30 days of a determination that one of the following conditions exists and that the child needs a surrogate:
(1) The parents of that child are not known;
(2) The parents, after reasonable efforts, cannot be located; or
(3) The child is a ward of the State.

(d) A person must be eligible under IDEA to be appointed as a child's surrogate. (1987 (Reg. Sess., 1988), c. 1079, s. 2; 1997-443, s. 11A.118(a); 1998-202, s. 4(j); 2000-137, s. 4(m); 2006-69, s. 2.)

§ 115C-109.3. Access to records; opportunity for parents to participate in meetings.

(a) Each local educational agency shall provide an opportunity for the parents of a child with a disability to examine all records relating to that child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to that child.

(b) Local educational agencies may release the records of a child with a disability only as permitted under State or federal law. The parents of a child with a disability may have access to the child's records and may read, inspect, and copy all and any records, data, and information maintained by a local educational agency with respect to that child. Parents, upon their request, are entitled to have those records, data, and information fully explained, interpreted, and analyzed for them by the staff of the agency, unless specifically prohibited by court order. If a request is made under this subsection, the local educational agency shall honor the request within not more than 45 days after it is made or in time for the individual who made the request to prepare for a meeting under subsection (a) of this section, whichever is sooner.

(c) The student and the student's parents may add written explanations or clarifications to the records, data, and information and may request the expunction of incorrect, outdated, misleading, or irrelevant entries. If a local educational agency refuses to expunge incorrect, outdated, misleading, or irrelevant entries after having been asked to do so by the parent, the parent may appeal that decision under G.S. 115C-45(c)(2). (1977, c. 927, s. 1; 1981, c. 423, s. 1; 2006-69, s. 2.)

§ 115C-109.4. Mediation.

(a) It is the policy of this State to encourage local educational agencies and parents to seek mediation involving any dispute under this Article, including matters arising before or after filing a petition under G.S. 115C-109.6.

(b) Mediation under this section must meet the following requirements:

(1) The mediation must be voluntary on the part of both parties.

(2) Mediation shall not be used to deny or delay a parent's right to an impartial hearing under G.S. 115C-109.6, or to deny any other rights afforded under this Article or IDEA.

(3) The mediation shall be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(c) The State Board may establish procedures to offer to parties that do not choose to use the mediation process an opportunity to meet with a disinterested party, as provided under IDEA, who can encourage the use and explain the benefits of the mediation process to the parties. This meeting must be at a time and location convenient to the parents.

(d) The State Board shall maintain a list of qualified mediators who are knowledgeable in laws and regulations relating to the provision of special education and related services. When mediation is requested, the Exceptional Children Division of the Department of Public Instruction shall assign a mediator from this list of mediators.

(e) The State shall bear the cost of the mediation process, including the costs of meetings described under subsection (c) of this section, unless the parties opt to select a mediator other than the mediator assigned under subsection (d) of this section or if the parties opt to use an alternative method of dispute resolution.

(f) Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(g) Evidence of statements made and conduct occurring in a mediation are confidential, are not subject to discovery, and are inadmissible in any proceeding in the action or other actions on the same claim. However, no evidence otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation. Mediators shall not be compelled in any civil proceeding to testify or produce evidence concerning statements made and conduct occurring in a mediation.

(h) When resolution is reached to resolve the dispute through the mediation process, the parties shall execute a legally binding agreement that:

(1) Sets forth the agreement.

(2) States that all discussions that occurred during the mediation process are confidential and may not be used as evidence in any subsequent impartial hearing under G.S. 115C-109.6 or in any civil proceeding.

(3) Is signed by both the parent and a representative of the local educational agency who has the authority to bind that agency.

(4) Is enforceable in any State administrative forum provided for in IDEA, any State court of competent jurisdiction, or in a district court of the United States.

(i) In addition to mediation as provided by this section, the parties may participate in a mediated settlement conference as provided by G.S. 150B-23.1. In addition, the parties may agree to use other dispute resolution methods or to use mediation in other circumstances, including after a request for formal administrative review is filed, to the extent permitted under State and federal law. (1973, c. 1293, s. 10; 1975, c. 151, ss. 1, 2; c. 563, ss. 8, 9; 1975, 2nd Sess., c. 983, ss. 79, 80;

1981, c. 423, s. 1; c. 497, ss. 1, 2; 1983, c. 247, s. 6; 1985, c. 412, s. 2; 1987, c. 827, s. 1; 1987 (Reg. Sess., 1988), c. 1079, s. 1; 1989, c. 362; 1989 (Reg. Sess., 1990), c. 1058; 1991, c. 540, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 27; 1993, c. 270, s. 1; 1997-115, s. 1; 2006-69, s. 2.)

§ 115C-109.5. Prior written notice.

(a) The local educational agency shall provide prompt written notice to parents whenever that agency proposes to initiate or change, or refuses to initiate or change (i) the identification, evaluation, or educational placement of a child, or (ii) the provision of a free appropriate public education to a child with a disability. The local educational agency shall document that all required notices have been sent to and received by parents.

(b) This prior written notice shall be in the native language of the parents, unless it clearly is not feasible to translate it, and shall contain all of the following information:

(1) A description of the action proposed or refused by the local educational agency.

(2) An explanation of why the local educational agency proposes or refuses to take the action and a description of each evaluation procedure, assessment, record, or report that agency used as a basis for the proposed or refused action.

(3) A statement that the parent of a child with a disability has protection under the procedural safeguards of this Article and IDEA and, if this notice is not the initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained.

(4) Sources for parents to contact to obtain assistance in understanding this Article and IDEA.

(5) A description of other options considered by the IEP Team and the reason why those options were rejected.

(6) A description of the factors that are relevant to the local educational agency's proposal or refusal.

(7) Any other information required to be included under IDEA. (1973, c. 1293, s. 10; 1975, c. 151, ss. 1, 2; c. 563, ss. 8, 9; 1975, 2nd Sess., c. 983, ss. 79, 80; 1981, c. 423, s. 1; c. 497, ss. 1, 2; 1983, c. 247, s. 6; 1985, c. 412, s. 2; 1987, c. 827, s. 1; 1987 (Reg. Sess., 1988), c. 1079, s. 1; 1989, c. 362; 1989 (Reg. Sess., 1990), c. 1058; 1991, c. 540, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 27; 1993, c. 270, s. 1; 1997-115, s. 1; 2006-69, s. 2.)

§ 115C-109.6. Impartial due process hearings.

(a) Any party may file with the Office of Administrative Hearings a petition to request an impartial hearing with respect to any matter relating to the identification, evaluation, or educational placement of a child, or the provision of a free appropriate public education of a child, or a manifestation determination. The party filing the petition must notify the other party and the person designated under G.S. 115C-107.2(b)(9) by simultaneously serving them with a copy of the petition.

(b) Notwithstanding any other law, the party shall file a petition under subsection (a) of this section that includes the information required under IDEA and that sets forth an alleged

violation that occurred not more than one year before the party knew or reasonably should have known about the alleged action that forms the basis of the petition. The issues for review under this section are limited to those set forth in subsection (a) of this section. The party requesting the hearing may not raise issues that were not raised in the petition unless the other party agrees otherwise.

(c) The one-year restriction in subsection (b) of this section shall not apply to a parent if the parent was prevented from requesting the hearing due to (i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the petition, or (ii) the local educational agency's withholding of information from the parent that was required under State or federal law to be provided to the parent.

(d) The hearing shall be conducted in the county where the child attends school or is entitled to enroll under G.S. 115C-366, unless the parties mutually agree to a different venue.

(e) The hearing shall be closed to the public unless the parent requests in writing that the hearing be open to the public.

(f) Subject to G.S. 115C-109.7, the decision of the administrative law judge shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education. Following the hearing, the administrative law judge shall issue a written decision regarding the issues set forth in subsection (a) of this section. The decision shall contain findings of fact and conclusions of law. Notwithstanding Chapter 150B of the General Statutes, the decision of the administrative law judge becomes final and is not subject to further review unless appealed to the Review Officer under G.S. 115C-109.9.

(g) A copy of the administrative law judge's decision shall be served upon each party and a copy shall be furnished to the attorneys of record. The written notice shall contain a statement informing the parties of the availability of appeal and the 30-day limitation period for appeal as set forth in G.S. 115C-109.9.

(h) In addition to the petition, the parties shall simultaneously serve a copy of all pleadings, agreements, and motions under this Part with the person designated by the State Board under G.S. 115C-107.2(b)(9). The Office of Administrative Hearings shall simultaneously serve a copy of all orders and decisions under this Part with the person designated by the State Board under G.S. 115C-107.2(b)(9).

(i) Nothing in this section shall be construed to preclude a parent from filing a separate due process petition on an issue separate from a petition already filed.

(j) The State Board, through the Exceptional Children Division, and the State Office of Administrative Hearings shall develop and enter into a binding memorandum of understanding to ensure compliance with the statutory and regulatory procedures and timelines applicable under IDEA to due process hearings and to hearing officers' decisions, and to ensure the parties' due process rights to a fair and impartial hearing. This memorandum of understanding shall be amended if subsequent changes to IDEA are made. The procedures and timelines shall be made part of the Board's procedural safeguards that are made available to parents and the public under G.S. 115C-109.1 and G.S. 115C-109.5. (1973, c. 1293, s. 10; 1975, c. 151, ss. 1, 2; c. 563, ss. 8, 9; 1975, 2nd Sess., c. 983, ss. 79, 80; 1981, c. 423, s. 1; c. 497, ss. 1, 2; 1983, c. 247, s. 6; 1985, c. 412, s. 2; 1987, c. 827, s. 1; 1987 (Reg. Sess., 1988), c. 1079, s. 1; 1989, c. 362; 1989 (Reg. Sess., 1990), c. 1058; 1991, c. 540, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 27; 1993, c. 270, s. 1; 1997-115, s. 1; 2006-69, s. 2.)

§ 115C-109.7. Resolution session.

(a) Within 15 days of receiving notice of the parent's petition filed under G.S. 115C-109.6 and before the opportunity for an impartial hearing, the local educational agency shall convene a meeting with the parent and the relevant members of the IEP Team who have specific knowledge of the facts identified in the petition. This meeting shall include a representative of the agency who has decision-making authority on behalf of that agency and may not include an attorney of the local educational agency unless the parent is accompanied by an attorney. If the parent plans to be accompanied by an attorney under this section, the parent must give prior written notice of this fact to the agency. The purposes of the meeting are (i) for the parent to have an opportunity to discuss the petition and the facts that form the basis of the petition and (ii) for the local educational agency to have the opportunity to resolve the dispute.

(b) The parent and the local educational agency jointly may agree in writing to waive the meeting under subsection (a) of this section or to use the mediation process described in G.S. 115C-109.4.

(c) If the local educational agency does not resolve the dispute to the satisfaction of the parents within 30 days of the agency's receipt of the petition, the impartial hearing under G.S. 115C-109.6 may occur and all of the applicable timelines for that hearing shall commence.

(d) If a resolution is reached to resolve the dispute at a meeting under subsection (a) of this section, the parties shall execute a legally binding agreement that is:

(1) Signed by both the parent and a representative of the local educational agency who has the authority to bind the agency;

(2) Enforceable in any State administrative forum provided for in IDEA, any State court of competent jurisdiction, or in a district court of the United States; and

(3) Filed with the person designated by the State Board to receive notices and with the Office of Administrative Hearings.

(e) If the parties execute an agreement under subsection (d) of this section, either party may void the agreement by providing written notice within three business days of the agreement's execution to the person designated by the State Board to receive notices, the Office of Administrative Hearings, and the other party. Notwithstanding subsection (c) of this section, upon receipt of this notice, the impartial hearing under G.S. 115C-109.6 may occur and all of the applicable timelines for that hearing shall commence. (1973, c. 1293, s. 10; 1975, c. 151, ss. 1, 2; c. 563, ss. 8, 9; 1975, 2nd Sess., c. 983, ss. 79, 80; 1981, c. 423, s. 1; c. 497, ss. 1, 2; 1983, c. 247, s. 6; 1985, c. 412, s. 2; 1987, c. 827, s. 1; 1987 (Reg. Sess., 1988), c. 1079, s. 1; 1989, c. 362; 1989 (Reg. Sess., 1990), c. 1058; 1991, c. 540, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 27; 1993, c. 270, s. 1; 1997-115, s. 1; 2006-69, s. 2.)

§ 115C-109.8. Procedural issues.

(a) In matters alleging a procedural violation, the hearing officer may find that a child did not receive a free appropriate public education only if the procedural inadequacies (i) impeded the child's right to a free appropriate public education; (ii) significantly impeded the parents' opportunity to participate in the decision-making process regarding the provision of a free appropriate public education to the parents' child; or (iii) caused a deprivation of educational benefits.

(b) A hearing officer may order a local educational agency to comply with procedural requirements under this Article and IDEA. (2006-69, s. 2.)

§ 115C-109.9. Review by review officer; appeals.

(a) Any party aggrieved by the findings and decision of a hearing officer under G.S. 115C-109.6 or G.S. 115C-109.8 may appeal the findings and decision within 30 days after receipt of notice of the decision by filing a written notice of appeal with the person designated by the State Board under G.S. 107.2(b)(9) to receive notices. The State Board, through the Exceptional Children Division, shall appoint a Review Officer from a pool of review officers approved by the State Board of Education. The Review Officer shall conduct an impartial review of the findings and decision appealed under this section. The Review Officer conducting this review shall make an independent decision upon completion of the review. The decision of the Review Officer becomes final unless an aggrieved party brings a civil action under subsection (d) of this section. A copy of the decision shall be served upon each party, and a copy shall be furnished to the attorneys of record and the Office of Administrative Hearings. The written notice shall contain a statement informing the parties of the right to file a civil action and the 30-day limitation period for filing a civil action under subsection (d) of this section.

(b) A Review Officer shall be an educator or other professional who is knowledgeable about special education and who possesses other qualifications as may be established by the State Board of Education. No person may be appointed as a Review Officer if that person is an employee of the State Board of Education, the Department of Public Instruction, or the local educational agency that has been involved in the education or care of the child whose parents have filed the petition.

(c) The State Board may enforce the final decision of the administrative law judge under G.S. 115C-109.6, if not appealed under this section, or the final decision of the Review Officer, by ordering a local educational agency:

(1) To provide a child with appropriate education;

(2) To place a child in a private school that is approved to provide special education and that can provide the child an appropriate education; or

(3) To reimburse parents for reasonable private school placement costs in accordance with this Article and IDEA when it is determined that the local educational agency did not offer or provide the child with appropriate education and the private school in which the parent placed the child was an approved school and did provide the child an appropriate education.

(d) Any party that does not have the right to appeal under this Part and any party who is aggrieved by the decision of the Review Officer under this section may institute a civil action in State court within 30 days after receipt of the notice of the decision or in federal court as provided in 20 U.S.C. § 1415.

(e) Except as provided under IDEA, upon the filing of a petition under G.S. 115C-109.6 and during the pendency of any proceedings under this Part, the child must remain in the child's then-current educational placement or, if applying for initial admission to a public school, the child must be placed in the public school. Notwithstanding this subsection, the parties may agree in writing to a different educational placement for the child during the pendency of any proceedings under this Part. (2006-69, s. 2.)

§ 115C-110: Repealed by Session Laws 2006-69, s. 1, effective from and after July 1, 2006.

Part 1E. Special Education and Related Services Personnel.

§ 115C-110.1. Teacher qualifications.

The Board shall adopt rules covering the qualifications of and standards for licensure of teachers, teacher assistants, speech-language pathologists, school psychologists, and others involved in the education and training of children with disabilities. (2006-69, s. 2.)

§ 115C-110.2. Interpreters/transliterators.

Each interpreter or transliterator employed by a local educational agency to provide services to hearing-impaired students must annually complete 15 hours of job-related training that has been approved by the local educational agency. (2002-182, s. 6; 2003-56, s. 3; 2006-69, s. 2.)

§ 115C-110.3: Reserved for future codification purposes.

§ 115C-110.4: Reserved for future codification purposes.

§ 115C-110.5: Reserved for future codification purposes.

§ 115C-111: Repealed by Session Laws 2006-69, s. 1, effective from and after July 1, 2006.

Part 1F. Budgeting; Funds.

§ 115C-111.1. Out-of-state students; eligibility for State funds.

Notwithstanding any policy or rule adopted by the State Board of Education, if a local school administrative unit provides services to a student under a current IEP from another state while a determination is being made regarding the student's eligibility for services as a child with disabilities in North Carolina, the local school administrative unit is entitled to receive State funding to serve the student while the determination is being made. If the student is later determined not to qualify for services in North Carolina, the local school administrative unit is not required to repay State funds received while the determination is being made. (1997-117, s. 1; 2006-69, s. 2.)

§ 115C-111.2. Contracts with private service providers.

Local educational agencies furnishing special education and related services to children with disabilities may contract with private special education facilities or service providers to furnish any of these services that the public providers are unable to furnish. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 2006-69, s. 2.)

§ 115C-111.3. Cost of education of children in group homes, foster homes, etc.

(a) Notwithstanding any other State law and without regard for the place of domicile of a parent, the cost of a free appropriate public education for a child with disabilities who is placed in or assigned to a group home or foster home, under State and federal law, shall be borne by the local board of education in which the group home or foster home is located. However, the local school administrative unit in which a child is domiciled shall transfer to the local school administrative unit in which the institution is located an amount equal to the actual local cost in excess of State and federal funding required to educate that child in the local school administrative unit for the fiscal year after all State and federal funding has been exhausted.

(b) The State Board of Education shall use State and federal funds appropriated for children with disabilities to establish a reserve fund to reimburse local boards of education for the education

costs of children assigned to group homes or other facilities as provided in subsection (a) of this section. Local school administrative units may submit a Special State Reserve Program application for foster home or group home children whose special education and related services costs exceed the per child group home allocation.

(c) The Department shall review the current cost of children with disabilities served in the local school administrative units with group homes or foster homes to determine the actual cost of services. (1981, c. 859, s. 29.7; 2002-164, s. 2; 2003-294, s. 1; 2006-69, s. 2.)

§ 115C-111.4. Nonreduction.

Notwithstanding any of the other provisions of this Article, it is the intent of the General Assembly that funds appropriated by it for the operation of programs of special education and related services by local school administrative units not be reduced; rather, that adequate funding be made available to meet the special educational and related services needs of children with disabilities, without regard to which local educational agency has the child in its care, custody, control, or program. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 2006-69, s. 2.)

§ 115C-111.5. Allocation of federal funds.

Whenever any federal monies for the special education and related services for children with disabilities are made available, these funds shall be allocated according to a formula designed by the Board consistent with federal laws and regulations. This formula shall ensure equitable distribution of resources and shall be implemented as funds are made available from federal and State appropriations. (1977, c. 927, s. 1; 1981, c. 423, s. 1; 2006-69, s. 2.)

§ 115C-111.6. Obligation to provide services for preschool children with disabilities.

State funds appropriated to the public schools to implement preschool services for children with disabilities under this Article and IDEA shall be used to provide special education and related services to preschool children with disabilities. These State funds shall be used to supplement and not supplant existing federal, State, and local funding for the public schools.

Preschool children with disabilities will continue to be served by all other State funds to which they are otherwise entitled. (2006-69, s. 2.)

§ 115C-112: Repealed by Session Laws 2006-69, s. 1, effective from and after July 1, 2006.

Part 1G. Council on Educational Services for Exceptional Children.

§ 115C-112.1. Establishment; organization; powers and duties.

(a) There is hereby established an Advisory Council to the State Board of Education to be called the Council on Educational Services for Exceptional Children.

(b) The Council shall consist of a minimum of 24 members to be appointed as follows: four ex officio members; one individual with a disability and one representative of a private school appointed by the Governor; one member of the Senate and one parent of a child with a disability between the ages of birth and 26 appointed by the President Pro Tempore of the Senate; one member of the House of Representatives and one parent of a child with a disability appointed by the Speaker of the House of Representatives; and 14 members appointed by the State Board of Education. The State Board shall appoint members who represent individuals with disabilities, teachers, local school administrative

units, institutions of higher education that prepare special education and related services personnel, administrators of programs for children with disabilities, charter schools, parents of children with disabilities, a State or local official who carries out activities under the federal McKinney-Vento Homeless Assistance Act, vocational, community, or business organizations concerned with the provision of transition services, and others as required by IDEA. The majority of members on the Council shall be individuals with disabilities or parents of children with disabilities. The Council shall designate a chairperson from among its members. The designation of the chairperson is subject to the approval of the State Board of Education. The Board shall adopt rules to carry out this subsection.

Ex officio members of the Council shall be the following:

(1) The Secretary of Health and Human Services or the Secretary's designee.
(2) The Secretary of Public Safety or the Secretary's designee.
(3) The Secretary of Public Safety or the Secretary's designee.
(4) The Superintendent of Public Instruction or the Superintendent's designee.

The term of appointment for all members except those appointed by the State Board of Education is two years. The term for members appointed by the State Board of Education is four years. No person shall serve more than two consecutive four-year terms.

Each Council member shall serve without pay, but shall receive travel allowances and per diem in the same amount provided for members of the North Carolina General Assembly.

(c) The Council shall meet in offices provided by the Department of Public Instruction on a date to be agreed upon by the members of the Council from meeting to meeting. The Council shall meet no less than once every three months. The Department of Public Instruction shall provide the necessary secretarial and clerical staff and supplies to accomplish the objectives of the Council.

(d) The Council shall:

(1) Advise the Board with respect to unmet needs within the State in the education of children with disabilities.
(2) Comment publicly on rules, policies, and procedures proposed by the Board regarding the education of children with disabilities.
(3) Assist the Board in developing evaluations and reporting on data to the Secretary of Education under the federal Individuals with Disabilities Education Act (IDEA), as amended.
(4) Advise the State Board in developing corrective action plans to address findings identified in federal monitoring reports required under the federal Individuals with Disabilities Education Act (IDEA), as amended.
(5) Advise the State Board in developing and implementing policies relating to the coordination of services for children with disabilities.
(6) Carry out any other responsibility as designated by federal law or the State Board. (1973, c. 1079, ss. 1-4; 1977, c. 646, ss. 1-5, 1981, c. 423, s. 1; 1991, c. 739, s. 12; 1991 (Reg. Sess., 1992), c. 1038, s. 13; 1997-443,

s. 11A.118(a); 1998-202, s. 4(l); 2000-137, s. 4(o); 2001-424, s. 28.29(a); 2006-69, s. 2; 2011-145, s. 19.1(i), (m).)

§ 115C-112.2: Reserved for future codification purposes.

§ 115C-112.3: Reserved for future codification purposes.

§ 115C-112.4: Reserved for future codification purposes.

Part 1H. Special Education Scholarships for Children with Disabilities.

§ 115C-112.5. Definitions.

The following definitions apply in this Part:

(1) Authority. – The North Carolina State Education Assistance Authority.

(1a) Child with a disability. – As defined in G.S. 115C-106.3(1).

(1b) Disability. – As defined in G.S. 115C-106.3(2).

(1c) Educational technology. – As defined by the Authority, an item, piece of equipment, material, product, or system which may be purchased commercially off the shelf, modified, or customized and that is used primarily for educational purposes for a child with a disability.

(2) Eligible student. – A child under the age of 22 who resides in North Carolina and meets all of the following criteria:

a. Is a child with a disability.

b. Is eligible to attend a North Carolina public school pursuant to G.S. 115C-366.

c. Has not been placed in a nonpublic school or facility by a public agency at public expense.

d. Has not been enrolled in a postsecondary institution as a full-time student taking at least 12 hours of academic credit.

e. Has not received a high school diploma.

f. Meets at least one of the following requirements:

1. Was enrolled in a North Carolina public school or a Department of Defense Elementary and Secondary School, established pursuant to 10 U.S.C. § 2164 and located in North Carolina, during the previous semester. The Authority shall not count actual days of attendance to determine whether a child was enrolled in a qualifying school for the previous semester for the purposes of eligibility under this sub-sub-subdivision.

2. Received special education or related services through the North Carolina public schools as a preschool child with a disability during the previous semester.

3. Was approved for a scholarship for the previous semester.

4. Is a child who is identified as a child with a disability prior to the end of the year of initial enrollment in kindergarten or first grade. An award by the Authority based on eligibility under this sub-sub-subdivision shall be conditional. If documentation is

not provided to the Authority that the child is a child with a disability prior to the end of the year of initial enrollment, (i) no reimbursement shall be awarded and (ii) the child shall not qualify the following year as an eligible student under sub-sub-subdivision 3. of this section.

5. Is a child whose parent or legal guardian 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.
6. Is a child who has been domiciled in the State for at least six months.
7. Is a child in foster care as defined in G.S. 131D-10.2(9).
8. Is a child whose adoption decree was entered not more than one year prior to submission of the scholarship application.

(3) Nonpublic school. – 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.

(3a) Related services. – As defined in G.S. 115C-106.3(18).

(4) Scholarships. – Funds awarded by the Authority to eligible students to be used to receive special education on a daily basis while attending either a nonpublic school or a North Carolina public school for which payment of tuition is required.

(5) Special education. – Specially designed instruction to meet the unique needs of a child with a disability. The term includes instruction in physical education and instruction conducted in a classroom, the home, a hospital or institution, and other settings. (2013-364, s. 4; 2014-49, s. 2; 2016-94, s. 11A.2(a); 2018-5, ss. 10A.1(a), (b).)

§ 115C-112.6. Scholarships.

(a) Scholarship Applications. – The Authority shall make available no later than February 1 annually applications to eligible students for the award of scholarships. Information about scholarships and the application process shall be made available on the Authority's Web site.

(a1) Web Site Availability. – Information about scholarships and the application process shall be made available on the Authority's Web site. The Authority shall also include information on the Web site notifying parents that federal regulations adopted under IDEA provide that no parentally placed private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(a2) Priority of Awards. – The Authority shall award scholarships according to the following criteria for applications received by March 15 each year:

(1) First priority shall be given to eligible students who received a scholarship during the previous school year.

(2) After scholarships have been awarded under subdivision (1) of this subsection, scholarships shall be awarded to students who are eligible under G.S. 115C-112.5(2)f.1., 2., 4., 5., 7., and 8.

(3) After scholarships have been awarded under subdivision (2) of this subsection, scholarships shall be awarded to students who are eligible under G.S. 115C-112.5(2)f.6.

(b) Scholarship Awards. – Scholarships awarded to eligible students shall be for amounts of not more than eight thousand dollars ($8,000) per year per eligible student. Eligible students awarded scholarships may not be enrolled in a public school to which that student has been assigned as provided in G.S. 115C-366. Scholarships shall be awarded only for tuition and for the reimbursement of special education, related services, and educational technology, as provided in subsection (b1) of this section. The Authority shall notify parents in writing of their eligibility to receive scholarships for costs that will be incurred during the school year by July 1.

(b1) Disbursement of Scholarship Funds. – The Authority shall disburse scholarship funds for tuition and for the reimbursement of costs incurred by the parent of an eligible student as follows:

(1) Tuition endorsement and reimbursement. – The Authority shall disburse scholarship funds awarded to eligible students for tuition at a nonpublic school based upon the method selected by the nonpublic school. A nonpublic school may elect to participate in the scholarship endorsement for tuition option or the reimbursement for tuition option as set forth in this subdivision. Scholarship funds shall not be provided for tuition for home schooled students. Scholarship funds for tuition shall be disbursed as follows:

a. Scholarship endorsement for tuition. – The Authority shall remit, at least two times each school year, scholarship funds awarded to eligible students for endorsement by at least one of the student's parents or guardians for tuition to attend a nonpublic school that meets the requirements of Part 1 or Part 2 of Article 39 of this Chapter as identified by the Department of Administration, Division of Nonpublic Education, is deemed eligible by the Division, and is subject to the requirements of G.S. 115C-562.5. The parent or guardian shall restrictively endorse the scholarship 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 school as the parent's attorney-in-fact to endorse the scholarship funds. A parent's or guardian's failure to comply with this section shall result in forfeiture of the scholarship funds. A scholarship forfeited for failure to comply with this section shall be returned to the Authority to be awarded to another student.

b. Reimbursement for tuition. – The parent or guardian of an eligible student who enrolls in a school that is (i) a North Carolina public school other than the public school to which that student has been assigned as

provided in G.S. 115C-366 or (ii) a nonpublic school that meets the requirements of Part 1 or Part 2 of Article 39 of this Chapter as identified by the Department of Administration, Division of Nonpublic Education, is deemed eligible by the Division, and is not subject to G.S. 115C-562.5, shall pay tuition directly to the school. The Authority shall reimburse the parent or guardian no sooner than the midpoint of each semester. A parent or guardian may receive reimbursement for tuition if the parent or guardian provides documentation that the student was enrolled in a school under this sub-subdivision.

(2) Scholarship reimbursements for costs. – Scholarship reimbursement for costs incurred shall be provided as follows:

a. Preapproval process. – Prior to the start of each school semester, the parent of an eligible student may submit documentation of the special education, related services, or educational technology the parent anticipates incurring costs on in that semester for preapproval by the Authority.

b. Reimbursement submissions. – Following the conclusion of each school semester, the parent of an eligible student shall submit to the Authority any receipts or other documentation approved by the Authority to demonstrate the costs incurred during the semester. In addition, parents shall provide documentation of the following to seek reimbursement:

1. Special education reimbursement. – Parents may only receive reimbursement for special education if the parent provides documentation that the student received special education for no less than 75 days of the semester for which the parent seeks reimbursement. Special education reimbursement shall not be provided for special education instruction provided to a home schooled student by a member of the household of a home school, as defined in G.S. 115C-563(a).

2. Related services reimbursement. – Parents may only receive reimbursement for related services if the parent provides documentation that the student also received special education for no less than 75 days of the semester for which the parent seeks reimbursement for the related services. Related services reimbursement shall not be provided for related services provided to a home schooled student by a member of the household of a home school, as defined in G.S. 115C-563(a).

3. Educational technology reimbursement. – Parents may only receive reimbursement for educational technology if the parent provides documentation that the student used the educational technology for no less than 75 days of the semester for which the parent seeks reimbursement.

c. Scholarship award. – The Authority shall award a scholarship in the amount of costs demonstrated by the parent up to the maximum amount.

d. Carryforward of funds for reimbursements. – Any unexpended scholarship funds at the end of each fiscal year shall revert to the

General Fund, except that the Authority may carry forward for the next fiscal year an amount necessary to ensure that any outstanding, allowable reimbursements can be disbursed in accordance with this section. Any funds carried forward for the purpose of meeting anticipated reimbursement obligations from the prior fiscal year that are not expended shall not be used to award additional scholarships to eligible students but shall revert to the General Fund at the end of that fiscal year.

(b2) Establishment of Initial Eligibility. – An applicant may demonstrate for initial eligibility that the applicant is a child with a disability, as required by G.S. 115C-112.5(2)a., in either of the following ways:

(1) The child has been assessed by a local education agency and determined to be a child with a disability and that outcome is verified by the local education agency on a form provided to the Authority.

(2) The child was initially assessed by a local education agency and determined to be a child with a disability and, following receipt of a scholarship awarded pursuant to Article 41 of this Chapter, was determined to have continuing eligibility, as provided in G.S. 115C-593(2), by the assessing psychologist or psychiatrist. Both the initial verification from the local education agency and the continuing verification by the assessing psychologist or psychiatrist shall be provided on a form to the Authority.

(c) Student Continuing Eligibility. – After an eligible student's initial receipt of a scholarship, the Authority shall ensure that the student's continuing eligibility is assessed at least every three years by one of the following:

(1) The local educational agency. – The local school educational agency shall assess if the child continues to be a child with a disability and verify the outcome on a form to be provided to the Authority.

(2) A licensed psychologist with a school psychology focus or a psychiatrist. – The psychologist or psychiatrist shall assess, after review of appropriate medical and educational records, if the education and related services received by the student in the nonpublic school setting have improved the child's educational performance and if the student would continue to benefit from placement in the nonpublic school setting. The psychologist or psychiatrist shall verify the outcome of the assessment on a form to be provided to the Authority.

(d) Rule Making. – The Authority shall establish rules and regulations for the administration and awarding of scholarships and may include in those rules a lottery process for selection of scholarship recipients within the criteria established by this section. The Authority shall adopt rules providing for pro rata return of funds if a student withdraws prior to the end of the semester from a school to which scholarship funds have been remitted. The Authority shall annually develop a list of educational technology for which

scholarships may be used and shall provide scholarship recipients with information about the list.

(e) Public Records Exception. – Scholarship applications and personally identifiable information related to eligible students receiving scholarships 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. (2013-364, s. 4; 2014-49, ss. 3, 4; 2015-241, s. 11.11(a); 2015-248, s. 10(a); 2016-94, s. 11A.2(b); 2017-57, s. 10A.2(a); 2017-102, s. 17; 2018-5, s. 10A.1(c).)

§ 115C-112.7. Verification of eligibility.

(a) The Authority may seek verification of information on any application for scholarships from eligible students. If a parent fails to cooperate with verification efforts, the Authority shall revoke the award of the scholarship to the eligible student.

(b) Parents of applicants for scholarships shall authorize the Authority to access any information held by the local educational agency that is needed for verification efforts. (2013-364, s. 4; 2014-49, s. 5.)

§ 115C-112.8. Authority reporting requirements.

(a) The Authority shall report annually, no later than October 15, to the Joint Legislative Education Oversight Committee on the Special Education Scholarships for Children with Disabilities.

(b) The annual report shall include all of the following information from the prior school year:

(1) Total number, age, and grade level of eligible students receiving scholarships.
(2) Total amount of scholarship funding awarded.
(3) Nonpublic schools in which scholarship recipients are enrolled and the number of scholarship students at that school.
(4) The type of special education or related services for which scholarships were awarded.
(5) Total number of applicants by eligibility type, as listed in G.S. 115C-112.5(2)f., and the total number of scholarships awarded by priority type, as listed in G.S. 115C-112.6(a2). (2013-364, s. 4; 2014-49, s. 6; 2016-94, s. 11A.2(c); 2018-5, s. 10A.1(d).)

§ 115C-112.9. Duties of State agencies.

(a) The State Board, as part of its duty to monitor all local educational agencies to determine compliance with this Article and IDEA as provided in G.S. 115C-107.4, shall ensure that local educational agencies do the following:

(1) Conduct evaluations requested by a child's parent or guardian of suspected children with disabilities, as defined in G.S. 115C-107.3, in a timely manner as required by IDEA.

(2) Provide assessments for continuing eligibility to identified children with disabilities receiving scholarships as provided in Part 1H of this Article at the request of the parent or guardian to ensure compliance with G.S. 115C-112.6(c).

(b) The Authority shall analyze, in conjunction with the Department of Public Instruction, past trends in scholarship data on an annual basis to ensure that the amount of funds transferred each fiscal year by the Authority to the Department for reevaluations by local school administrative units of eligible students under G.S. 115C-112.6(c) are sufficient and based on actual annual cost requirements. (2014-49, s. 7; 2014-101, s. 7.3; 2014-115, s. 68; 2015-241, s. 11.11(b); 2015-248, s. 10(b).)

Part 2. Nondiscrimination in Education.

§§ 115C-113 through 115C-115: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

Part 3. Appeals.

§ 115C-116: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

Part 4. Regional Educational Training Center.

§§ 115C-117 through 115C-120: Repealed by Session Laws 1997-18, s. 16.

Part 5. Council on Educational Services for Exceptional Children.

§ 115C-121: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

Part 6. Range of Services Available.

§ 115C-122: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

Part 7. State Schools for Hearing-impaired Children.

§§ 115C-123 through 115C-126.1: Recodified as §§ 143B-216.40 through 143B-216.44 by Session Laws 1997-18, s. 12.

Part 8. State School for Sight-impaired Children.

§§ 115C-127, 115C-128: Recodified as §§ 143B-164.10 and 143B-164.13.

Part 8. State School for Sight-impaired Children.

§ 115C-129: Reserved for future codification purposes.

§§ 115C-130 through 115C-133: Recodified as §§ 143B-164.14 through 143B-164.17.

Part 9. Central Orphanage of North Carolina.

§§ 115C-134 through 115C-138: Repealed by Session Laws 1997-18, s. 14.

Part 10. State and Local Relationships.

§ 115C-139: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

§ 115C-140: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

§ 115C-140.1: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

Part 11. Rules and Regulations.

§ 115C-141: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

Part 12. Nonreduction Provision.

§ 115C-142: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

Part 13. Budget Analysis and Departmental Funding.

§ 115C-143: Repealed by Session Laws 1981 (Regular Session, 1982), c. 1282, s. 29.

§ 115C-144: Repealed by Session Laws 1997-18, s. 7.

§ 115C-145: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

§ 115C-146: Reserved for future codification purposes.

Part 14. Handicapped Children, Ages Three to Five.

§§ 115C-146.1 through 115C-146.4: Repealed by Session Laws 2006-69, s. 1, effective July 10, 2006.

§ 115C-147: Reserved for future codification purposes.

§ 115C-148: Reserved for future codification purposes.

Article 9A.

Children with Chemical Dependency.

§ 115C-149. Policy. Chemically dependent children excluded from provisions of Article 9.

The General Assembly of North Carolina hereby declares that the policy of the State is to ensure that an appropriate education is provided for drug and alcohol addicted children; however, drug and alcohol addicted children are not "children with disabilities" within the meaning of G.S. 115C-106.3(1) unless because of some other condition they meet that definition. (1989, c. 316, s. 1; 2006-69, s. 3(c).)

§ 115C-150. State Board to adopt rules.

The State Board of Education shall adopt rules to ensure that local school administrative units provide an appropriate education for drug and alcohol addicted children. (1989, c. 316.)

§§ 115C-150.1 through 115C-150.4. Reserved for future codification purposes.

Article 9B.

Academically or Intellectually Gifted Students.

§ 115C-150.5. Academically or intellectually gifted students.

The General Assembly believes the public schools should challenge all students to aim for academic excellence and that academically or intellectually gifted students perform or show the potential to perform at substantially high levels of accomplishment when compared with others of their age, experience, or environment. Academically or intellectually gifted students exhibit high performance capability in intellectual areas, specific academic fields, or in both intellectual areas and specific academic fields. Academically or intellectually gifted students require differentiated educational services beyond those ordinarily provided by the regular educational program. Outstanding abilities are present in students from all cultural groups, across all economic strata, and in all areas of human endeavor. (1996, 2nd Ex. Sess., c. 18, s. 18.24(f).)

§ 115C-150.6. State Board of Education responsibilities.

In order to implement this Article, the State Board of Education shall:

(1) Develop and disseminate guidelines for developing local plans under G.S. 115C-150.7(a). These guidelines should address identification procedures, differentiated curriculum, integrated services, staff development, program evaluation methods, and any other information the State Board considers necessary or appropriate.

(2) Provide ongoing technical assistance to the local school administrative units in the development, implementation, and evaluation of their local plans under G.S. 115C-150.7. (1996, 2nd Ex. Sess., c. 18, s. 18.24(f).)

§ 115C-150.7. Local plans.

(a) Each local board of education shall develop a local plan designed to identify and establish a procedure for providing appropriate educational services to each academically or intellectually gifted student. The board shall include parents, the school community, representatives of the community, and others in the development of this plan. The plan may be developed by or in conjunction with other committees.

(b) Each plan shall include the following components:

(1) Screening, identification, and placement procedures that allow for the identification of specific educational needs and for the assignment of academically or intellectually gifted students to appropriate services.

(2) A clear statement of the program to be offered that includes different types of services provided in a variety of settings to meet the diversity of identified academically or intellectually gifted students.

(3) Measurable objectives for the various services that align with core curriculum and a method to evaluate the plan and the services offered. The evaluation shall focus on improved student performance.

(4) Professional development clearly matched to the goals and objectives of the plan, the needs of the staff providing services to academically or intellectually gifted students, the services offered, and the curricular modifications.

(5) A plan to involve the school community, parents, and representatives of the local community in the ongoing implementation of the local plan, monitoring of the local plan, and integration of educational services for academically or intellectually gifted students into the total school program. This should include a public information component.

(6) The name and role description of the person responsible for implementation of the plan.

(7) A procedure to resolve disagreements between parents or guardians and the local school administrative unit when a child is not identified as an academically or intellectually gifted student or concerning the appropriateness of services offered to the academically or intellectually gifted student.

(8) Any other information the local board considers necessary or appropriate to implement this Article or to improve the educational performance of academically or intellectually gifted students.

(c) Upon its approval of the plan developed under this section, the local board shall submit the plan to the State Board of Education for its review and comments. The local board shall consider the comments it receives from the State Board before it implements the plan.

(d) A plan shall remain in effect for no more than three years; however, the local board may amend the plan as often as it considers necessary or appropriate. Any changes to a plan shall be submitted to the State Board of Education for its review and comments. The local board shall consider the State Board's comments before it implements the changes. (1996, 2nd Ex. Sess., c. 18, s. 18.24(f).)

§ 115C-150.8. Review of Disagreements.

In the event that the procedure developed under G.S. 115C-150.7(b)(7) fails to resolve a disagreement, the parent or guardian may file a petition for a contested case hearing under Article 3 of Chapter 150B of the General Statutes. The scope of review shall be limited to (i) whether the local school administrative unit improperly failed to identify the child as an academically or intellectually gifted student, or (ii) whether the local plan developed under G.S. 115C-150.7 has been implemented appropriately with regard to the child. Following the hearing, the administrative law judge shall make a decision that contains findings of fact and conclusions of law. Notwithstanding the provisions of Chapter 150B of the General Statutes, the decision of the administrative law judge becomes final, is binding on the parties, and is not subject to further review under Article 4 of Chapter 150B of the General Statutes. (1996, 2nd Ex. Sess., c. 18, s. 18.24(f).)

§ 115C-150.9: Reserved for future codification purposes.

§ 115C-150.10: Reserved for future codification purposes.

Article 9C.

Schools for Students with Visual and Hearing Impairments.

§ 115C-150.11. State Board of Education as governing agency.

The State Board of Education shall be the sole governing agency for the Governor Morehead School for the Blind, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf. The Superintendent of Public Instruction through the Department of Public Instruction shall be responsible for the administration, including appointment of staff, and oversight of a school governed by this Article. (2013-247, s. 2; 2016-126, 4th Ex. Sess., s. 16.)

§ 115C-150.12. Applicability of Chapter.

Except as otherwise provided, the requirements of this Chapter shall apply to the schools governed by this Article. (2013-247, s. 2.)

§ 115C-150.13. Rule making.

(a) The State Board of Education shall adopt rules necessary for the Department of Public Instruction to implement this Article, including, at a minimum, rules to address eligibility for admission criteria. In determining rules for admission criteria, the State Board of Education shall take into account the following factors:

(1) State and federal laws.

(2) Optimal academic and communicative outcomes for the child.

(3) Parental input and choice.

(4) Recommendations in a child's Individualized Education Program (IEP).

(b) Rules shall be adopted in accordance with Chapter 150B of the General Statutes. (2013-247, s. 2.)

§ 115C-150.14. Tuition and room and board.

(a) Only children who are residents of North Carolina are entitled to free tuition and room and board at a school governed by this Article.

(b) A school governed by this Article may enroll a foreign exchange student and shall charge the student the full, unsubsidized per capita cost of providing education at the school for the period of the student's attendance. A school that seeks to enroll foreign exchange students under this section shall submit a plan prior to enrolling any of those students to the State Board of Education for approval, including the proposed costs to be charged to the students for attendance and information on compliance with federal law requirements. For the purposes of this section, a foreign exchange student is a student who is domiciled in a foreign country and has come to the United States on a valid, eligible student visa.

(c) Notwithstanding subsection (b) of this section, foreign exchange students who have obtained the status of nonimmigrants pursuant to the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(F) may only be enrolled in a school governed by this Article

in grades nine through 12 for a maximum of 12 months at the school. (2013-247, s. 2; 2016-94, s. 8.12(b).)

§ 115C-150.15. Reporting to residential schools on deaf and blind children.

(a) Request for Consent. – Local superintendents shall require that the following request for written consent be presented to parents, guardians, or custodians of any hearing impaired or visually impaired children no later than October 1 of each school year: "North Carolina provides three public residential schools serving visually and hearing impaired students: the Governor Morehead School for the Blind, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf. Do you consent to the release of your contact information and information regarding your child and his or her impairment to these schools so that you can receive more information on services offered by those campuses?

(b) Annual Report to Residential Schools. – Local superintendents shall report by November 30 each year the names and addresses of parents, guardians, or custodians of any hearing impaired or visually impaired children who have given written consent to the directors of the Governor Morehead School for the Blind, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf. The report shall include the type of disability of each child, including whether the hearing and visual impairments range from partial to total disability, and if the child has multiple disabilities with the visual or hearing impairment not identified as the primary disability of the student. The report shall also be made to the Department of Public Instruction.

(c) Confidentiality of Records. – The directors of the Governor Morehead School for the Blind, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf shall treat any information reported to the schools by a local superintendent under subsection (b) of this section as confidential, except that a director or the director's designee may contact the parents, guardians, or custodians of any hearing impaired or visually impaired children whose information was included in the report. The information shall not be considered a public record under G.S. 132-1. (2016-94, s. 8.12(a).)

Article 10.

Career and Technical Education.

Part 1. Career and Technical Education Programs.

§ 115C-151. Statement of purpose.

It is the intent of the General Assembly that career and technical education be an integral part of the educational process. The State Board of Education shall administer through local boards of education a comprehensive program of career and technical education that shall be available to all students, with priority given to students in grades eight through 12, who desire it in the public secondary schools and middle schools of this State. The purposes of career and technical education in North Carolina public secondary schools shall be as follows:

(1) Occupational Skill Development. – To prepare individuals for paid or unpaid employment in recognized occupations, new occupations, and emerging occupations.
(2) Preparation for Advanced Education. – To prepare individuals for participation in advanced or highly skilled career and technical education.
(3) Career Development; Introductory. – To assist individuals in the making of informed and meaningful occupational choices.

It is also legislative intent to authorize the State Board of Education to support appropriate career and technical education instruction and related services for individuals who have special career and technical education needs which can be fulfilled through a comprehensive career and technical education program as designated by State Board of Education policy or federal career and technical education legislation. (1977, c. 490, s. 2; 1981, c. 423, s. 1; 1987, c. 738, s. 183; 1993, c. 180, s. 3; 2004-124, s. 7.15(b); 2017-57, s. 7.23H(e).)

§ 115C-152. Definitions.

The State Board of Education shall provide appropriate definitions to career and technical education programs, services, and activities in grades five through 12 not otherwise included in this Part. As used in this Part, the following definitions apply, unless the context requires otherwise:

(1) "Career development; introductory; or career awareness program" means an instructional program, service, or activity designed to familiarize individuals with the broad range of occupations for which special skills are required and the requisites for careers in such occupations. A career awareness program offered to elementary school students shall encourage students to explore career pathways and prepare students for the transition to middle school career planning.
(2) "Comprehensive career and technical education" means instructional programs, services, or activities directly related to preparation for and placement in employment, for advanced technical preparation, or for the making of informed and meaningful educational and occupational choices.
(3) "Occupational skill development" means a program, service, or activity designed to prepare individuals for paid or unpaid employment as semiskilled or skilled workers, technicians, or professional-support personnel in recognized occupations and in new and emerging occupations including occupations or a trade, technical, business, health, office, homemaking, homemaking-related, agricultural, marketing, and other nature. Instruction is designed to fit individuals for initial employment in a specific occupation or a cluster of closely related occupations in an occupational field. This instruction includes education in technology, manipulative skills, theory, auxiliary information, application of academic skills, and other associated abilities.

(4) "Preparation for advanced education" means a program, service, or activity designed to prepare individuals for participation in advanced or highly skilled post-secondary and technical education programs leading to employment in specific occupations or a cluster of closely related occupations and for participation in career and technical education teacher education programs. (1977, c. 490, s. 2; 1981, c. 423, s. 1; 1987, c. 738, s. 184; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-153. Administration of career and technical education.

The State Board of Education shall be the sole State agency for the State administration of career and technical education at all levels, shall be designated as the State Board of Career and Technical Education, and shall have all necessary authority to cooperate with any and all federal agencies in the administration of national acts assisting career and technical education, to administer any legislation pursuant thereto enacted by the General Assembly of North Carolina, and to cooperate with local boards of education in providing career and technical education programs, services, and activities for youth and adults residing in the areas under their jurisdiction. (1977, c. 490, s. 2; 1981, c. 423, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-154. Duties of the State Board of Education.

In carrying out its duties, the State Board of Education shall develop and implement any policies, rules, regulations, and procedures as necessary to ensure career and technical education programs of high quality. The State Board of Education shall prepare a Master Plan for Career and Technical Education. The plan, to be updated periodically, shall ensure that, at a minimum, the following activities are accomplished:

(1) Articulation shall occur with institutions, agencies, councils, and other organizations having responsibilities for work force preparedness.

(2) Business, industrial, agricultural, and lay representatives organized as business advisory councils under Part 4 of this Article have been utilized in the development of decisions affecting career and technical education programs and services.

(3) Public hearings are conducted annually to afford the public an opportunity to express their views concerning the State Board's plan and to suggest changes in the plan.

(4) The plan describes the State's policy for career and technical education and the system utilized for the delivery of career and technical education programs, services, and activities. The policy shall include priorities of curriculum, integration of career and academic education, technical preparation, and youth apprenticeships.

(5) A professionally and occupationally qualified staff is employed and organized in a manner to assure efficient and effective State leadership for career and technical education. Provisions shall be made for such functions as: planning, administration, supervision, personnel

development, curriculum development, career and technical education student organization and coordination research and evaluation, and such others as the State Board may direct.

(6) An appropriate supply of qualified personnel is trained for program expansion and replacements through cooperative arrangements with institutions of higher education and other institutions or agencies, including where necessary financial support of programs and curriculums designed for the preparation of career and technical education administrators, supervisors, coordinators, instructors, and support personnel.

(7) Minimum standards shall be prescribed for personnel employed at the State and local levels.

(8) Local boards of education submit to the State Board of Education a local plan for career and technical education that has been prepared in accordance with the procedures set forth in the Master Plan for Career and Technical Education.

(9) Appropriate minimum standards for career and technical education programs, services, and activities shall be established, promulgated, supervised, monitored, and maintained. These standards shall specify characteristics such as program objectives, competencies, course sequence, program duration, class size, supervised on-the-job experiences, career and technical education student organization, school-to-work transition programs, qualifications of instructors, and all other standards necessary to ensure that all programs conducted by local school administrative units shall be of high quality, relevant to student needs, and coordinated with employment opportunities.

(10) A system of continuing qualitative and quantitative evaluation of all career and technical education programs, services, and activities supported under the provisions of this Part shall be established, maintained, and utilized periodically. One component of the system shall be follow-up studies of employees and former students of career and technical education programs who have been out of school for one year, and for five years to ascertain the effectiveness of instruction, services, and activities. (1977, c. 490, s. 2; 1981, c. 423, s. 1; 1983, c. 750, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-154.1. Approval of local career and technical education plans or applications.

The State Board of Education shall not approve any local board of education career and technical education plans or applications unless the plan or application meets all of the following conditions:

(1) The programs are in accordance with the purposes of G.S. 115C-151.

(2) The career and technical education programs and courses are not duplicated within a local school administrative unit, unless the unit has

data to justify the duplication or the unit has a plan to redirect the duplicative programs within three years.

(3) For all current job skill programs, there is a documented need, based on labor market data or follow-up data, or there is a plan to redirect the program within two years.

(4) New career and technical education programs show documented need based on student demand, or for new job skill programs, based on student and labor market demand.

(5) All programs are responsive to technological advances, changing characteristics of the work force, and the academic, technical, and attitudinal development of students.

(6) The local board of education establishes a business advisory council in accordance with Part 4 of this Article. The local board of education shall submit information regarding ongoing consultation with the advisory council as part of the career and technical education local planning system maintained by the State Board of Education and the Department of Public Instruction.

Local programs using the cooperative career and technical education method shall be approved subject to students enrolled being placed in employment commensurate with the respective program criteria. (1987, c. 738, s. 185; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-154.2. Career and technical education equipment standards.

The State Board of Education shall develop equipment standards for each career and technical education program level and shall assist local school administrative units in determining the adequacy of equipment for each career and technical education program available in each local school administrative unit.

The State Board shall also develop a plan to assure that minimum equipment standards for each program are met to the extent that State, local, and federal funds are available for that purpose. The State Board shall consider all reasonable and prudent means to meet these minimum equipment standards and to ensure a balanced career and technical education program for students in the public schools. (1991, c. 570, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-155. Acceptance of benefits of federal career and technical education acts.

The State of North Carolina, through the State Board of Education, may accept all the provisions and benefits of acts passed by the Congress of the United States providing federal funds for career and technical education programs: Provided, however, that the State Board of Education shall not accept those funds upon any condition that the public schools of this State shall be operated contrary to any provision of the Constitution or statutes of this State. (1977, c. 490, s. 2; 1981, c. 423, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-156. State funds for career and technical education.

It is the intent of the General Assembly of North Carolina to appropriate funds for each fiscal year to support the purposes of career and technical education as set forth in G.S. 115C-151. From funds appropriated, the State Board of Education shall establish a sum of money for State administration of career and technical education and shall allocate the remaining sum on an equitable basis to local school administrative units, except that a contingency fund is established to correct excess deviations that may occur during the regular school year. In the administration of State funds, the State Board of Education shall adopt such policies and procedures as necessary to ensure that the funds appropriated are used for the purpose stated in this Part and consistent with the policy set forth in the Master Plan for Career and Technical Education. (1977, c. 490, s. 2; 1981, c. 423, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-156.1: Repealed by Session Laws 1993, c. 180, s. 3.

§ 115C-156.2. Industry certifications and credentials program.

(a) It is the intent of the State to encourage students to enroll in and successfully complete rigorous coursework and credentialing processes in career and technical education to enable success in the workplace. To attain this goal, to the extent funds are made available for this purpose, students shall be supported to earn State Board of Education approved industry certifications and credentials as follows:

(1) Students enrolled in public schools and in career and technical education courses shall be exempt from paying any fees for one administration of examinations leading to industry certifications and credentials pursuant to rules adopted by the State Board of Education.

(2) Each school year, at such time as agreed to by the Department of Commerce and the State Board of Education, the Department of Commerce shall provide the State Board of Education with a list of those occupations in high need of additional skilled employees. If the occupations identified in such list are not substantially the same as those occupations identified in the list from the prior year, reasonable notice of such changes shall be provided to local school administrative units.

(3) Local school administrative units shall consult with their local industries, employers, business advisory councils, and workforce development boards to identify industry certification and credentials that the local school administrative unit may offer to best meet State and local workforce needs.

(b) Beginning in 2017, the State Board of Education shall report to the Joint Legislative Education Oversight Committee by November 15 of each year on the number of students in career and technical education courses who earned (i) community college credit and (ii) related industry certifications and credentials. (2013-360, s. 8.28(b); 2014-115, s. 83; 2017-57, s. 7.23H(e); 2017-102, s. 48(e).)

§ 115C-157. Responsibility of local boards of education.

(a) Each local school administrative unit, shall provide free appropriate career and technical education instruction, activities, and services in accordance with the provisions of this Part for all youth, with priority given to youth in grades eight through 12, who elect the instruction and shall have responsibility for administering the instruction, activities, and services in accordance with federal and State law and State Board of Education policies.

(b) Each local school administrative unit shall offer as part of its career and technical education program at least two work-based learning opportunities that are related to career and technical education instruction. A work-based learning opportunity shall consist of on-the-job training through an internship, cooperative education, or an apprenticeship program meeting the requirements of Chapter 115D of the General Statutes.

(c) Each local board of education is encouraged to implement a career awareness program for students in grade five to educate students on the career and technical education programs offered in the local school administrative unit. A local board of education that adopts a career awareness program for fifth grade students shall report on program activities and student outcomes from the prior school year to the State Board of Education by October 1 of each year. By November 15 of each year, the State Board shall submit a consolidated report to the Joint Legislative Education Oversight Committee on program outcomes and any legislative recommendations based on local board of education reports. (1977, c. 490, s. 2; 1981, c. 423, s. 1; 1993, c. 180, s. 3; 2004-124, s. 7.15(c); 2017-57, s. 7.23H(e).)

§ 115C-157.1. Adjunct CTE instructors.

(a) Adjunct Hiring Criteria. – The State Board of Education shall develop minimum criteria of relevant education or employment experience to qualify to contract as an adjunct instructor in each career and technical education career cluster and shall make such criteria available to local boards of education.

(b) Contracting with Adjunct Instructors. – Notwithstanding Article 20 and Part 3 of Article 22 of this Chapter, a local board of education may contract with an individual to serve as an adjunct instructor who meets the adjunct hiring criteria established by the State Board of Education for a specific career and technical education career cluster. The local board of education may contract with an adjunct instructor on an annual or semester basis, subject to the following requirements:

(1) An adjunct instructor may be employed for no more than 10 hours per week.

(2) An adjunct instructor shall be subject to a criminal history check, to ensure that the person has not been convicted of any crime listed in G.S. 115C-332.

(3) An adjunct instructor shall not be required to hold or apply for licensure as a teacher.

(4) An adjunct instructor must complete preservice training in all of the following areas prior to beginning instruction:

a. The identification and education of children with disabilities.

b. Positive management of student behavior.
c. Effective communication for defusing and deescalating disruptive or dangerous behavior.
d. Safe and appropriate use of seclusion and restraint. (2016-94, s. 8.32(c).)

§ 115C-157.5. Extended year agriculture education program; evaluation of career and technical education agriculture teacher personnel.

Except as otherwise provided in G.S. 115C-302.1(b2), local boards of education shall provide career and technical education agriculture teacher personnel with adequate resources to provide a career and technical education agriculture education program for 12 calendar months, which includes work-based learning services and instructional and leadership development. A local board of education shall require that career and technical education agriculture teacher personnel who are employed for 12 calendar months, pursuant to G.S. 115C-302.1, are evaluated in the same manner as teachers evaluated in accordance with G.S. 115C-333 or G.S. 115C-333.1, as applicable. (2017-57, s. 7.23H(e).)

§ 115C-158. Federal funds division.

The division between secondary and post-secondary educational systems and institutions of federal funds for which the State Board of Career and Technical Education has responsibility shall, within discretionary limits established by law, require the concurrence of the State Board of Education and the State Board of Community Colleges on and after January 1, 1981. The portion of the approved State Plan for post-secondary career and technical education required by G.S. 115C-154 shall be as approved by the State Board of Community Colleges. (1979, 2nd Sess., c. 1130, s. 4; 1981, c. 423, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

Part 2. Career and Technical Education Production Work Activities.

§ 115C-159. Statement of purpose.

It is the intent of the General Assembly that practical work experiences within the school and outside the school, which are valuable to students and which are under the supervision of a teacher, should be encouraged as a part of career and technical education instruction in the public secondary schools and middle schools when those experiences are organized and maintained to the best advantage of the career and technical education programs. Those activities are a part of the instructional activities in the career and technical education programs and are not to be construed as engaging in business. Those services, products, and properties generated through these instructional activities are exempt from the requirements of G.S. 115C-518. Local boards of education shall adopt rules for the disposition of these services, products, and properties. Local boards of education may use available financial resources to support that instruction. (1977, c. 490, s. 4; 1981, c. 423, s. 1; 1983, c. 750, s. 2; 1985, c. 479, s. 32; 1987, c. 738, s. 184; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-160. Definitions.

The State Board of Education shall provide appropriate definitions necessary to this part of career and technical education instruction not otherwise included in this Part. As used in this Part, the following definitions apply, unless the context requires otherwise:

(1) The term "building trades training" means the development of career skills through the construction of dwellings or other buildings and related activities by students in career and technical education programs.

(2) The term "production work" means production activities and services performed by students in career and technical education classes under contract with a second party for remuneration. (1977, c. 490, s. 4; 1981, c. 423, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-161. Duties of the State Board of Education.

The State Board of Education is authorized and directed to establish, maintain, and implement such policies, rules, regulations, and procedures not in conflict with State law or other State Board policies as necessary to assist local boards of education in the conduct of production work experiences performed in connection with approved State Board of Education career and technical education programs. (1977, c. 490, s. 4; 1981, c. 423, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-162. Use of proceeds derived from production work.

Unless elsewhere authorized in these statutes, local boards of education shall deposit to the appropriate school account, no later than the end of the next business day after receipt of funds, all proceeds derived from the sale of products or services from production work experiences. These proceeds shall be established as a revolving fund to be used solely in operating and improving career and technical education programs. (1977, c. 490, s. 4; 1981, c. 423, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-163. Acquisition of land for agricultural education instructional programs.

Local boards of education may acquire by gift, purchase, or lease for not less than the useful life of any project to be conducted upon the premises, a parcel of land suitable for a land laboratory to provide students with practical instruction in soil science, plant science, horticulture, forestry, animal husbandry, and other subjects related to the agriculture curriculum.

Each deed, lease, or other agreement for land shall be made to the respective local board of education in which the school offering instruction in agriculture is located; and title to such land shall be examined and approved by the local board of education's attorney.

Any land laboratory thus acquired shall be assigned to the agricultural education program of the school, to be managed with the advice of an agricultural education advisory committee or a specialized subcommittee of a business advisory council as provided under Part 4 of this Article.

The products of the land laboratory not needed for public school purposes may be sold to the public: Provided, however, that all proceeds from the sale of products shall be

deposited in the appropriate school account no later than the end of the next business day after receipt of funds. The proceeds shall be established as a revolving fund to be used solely in operating and improving career and technical education programs. (1977, c. 490, s. 4; 1981, c. 423, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-164. Building trades training.

In the establishment and implementation of production work experience policies, the State Board of Education shall be guided as follows:

(1) Local boards of education may use supplementary tax funds or other local funds available for the support of career and technical education to purchase and develop suitable building sites on which dwellings or other buildings are to be constructed by career and technical education trade classes of each public school operated by local boards of education. Local boards of education may use these funds for each school to pay the fees necessary in securing and recording deeds to these properties for each public school operated by local boards of education and to purchase all materials needed to complete the construction of buildings by career and technical education trade classes and for development of site and property by other career and technical education classes. Local boards of education may use these funds to acquire skilled services, including electrical, plumbing, heating, sewer, water, transportation, grading, and landscaping needed in the construction and completion of buildings, that cannot be supplied by the students in career and technical education trade classes.

(2) Local boards of education may, in conjunction with or in lieu of subdivision (1) of this section, contract with recognized building trades educational foundations or associations in the purchase of land for the construction and development of buildings: Provided however, that all contracts shall be in accordance with the requirements set forth by the State Board of Education. (1977, c. 490, s. 4; 1981, c. 423, s. 1; 1993, c. 180, s. 3; 2017-57, s. 7.23H(e).)

§ 115C-165. Advisory committee on production work activities.

The local board of education of each local school administrative unit in which the proposed production work activities are to be undertaken shall appoint appropriate workforce production advisory committees of no less than three persons residing within that administrative unit for each program (or in the case of Trade and Industrial Education, for each specialty) for the purpose of reviewing and making recommendations on such production work activities. Workforce production advisory committees, including agricultural education advisory committees under G.S. 115C-163, may be established as specialized subcommittees of the business advisory councils as provided under Part 4 of this Article. Respective advisory committee members shall be lay persons who are actively involved in the appropriate business or trade. No production work activity shall be

undertaken without the involvement of the appropriate advisory committee. (1977, c. 490, s. 4; 1981, c. 423, s. 1; 1983, c. 750, s. 3; 2017-57, s. 7.23H(e).)

Part 3. Eye Safety Devices Required.

§ 115C-166. Eye protection devices required in certain courses.

The governing board or authority of any public or private school or educational institution within the State, wherein shops or laboratories are conducted providing instructional or experimental programs, shall provide for and require that every student and teacher wear industrial-quality eye protective devices at all times while participating in a program that involves any of the following:

(1) Hot solids, liquids or molten metals.
(2) Milling, sawing, turning, shaping, cutting, or stamping of any solid materials.
(3) Heat treatment, tempering, or kiln firing of any metal or other materials.
(4) Gas or electric arc welding.
(5) Repair or servicing of any vehicle.
(6) Caustic or explosive chemicals or materials.

These industrial-quality eye protective devices shall be furnished free of charge to the student and teacher. (1969, c. 1050, s. 1; 1981, c. 423, s. 1; 2017-57, s. 7.23H(e).)

§ 115C-167. Visitors to wear eye safety devices.

Visitors to shops and laboratories subject to the requirements of G.S. 115C-166 shall be furnished with and required to wear industrial-quality eye protective devices while instructional or experimental programs are in progress. (1977, c. 1050, s. 2; 1981, c. 423, s. 1; 2017-57, s. 7.23H(e).)

§ 115C-168. "Industrial-quality eye protective devices" defined.

"Industrial-quality eye protective devices", as used in G.S. 115C-166, means devices meeting the standards of the U.S.A. Standard Practice for Occupational and Educational Eye and Face Protection, Z 87.1-1968 approved by the U.S.A. Standards Institute, Inc. (1969, c. 1050, s. 3; 1981, c. 423, s. 1.)

§ 115C-169. Corrective-protective devices.

In those cases where corrective-protective devices that require prescription ophthalmic lenses are necessary, such devices shall only be supplied by those persons licensed by the State to prescribe or supply corrective-protective devices. (1969, c. 1050, s. 4; 1981, c. 423, s. 1.)

§§ 115C-170 through 115C-171: Reserved for future codification purposes.

Part 4. Business Advisory Councils.

§ 115C-172. Business advisory councils established; members; selection; duties.

(a) Purpose. – Each local board of education shall be assisted by a business advisory council in the performance of its duties to provide career and technical education instruction, activities, and services in accordance with this Article. The business advisory council shall serve local boards of education by identifying economic and workforce development trends related to the training and educational needs of the local community and advocating for strong, local career and technical education programs, including career pathway development that provides work-based learning opportunities for students and prepares students for post-secondary educational certifications and credentialing for high-demand careers. A business advisory council established under this Part may serve more than one local board of education in a region of the State upon the agreement of the members of the council and all of the local boards of education to be served by that council.

(b) Workforce Production Subcommittees. – A business advisory council may form a subcommittee of the council for the purposes of advising a local board of education on workforce production activities under Part 2 of this Article.

(c) Membership. – Each business advisory council shall have at least nine members. The council shall be composed of members who reasonably reflect the education, business, and community makeup of the local school administrative unit that it serves. A majority of the membership of the council shall be composed of business, industry, and community members appointed in accordance with subdivision (2) of this subsection, and the remaining members shall consist of education representatives as follows:

(1) Education representatives. – The following members shall serve ex officio on the council to represent each local school administrative unit that the council serves:
   a. The superintendent of the local school administrative unit or his or her designee.
   b. The career and technical education program director of the local school administrative unit as a nonvoting member.
   c. The president of the community college that serves the area in which the local school administrative unit is located, in whole or in part, or his or her designee.
   d. A principal of a school located within the local school administrative unit, as assigned by the superintendent.

(2) Business, industry, and community representatives. – At least five other members shall serve on the council to represent business and industry located within each local school administrative unit that the council serves and the community. Members shall be business, industry, and workforce and economic development stakeholders in the community, and community members, including any of the following:
   a. Local business and industry owners.
   b. Representatives from local manufacturing centers and factories.
   c. Human resource directors employed at businesses and industries in the community.
   d. Representatives from community-based organizations.

e. Representatives from economic and workforce development organizations.

f. Parents of students enrolled in career and technical education courses.

g. Representative or manager of the local apprenticeship coalition.

(d) Initial Terms and Appointments. – Each local board of education shall make the initial appointment of members of the business advisory council under subdivision (2) of subsection (c) of this section for terms beginning January 1, 2018. The local board of education shall divide the initial appointments into three groups if there are only three appointments, and into four groups as equal in size as practicable if there are more than three appointments, and shall designate appointments in group one to serve four-year terms, in group two to serve three-year terms, in group three to serve two-year terms, and in group four to serve one-year terms.

(e) Subsequent Terms and Appointments. – As terms expire for members appointed as provided in subsection (d) of this section, the business advisory council shall appoint subsequent members of the business advisory council under subdivision (2) of subsection (c) of this section for four-year terms. The local board of education shall establish a policy on the appointment of subsequent members to the council, including procedures for increasing the number of members serving on the council. Any vacancies in seats appointed to the council shall be filled by the remaining members of the council.

(f) Council Secretary. – The career and technical education program director shall serve as secretary to the council. If the council serves more than one local board of education, the program director of each local school administrative unit shall serve as secretary for a period of time as determined by the members of the council.

(g) Bylaws. – Each business advisory council shall adopt bylaws establishing procedures for conducting the business of the council, which shall include at least the following:

(1) A chair of the business advisory council shall be elected annually by the members of the council from among the business and industry representative members of the council.

(2) A majority of the members shall constitute a quorum.

(3) The business advisory council shall meet at least biannually.

(4) The chair or three of the members may call a special meeting of the council.

(5) Procedures for appointing members to the council that are consistent with the policy adopted by the local board of education under subsection (e) of this section.

(h) Public Records. – A business advisory council is subject to the Public Records Act, Chapter 132 of the General Statutes, and the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes.

(i) Expenses. – The local board of education shall provide for meeting space and assignment of necessary administrative staff to the business advisory council. (2017-57, s. 7.23H(e).)

Article 10A.

Testing.

Part 1. Commission on Testing.

§§ 115C-174.1 through 115C-174.6: Repealed by Session Laws 1995, c. 524, s. 1.

§ 115C-174.7. Reserved for future codification purposes.

§ 115C-174.8. Reserved for future codification purposes.

§ 115C-174.9. Reserved for future codification purposes.

Part 2. Statewide Testing Program.

§ 115C-174.10. Purposes of the Statewide Testing Program.

The testing programs in this Article have three purposes: (i) to assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function as a member of society; (ii) to provide a means of identifying strengths and weaknesses in the education process in order to improve instructional delivery; and (iii) to establish additional means for making the education system at the State, local, and school levels accountable to the public for results. (1977, c. 522, s. 1; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 1014, s. 74(a); 1995, c. 524, s. 2; 2009-451, s. 7.20(a).)

§ 115C-174.11. Components of the testing program.

(a) Assessment Instruments for Kindergarten, First, Second, and Third Grades. – The State Board of Education shall develop, adopt, and provide to the local school administrative units developmentally appropriate individualized assessment instruments aligned with the standard course of study and Part 1A of Article 8 of this Chapter for the kindergarten, first, second, and third grades. Local school administrative units shall use these assessment instruments provided to them by the State Board for kindergarten, first, second, and third grade students to assess progress, diagnose difficulties, and inform instruction and remediation needs. Local school administrative units shall not use standardized tests for summative assessment of kindergarten, first, and second grade students except as required as a condition of receiving federal grants.

(b) Repealed by Session Laws 2009-451, s. 7.20(c), effective July 1, 2009.

(c) Annual Testing Program. –

(1) The State Board of Education shall adopt the tests for grades three through 12 that are required by federal law or as a condition of a federal grant. These tests shall be designed to measure progress toward reading, communication skills, and mathematics for grades three through eight, and toward competencies for grades nine through 12. Students who do not pass the tests adopted for eighth grade shall be provided remedial instruction in the ninth grade.

(2) If the State Board of Education finds that additional testing in grades three through 12 is desirable to allow comparisons with national indicators of student achievement, that testing shall be conducted with the smallest size sample of students necessary to assure valid comparisons with other states.

(3) Repealed by Session Laws 2014-78, s. 3(a), effective July 1, 2014.

(4) **(For applicability, see editor's note)** To the extent funds are made available, the State Board of Education shall use a competitive bid process to adopt one nationally norm-referenced college admissions test to make available to local school administrative units, regional schools, and charter schools to administer to all students in the eleventh grade unless the student has already taken a comparable test and scored at or above a level set by the State Board. The State Board of Education shall require the administration of an alternate to the nationally norm-referenced college admissions test or an alternate precursor test to the nationally norm-referenced college admissions test to a student who (i) exhibits severe and pervasive delays in all areas of conceptual, linguistic, and academic development and in adaptive behaviors, including communication, daily living skills, and self-care, (ii) is following the extended content standards of the Standard Course of Study as provided in G.S. 115C-81.5, or is following a course of study that, upon completing high school, may not lead to admission into a college-level course of study resulting in a college degree, and (iii) has a written parental request for an alternate assessment.

The State Board of Education shall ensure that parents of students enrolled in all public schools, including charter and regional schools, have the necessary information to make informed decisions regarding participation in the nationally norm-referenced college admissions test and precursor test.

Alternate assessment and nationally norm-referenced college admissions test assessment results of students with disabilities shall be included in school accountability reports, including charter and regional schools, provided by the State Board of Education.

(d) Except as provided in subsection (c) of this section, the State Board of Education shall not require the public schools to administer any standardized tests except for those required by federal law or as a condition of a federal grant.

The State Board of Education shall adopt and provide to local school administrative units all tests required by federal law or as a condition of a federal grant. (1977, c. 522, s. 1; c. 541, s. 1; 1981, c. 423, s. 1; 1983, c. 627, s. 1; 1985, c. 409, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 1014, s. 74(a); 1987, c. 738, s. 180(a); 1987 (Reg. Sess., 1988), c. 1086, s. 77(a); 1989, c. 778, ss. 4, 5; 1995, c. 524, s. 3; 1996, 2nd Ex. Sess., c. 18, s. 18.14; 1998-212, s. 9.15(b); 1998-220, ss. 6, 11; 2000-140, s. 21(a), (b); 2003-275, s. 1; 2004-124, ss. 7.11, 7.27; 2005-458, s. 3; 2009-451, s. 7.20(c); 2010-31, s. 7.30; 2011-8, s. 1; 2011-145, s.

7.30(a); 2011-280, ss. 1, 2.1; 2012-142, s. 7A.1(e); 2013-208, s. 1; 2014-78, s. 3(a); 2017-57, s. 7.26C(a); 2017-126, ss. 14, 15.)

§ 115C-174.12. Responsibilities of agencies.

(a) The State Board of Education shall establish policies and guidelines necessary for minimizing the time students spend taking tests administered through State and local testing programs, for minimizing the frequency of field testing at any one school, and for otherwise carrying out the provisions of this Article. These policies and guidelines shall include the following:

(1) Schools shall devote no more than two days of instructional time per year to the taking of practice tests that do not have the primary purpose of assessing current student learning;

(2) Students in a school shall not be subject to field tests or national tests during the two-week period preceding the administration of end-of-grade tests, end-of-course tests, or the school's regularly scheduled final exams; and

(3) No school shall participate in more than two field tests at any one grade level during a school year; [and]

(4) All annual assessments of student achievement adopted by the State Board of Education pursuant to G.S. 115C-174.11(c)(1) and (3) and all final exams for courses shall be administered within the final 10 instructional days of the school year for year-long courses and within the final five instructional days of the semester for semester courses. Exceptions shall be permitted to accommodate a student's individualized education program and section 504 (29 U.S.C. § 794) plans and for the administration of final exams for courses with national or international curricula required to be held at designated times.

These policies shall reflect standard testing practices to insure reliability and validity of the sample testing. The results of the field tests shall be used in the final design of each test. The State Board of Education's policies regarding the testing of children with disabilities shall (i) provide broad accommodations and alternate methods of assessment that are consistent with a student's individualized education program and section 504 (29 U.S.C. § 794) plans, (ii) prohibit the use of statewide tests as the sole determinant of decisions about a student's graduation or promotion, and (iii) provide parents with information about the Statewide Testing Program and options for children with disabilities. The State Board shall report its proposed policies and proposed changes in policies to the Joint Legislative Education Oversight Committee prior to adoption.

The State Board of Education may appoint an Advisory Council on Testing to assist in carrying out its responsibilities under this Article.

(b) The Superintendent of Public Instruction shall be responsible, under policies adopted by the State Board of Education, for the statewide administration of the testing program provided by this Article.

(b1) The Superintendent shall notify local boards of education by October 1 of each year of any field tests that will be administered in their schools during the school year, the schools at which the field tests will be administered, and the specific field tests that will be administered at each school.

(c) Local boards of education shall cooperate with the State Board of Education in implementing the provisions of this Article, including the regulations and policies established by the State Board of Education. Local school administrative units shall use the annual tests to fulfill the purposes set out in this Article.

(d) **(For applicability, see editor's note)** By October 1 of each year, each local board of education shall notify the State Board of Education of any local standardized testing to be administered to students by the local school administrative unit at the direction of the local board of education in its schools and the calendar for administering those tests. The local board of education shall include the following information:

(1) The source of funds supporting the local testing program.
(2) The time allotted to administer each test.
(3) Whether the test is a computer-based test or a paper-based test.
(4) The grade level or subject area associated with the test.
(5) The date the test results are expected to be available to teachers and parents.
(6) The type of test, the purpose of the test, and the use of the test results.
(7) Estimates of average time for administering tests required by the local board of education by grade level.

The local board of education shall meet the requirements of this subsection by inputting the information into the uniform calendar published by the Department of Public Instruction pursuant to subsection (e1) of this section.

(e) **(For applicability, see editor's note)** By November 1 of each year, the State Board of Education shall submit a report to the Joint Legislative Education Oversight Committee containing information regarding the statewide administration of the testing program, including the number and type of tests and the testing schedule, and a summary of any local testing programs reported by local boards of education to the State Board of Education in accordance with subsection (d) of this section.

(e1) **(For applicability, see editor's note)** By September 1 of each year, the Superintendent of Public Instruction shall publish on the Web site of the Department of Public Instruction a uniform calendar that includes schedules for State-required testing and reporting results of tests for at least the next two school years, including estimates of the average time for administering State-required standardized tests. The uniform calendar shall be provided to local boards of education in an electronic format that allows each local board of education to populate the calendar with, at a minimum, the information required by subsection (d) of this section. The uniform calendar shall be searchable by local school administrative unit and denote whether a test on the calendar is required by the State or required by a local board of education. (1977, c. 522, ss. 4-6; c. 541, ss. 2, 5-7; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 1014, s. 74(a); 1995, c. 524, s. 4; 2001-424, s. 28.17(f); 2002-126, s. 7.30; 2002-159, s. 70; 2005-276, s. 7.37; 2009-451, s. 7.20(d); 2011-145, s.

7.13(q); 2011-391, s. 14(b); 2013-360, s. 9.2(a); 2016-94, s. 8.32(b); 2017-10, s. 2.14; 2017-57, s. 7.28A(b).)

§ 115C-174.13. Public records exemption.

(a) Until the State Board of Education designates that a test is released, any test developed, adopted, or provided by the State Board of Education, as provided in this Article, is not a public record within the meaning of G.S. 132-1. The State Board of Education may develop rules to allow inspection of a test prior to release, but shall require that individuals inspecting the test meet the same standards for confidentiality required for employees of local boards of education in test administration. As used in this section, the term "test" includes both the test and related test materials.

(b) Any written material containing the identifiable scores of individual students on any test taken pursuant to the provisions of this Article is not a public record within the meaning of G.S. 132-1 and shall not be made public by any person, except as permitted under the provisions of the Family Educational and Privacy Rights Act of 1974, 20 U.S.C. 1232g. (1977, c. 522, s. 7; c. 541, s. 8; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 1014, s. 74(a); 2014-115, s. 49.2.)

§ 115C-174.14. Provisions for nonpublic schools.

All components of the Statewide Testing Program shall be made available to nonpublic schools in the manner prescribed in G.S. 115C-551 and G.S. 115C-559. (1977, c. 522, s. 8; c. 541, s. 9; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 1014, s. 74(a).)

§ 115C-174.15. (For applicability, see editor's note) Report student performance on local standardized tests.

(a) A local board of education shall provide a student's results on standardized tests required by the local board, as reported pursuant to G.S. 115C-174.12(d), to the following persons and according to the following time lines:

(1) To the student's teachers no later than one week after the standardized test is administered.

(2) To the student's parents no later than 30 days after the standardized test is administered.

(b) If the superintendent of the local school administrative unit determines in writing that extenuating circumstances exist and reports those circumstances to the local board of education, the local board may extend the above time lines in the discretion of the local board of education. (2017-57, s. 7.28A(c).)

§ 115C-174.16. (For applicability, see editor's note) Report student performance on statewide, standardized tests.

The Department of Public Instruction shall make available to local boards of education a student's results on all statewide, standardized tests in a timely manner and in an easy-to-read and understandable format a minimum of two weeks prior to the first day of attendance of the next school year. Local boards of education shall make those results

available to both the student's teacher of record and parent or guardian prior to the first day of student attendance of the school year. These reports shall include all of the following information:

(1) A clear explanation of the student's performance on the applicable statewide, standardized tests.

(2) Information identifying the student's areas of strength and areas in need of improvement.

(3) Intervention strategies and appropriate resources based on the student's areas of strength and areas in need of improvement, when available.

(4) Longitudinal information on the student's progress in each subject area based on previous statewide, standardized test data, when available.

(5) Information showing the student's score compared to other students in the local school administrative unit, in the State, or, if available, in other states.

(6) Predictive information showing the linkage between the scores attained by the student on the statewide, standardized tests and the scores he or she may potentially attain on nationally recognized college entrance examinations, if available. This information shall be provided in a timely manner as it becomes available to the Department of Public Instruction but may be provided later than the beginning of the school year. (2017-57, s. 7.28A(c).)

§ 115C-174.17. Reserved for future codification purposes.

Part 3. Preliminary Scholastic Aptitude Test Opportunities Encouraged.

§ 115C-174.18. Opportunity to take Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT).

Every student in the eighth through tenth grades who has completed Algebra I or who is in the last month of Algebra I shall be given an opportunity to take a version of either the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) or the PLAN precursor test to the ACT, at the discretion of the local school administrative unit, one time at no cost to the student. The maximum amount of State funds used for this purpose shall be the cost of the PSAT/NMSQT. (1989, c. 752, s. 77(a); 2005-154, s. 1; 2013-360, s. 8.27(c); 2013-363, s. 3.18.)

§ 115-174.19: Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 677, s. 5.

§ 115C-174.20: Reserved for future codification purposes.

§ 115C-174.21: Reserved for future codification purposes.

Part 4. Student Diagnostic Tests.

§ 115C-174.22. (For applicability, see editor's note) Tools for student learning.

To the extent funds are made available for this purpose, and except as otherwise provided in G.S. 115C-174.11(c)(4), the State Board shall plan for and require the administration of diagnostic tests in the eighth and tenth grades that align to the nationally norm-referenced college admissions test adopted by the State Board through the competitive bid process pursuant to G.S. 115C-174.11(c)(4). The results of the tests shall be used to help diagnose student learning and provide for students an indication of whether they are on track to be remediation-free at a community college or university. (2011-145, s. 7.30(b); 2011-280, ss. 2, 2.1; 2013-208, s. 2; 2017-57, s. 7.26C(b).)

§ 115C-174.23: Reserved for future codification purposes.

§ 115C-174.24: Reserved for future codification purposes.

Part 5. Career and College Readiness.

§ 115C-174.25. WorkKeys.

To the extent funds are made available for this purpose, the State Board shall plan for and require local school administrative units to make available the appropriate WorkKeys tests for all students who complete a concentration in career and technical education courses. (2011-145, s. 7.30(b); 2011-280, ss. 2, 2.1; 2017-57, s. 7.23H(f).)

§ 115C-174.26. Advanced courses.

(a) It is the intent of the State to enhance accessibility and encourage students to enroll in and successfully complete more rigorous advanced courses to enable success in postsecondary education for all students. For the purposes of this section, an advanced course is an Advanced Placement course, an International Baccalaureate Diploma Programme course, or a Cambridge Advanced International Certificate of Education (AICE) course, including an AS-Level or A-Level course. To attain this goal, to the extent funds are made available for this purpose, students enrolled in public schools shall be exempt from paying any fees for administration of examinations for advanced courses and registration fees for advanced courses in which the student is enrolled regardless of the score the student achieves on an examination.

(b) Eligible secondary students shall be encouraged to enroll in advanced courses to expose them to more rigorous coursework while still in secondary school. Successfully completing advanced courses will increase the quality and level of students' preparation for postsecondary career paths and their pursuit of higher education.

(c) The results of student diagnostic tests administered pursuant to G.S. 115C-174.18 and G.S. 115C-174.22, such as the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) and ACT, shall be used to identify students who are prepared or who need additional work to be prepared to enroll and be successful in advanced courses. Students may also be identified for potential enrollment in advanced courses based on other criteria established by schools to increase access to those courses for their students.

(d) Local boards of education shall provide information to students and parents on available opportunities and the enrollment process for students to take advanced courses. The information shall explain the value of advanced courses in preparing students for postsecondary level coursework, enabling students to gain access to postsecondary opportunities, and qualifying for scholarships and other financial aid opportunities.

(e) Local boards of education shall ensure that all high school students have access to advanced courses in language arts, mathematics, science, and social studies. Such access may be provided through enrollment in courses offered through or approved by the North Carolina Virtual Public School.

(f) The State Board of Education shall seek a partner, such as the College Board, to form the North Carolina Advanced Placement Partnership, hereinafter referred to as Partnership, to assist in improving college readiness of secondary students and to assist secondary schools to ensure that students have access to high-quality, rigorous academics with a focus on access to Advanced Placement courses.

In order to implement its responsibilities under this section, the partner selected by the State Board of Education shall provide staff to do the following:

(1) Provide professional development in the form of support and training to enable teachers of Advanced Placement courses to have the necessary content knowledge, instructional skills, and materials to prepare students for success in Advanced Placement courses and examinations and mastery of postsecondary course content.

(2) Provide administrators, including principals and counselors, with professional development that will enable them to create strong and effective Advanced Placement courses in their schools.

(3) Provide teachers of students in grades seven through 12 with preadvanced course professional development and materials that prepare students for success in Advanced Placement courses.

(4) Provide consulting expertise and technical assistance to support implementation.

(5) Prioritize assistance to schools designated as low-performing by the State Board of Education and provide for frequent visits to the schools targeted by the Partnership.

(g) The Partnership shall report annually to the Department of Public Instruction on the Partnership's implementation of its responsibilities under subsection (f) of this section.

(h) The State Board of Education shall report annually by December 15 to the Joint Legislative Education Oversight Committee on advanced courses in North Carolina. The report shall include, at a minimum, the following information:

(1) The North Carolina Advanced Placement Partnership's report to the Department of Public Instruction as required by subsection (g) of this section and the State Board's assessment of that report.

(2) Number of students enrolled in advanced courses and participating in advanced course examinations, including demographic information by gender, race, and free and reduced-price lunch status.

(3) Student performance on advanced course examinations, including information by course, local school administrative unit, and school.
(4) Number of students participating in 10th grade PSAT/NMSQT testing.
(5) Number of teachers attending summer institutes offered by the North Carolina Advanced Placement Partnership.
(6) Distribution of funding appropriated for advanced course testing fees and professional development by local school administrative unit and school.
(7) Status and efforts of the North Carolina Advanced Placement Partnership.
(8) Other trends in advanced courses and examinations. (2013-360, s. 8.27(b); 2014-5, s. 12; 2014-115, ss. 49.5, 84; 2015-264, s. 60; 2017-57, s. 7.28D(a); 2017-102, s. 48(h).)

Article 11.

High School Competency Testing.

§§ 115C-175 through 115C-188: Repealed by Session Laws 1985 (Regular Session, 1986), c. 1014, s. 74(a).

Article 12.

Statewide Testing Program.

§§ 115C-189 through 115C-202: Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1014, s. 74(a).

Article 13.

Community Schools Act.

§ 115C-203. Title of Article.

This Article shall be known and may be cited as the "Community Schools Act." (1977, c. 682; 1981, c. 423, s. 1.)

§ 115C-204. Purpose of Article.

The purpose of this Article is to encourage greater community involvement in the public schools and greater community use of public school facilities. To this end it is declared to be the policy of this State:

(1) To provide for increased involvement by citizens in their local schools through community schools advisory councils.
(2) To assure maximum use of public school facilities by the citizens of each community in this State.

It is further declared to be the policy of this State that, to the extent sufficient funds are made available, each local board of education shall comply with the provisions of this Article. (1977, c. 682; 1981, c. 423, s. 1.)

§ 115C-205. Definitions.

As used in this Article:

(1) The term "community schools advisory council" means a committee of citizens organized to advise community school coordinators, administrators, and local boards of education in the involvement of citizens in the educational process and in the use of public school facilities.

(2) The term "community schools coordinator" means an employee of a local board of education whose responsibility it is to promote and direct maximum use of the public schools and public school facilities as centers for community development.

(3) The term "interagency council" means a committee of agency and organizational representatives appointed by the Governor to work with the Superintendent of Public Instruction concerning the involvement of statewide agencies and organizations with the public schools.

(4) The term "public school facility" means any education facility under the jurisdiction of a local board of education, whether termed an elementary school, middle school, junior high school, high school or union school. (1977, c. 682; 1981, c. 423, s. 1.)

§ 115C-206. State Board of Education; duties; responsibilities.

The Superintendent of Public Instruction shall prepare and present to the State Board of Education recommendations for general guidelines for encouraging increased community involvement in the public schools and use of public school facilities. These recommendations shall include, but shall not be limited to provisions for:

(1) The use of public school facilities by governmental, charitable or civic organizations for activities within the community.

(2) The utilization of the talents and abilities of volunteers within the community for the enhancement of public school programs including tutoring, counseling and cultural programs and projects.

(3) Increased communications between the staff and faculty of the public schools, other community institutions and agencies, and citizens in the community.

(4) Local boards of education are to be directed to give priority in the use of school facilities to 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, in order to encourage schools to facilitate access for students to participate in activities provided by these groups at times other than instructional time during the school day for the purposes of encouraging civic education.

Based on the recommendations of the Superintendent of Public Instruction, the State Board of Education shall adopt appropriate policies and guidelines for encouraging

increased community involvement in the public schools and use of the public school facilities. (1977, c. 682; 1981, c. 423, s. 1; 1995, c. 450, s. 8; 2015-249, s. 1.)

§ 115C-207. Authority and responsibility of local boards of education.

Every local board of education that uses State funds to implement programs under this Article shall:

(1) Develop programs and plans for increased community involvement in the public schools based upon policies and guidelines adopted by the State Board of Education.

(1a) Develop policies and programs designed to encourage the use of community-based academic booster organizations, which may be known as Community Achievement Network – Developing Our Educational Resources (CAN DOER) organizations, to provide tutoring and other appropriate services to encourage and support student academic achievement.

(1b) Develop policies and/or procedures for approving the use of volunteer organizations and for approving the use of individual volunteers.

(1c) Develop policies and/or procedures designed to make information available to parents and students about what tutoring and other academic support services are available to students in the community or through school volunteers or other community organizations.

(2) Develop programs and plans for increased community use of public school facilities based upon policies and guidelines adopted by the State Board of Education

(3) Establish rules governing the implementation of such programs and plans in its public schools and submit these rules along with adopted programs and plans to the State Board of Education for approval by the State Board of Education.

(4) Give priority in the use of school facilities to 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, in order to encourage schools to facilitate access for students to participate in activities provided by these groups at times other than instructional time during the school day for the purposes of encouraging civic education. If the local board of education denies priority access to a patriotic society listed in Title 36 of the United States Code, the local board shall provide reasons for the denial in writing to the requesting entity.

Programs and plans developed by a local board of education may provide for the establishment of one or more community schools advisory councils for the public schools under the board's jurisdiction and for the employment of one or more community schools

coordinators. The local board of education shall establish the terms and conditions of employment for the community schools coordinators.

Every local board of education using State funds to implement a community schools program under this Article may enter into agreements with other local boards of education, agencies and institutions for the joint development of plans and programs and the joint expenditure of these State funds. (1977, c. 682; 1981, c. 423, s. 1; 1995, c. 450, s. 9; 2009-453, s. 1; 2015-249, s. 2.)

§ 115C-208. Community schools advisory councils; duties; responsibilities; membership.

Every local board of education that establishes a community schools program under this Article may establish one or more community schools advisory councils which may become involved in matters affecting the educational process in accordance with rules established by the local board of education and approved by the State Board of Education and further may consider ways of increasing community involvement in the public schools and utilization of public school facilities. Community schools advisory councils may assist local boards of education in the development and preparation of the plans and programs to achieve such goals, may assist in the implementation of such plans and programs and may provide such other assistance as may be requested by the local boards of education.

Community schools advisory councils may work with local school officials and personnel, parent-teacher organizations, and community groups and agencies in providing maximum opportunities for public schools to serve the communities, and may encourage the maximum use of volunteers in the public schools.

At least one half of the members of each community schools advisory council should be the parents of students in the particular public school system: Provided, that less than twenty-five percent (25%) of the pupils attending a particular school reside outside the immediate community of the school, at least one half of the members should be parents of students in the particular school for which the advisory council is established. Wherever possible the local board of education is encouraged to include at least one high school student. The size of the councils and the terms of membership on the councils shall be determined by the local board of education in accordance with the State guidelines. (1977, c. 682; 1979, c. 828; 1981, c. 423, s. 1; 1995, c. 450, s. 10.)

§ 115C-209. Community schools coordinators.

Every local board of education may employ one or more community schools coordinators and shall establish the terms and conditions of their employment. Community schools coordinators shall be responsible for:

(1) Providing support to the community schools advisory councils and public school officials.
(2) Fostering cooperation between the local board of education and appropriate community agencies.
(3) Encouraging maximum use of community volunteers in the public schools.
(4) Performing any other duties as may be assigned by the local superintendent and the local board of education, consistent with the purposes of this Article. (1977, c. 682; 1981, c. 423, s. 1; 1995, c. 450, s. 11.)

§ 115C-209.1. Nondisclosure of certain volunteer records.

(a) The records comprising a volunteer file of a local school administrative unit are not public records as provided in Chapter 132 of the General Statutes. These records shall be open for inspection only to the following individuals:

(1) The volunteer, former volunteer, individual who applied to be a volunteer, or that individual's properly authorized agent who may examine the individual's file in its entirety at any reasonable time.

(2) The superintendent and other supervisory personnel.

(3) The parent or guardian of any student with whom the volunteer has or had contact.

(4) Members of the local board of education and the board's attorney.

(5) A party to a lawsuit, by authority of a subpoena or proper court order, only to the extent authorized by and in accordance with that subpoena or court order.

(b) A local board of education shall also release or permit the inspection of a volunteer file, except as prohibited by State or federal law, if prior to the release of the information or inspection of the file:

(1) The local board of education determines that the release of the information or inspection of the file is essential (i) to maintaining the integrity of the local board of education or (ii) to maintaining the level or quality of services provided by the local board of education; or

(2) The local board of education makes a written finding that there is a substantial showing of the criteria set forth in subdivision (1) of this subsection. The local board of education's written finding shall be a public record.

(c) A volunteer shall be notified at the time the individual applies to volunteer that the local board of education may maintain a volunteer file on the individual, and that information in that file may be open to inspection in accordance with this section.

(d) This section shall not be construed to require a local school administrative unit to maintain records on volunteers, former volunteers, or individuals applying to be volunteers.

(e) As used in this section, the following terms mean:

(1) Volunteer. – An individual who provides services to a local board of education without expectation of compensation and with the understanding that the local board of education is under no obligation to continue accepting those services or to compensate the volunteer for them.

(2) Volunteer file. – Any information collected by the local board of education regarding volunteers, former volunteers, and individuals applying to be volunteers that relates to the individual's application, selection or nonselection, performance, disciplinary action, or termination, wherever that information is located or in whatever form it is maintained. (2003-353, s. 1.)

Article 13A.

State Advisory Council on Indian Education.

§ 115C-210. Council established.

There is hereby established an advisory council to the State Board of Education to be known as the "State Advisory Council on Indian Education". (1987 (Reg. Sess., 1988), c. 1084, s. 1.)

§ 115C-210.1. Membership – How appointed.

(a) The Council shall consist of 15 members, as follows:

(1) Two legislative members appointed as follows:

a. One member appointed by the President Pro Tempore of the Senate.

b. One member appointed by the Speaker of the House of Representatives.

(2) Two American Indian members from higher education, who are preferably faculty members. The Board of Governors of The University of North Carolina and the State Board of Community Colleges shall each appoint a member.

(3) One American Indian member from the North Carolina Commission on Indian Affairs to be appointed by that Commission.

(4) Five American Indian parents of students enrolled in K-12 public schools, including charter schools.

(4a) Five American Indian K-12 public school educators, one member who shall be a Title VII director or coordinator, to be appointed by the State Board of Education from a list of recommendations submitted by the North Carolina Commission on Indian Affairs. For the purposes of this subdivision, a K-12 educator may be a school administrator, classroom teacher, resource teacher, or school counselor. A member appointed pursuant to this subdivision must hold a current North Carolina professional educator license.

(5) Repealed by Session Laws 2015-295, s. 1, effective October 29, 2015.

(b) American Indian members of the Council shall be broadly representative of North Carolina Indian tribes and organizations, North Carolina State-recognized tribes and organizations (Coharie Tribe, Eastern Band of the Cherokee Nation, Haliwa-Saponi Indian Tribe, Lumbee Tribe of North Carolina, Meherrin Indian Tribe, Occaneechi Band of the Saponi Nation, Sappony, Waccamaw Siouan Tribe, Cumberland County Association for Indian People, Guilford Native American Association, Metrolina Native American Association, Triangle Native American Society, and any other Indian tribe gaining State recognition in the future), and parents and educators from tribes recognized by the United States Department of the Interior, Bureau of Indian Affairs. (1987 (Reg. Sess., 1988), c. 1084, s. 1; 1991, c. 739, s. 13; 1997-456, s. 27; 2015-295, s. 1.)

§ 115C-210.2. Term of office.

The Legislative members, the higher education members, and the member from the North Carolina Commission on Indian Affairs shall serve for an unspecified term at the pleasure of their respective appointing authorities. The public school educators and the Indian parents shall each be divided into two classes, with one class being appointed initially for a term of one year and one class being appointed initially for a term of two years. Assignment of initial appointees to classes shall be by lot conducted by the State Board of Education just prior to the initial appointment. All subsequent terms shall be for a period of two years, and no member shall serve for more than two consecutive full terms. (1987 (Reg. Sess., 1988), c. 1084, s. 1.)

§ 115C-210.3. Organization, meetings, and compensation.

(a) At its initial meeting, the Council shall elect a chairperson from its membership.

(b) The Council shall meet in space to be provided by the Department of Public Instruction on such dates as are agreed on by the membership from meeting to meeting: provided, however, that the Council shall meet at least three, but no more than four times each year. The Council may meet at emergency meetings called by the chairperson. The Department of Public Instruction shall provide necessary staff support and supplies to enable the Council to carry out its duties in an effective manner.

(c) Council members shall serve without pay, but shall receive travel allowances, lodging, subsistence and per diem as provided by G.S. 138-5. (1987 (Reg. Sess., 1988), c. 1084, s. 1.)

§ 115C-210.4. Duties of the Council.

It shall be the duty of the Advisory Council:

(1) To review annually relevant data on American Indian students using reports made available to the Council by the Department of Public Instruction. The review shall include, but not be limited to, data on academic performance, growth, suspension and expulsion events, dropouts, and graduation rates.

(2) To advocate for meaningful programs to reduce and eventually eliminate low achievement and concurrent high attrition rates among American Indian students.

(2a) To prepare an annual report that includes an action plan and make an annual presentation to the State Board of Education to advise the State Board on ways to meet the educational needs of American Indian students more effectively based on the State Board's strategies, policies, and information.

(3) To present and share the annual report with the Indian Tribes and Indian organizations referenced in Article 71A of the General Statutes and organizations holding membership on the North Carolina State Commission of Indian Affairs pursuant to G.S. 143B-407 at the statewide Indian Unity Conference and with the North Carolina State Commission of Indian Affairs, along with an action plan based on recommendations.

(4) To work closely with the Department of Public Instruction, Tribal Leaders, and Title VII Coordinators to improve coordination and communication between and among programs.

(4a) To improve consultations among the State Board of Education, the Department of Public Instruction, and American Indian tribal communities, students, parents, and educators.

(5) To advise the State Board of Education on any other aspect of American Indian education when requested by the State Board to do so. (1987 (Reg. Sess., 1988), c. 1084, s. 1; 1997-456, s. 27; 2013-295, s. 1.)

§§ 115C-211 through 115C-214. Reserved for future codification purposes.

Article 14.

Driver Education.

§ 115C-215. Administration of driver education program by the Department of Public Instruction.

(a) In accordance with criteria and standards approved by the State Board of Education, the State Superintendent of Public Instruction shall organize and administer a standardized program of driver education to be offered at the public high schools of this State for all physically and mentally qualified persons who (i) are older than 14 years and six months, (ii) are approved by the principal of the school, pursuant to rules adopted by the State Board of Education, (iii) are enrolled in a public or private high school within the State or are receiving instruction through a home school as provided by Part 3 of Article 39 of Chapter 115C of the General Statutes, and (iv) have not previously enrolled in the program. The driver education program shall be for the purpose of making available public education to all students on driver safety and training. The State Board of Education shall use for this purpose all funds appropriated pursuant to subsection (f) of this section to the Department of Public Instruction and may use all other funds that become available for its use for this purpose.

(b) The driver education curriculum shall include the following:

(1) Instruction on the rights and privileges of the handicapped and the signs and symbols used to assist the handicapped relative to motor vehicles, including the "international symbol of accessibility" and other symbols and devices as provided in Article 2A of Chapter 20 of the General Statutes.

(2) At least six hours of instruction on the offense of driving while impaired and related subjects.

(3) At least six hours of actual driving experience. To the extent practicable, this experience may include at least one hour of instruction on the techniques of defensive driving.

(4) At least one hour of motorcycle safety awareness training.

(5) Instruction on law enforcement procedures for traffic stops that is developed in consultation with the State Highway Patrol, the North Carolina Sheriff's Association, and the North Carolina Association of Chiefs of Police. The instruction shall provide a description of the actions that a motorist should take during a traffic stop, including appropriate interactions with law enforcement officers.

(c) The State Board of Education shall establish and implement a strategic plan for the driver education program. At a minimum, the strategic plan shall consist of goals and performance indicators, including the number of program participants as compared to the number of persons projected to be eligible to participate in the program, the implementation of a standard curriculum for the program, expenditures for the program, and the success rate of program participants in receiving a drivers license as reported by the Division of Motor Vehicles. The strategic plan shall also outline specific roles and duties of an advisory

committee consisting of employees of the Division of Motor Vehicles and the Department of Public Instruction and other stakeholders in driver education.

(c1) If a local school administrative unit does not comply with any reporting requirements imposed on the unit for the purposes of implementing the strategic plan established by the State Board of Education pursuant to subsection (c) of this section, the Department of Public Instruction may withhold up to five percent (5%) of the State funds allocated to a local school administrative unit for driver education until the unit reports the information required by the Department.

(d) The State Board of Education shall adopt a salary range for the delivery of driver education courses by driver education instructors who are public school employees. The salary range shall be based on the driver education instructor's qualifications, certification, and licensure specific to driver education.

(e) The State Board of Education shall adopt rules to permit local boards of education to enter contracts with public or private entities to provide a program of driver education at public high schools. All driver education instructors shall meet the requirements established by the State Board of Education; provided, however, driver education instructors shall not be required to hold teacher certificates.

(f) The clear proceeds of the newly established motor vehicle registration late fee charged pursuant to G.S. 20-88.03, as enacted by S.L. 2015-241, shall be used to provide a dedicated source of revenue for the drivers education program administered by the Department of Public Instruction in accordance with this section and shall be appropriated by the General Assembly for this purpose for the 2016-2017 fiscal year and subsequent fiscal years thereafter.

(g) The Department of Public Instruction shall have a full-time director and other professional, administrative, technical, and clerical personnel as may be necessary for the statewide administration of the driver education program. Of the funds appropriated to the Department each fiscal year pursuant to subsection (f) of this section, the Department may use up to two percent (2%) of those funds for the direct costs for the statewide administration of the program, including any necessary positions. (1953, c. 1196; 1955, c. 1372, art. 23, s. 4; 1959, c. 573, s. 16; 1981, c. 423, s. 1; 1991, c. 689, s. 32(b); 2011-145, s. 28.37(a); 2011-334, s. 1; 2015-241, ss. 5.3(c), 8.39(a); 2016-94, ss. 5.2, 8.5; 2017-95, s. 2; 2018-5, s. 7.11(b).)

§ 115C-216. Boards of education required to provide courses in operation of motor vehicles.

(a) Course of Training and Instruction Required in Public High Schools. – Local boards of education shall offer noncredit driver education courses in high schools using the standardized curriculum provided by the Department of Public Instruction.

(b) Inclusion of Expense in Budget. – The local boards of education shall include as an item of instructional service and as a part of the current expense fund of the budget of the high schools under their supervision, the expense necessary to offer the driver education course.

(c) through (f) Repealed by Session Laws 1991, c. 689, s. 32(c).

(g) Fee for Instruction. – The local boards of education shall fund driver education courses from funds available to them and may charge each student participating in a driver education course a fee of up to sixty-five dollars ($65.00) to offset the costs of providing the training and instruction. If a local board of education charges a fee for participation in a driver education course, the local board shall provide a process for reduction or waiver of that fee for students unable to pay the fee due to economic hardship. (1955, c. 817; 1965, c. 397; 1981, c. 423, s. 1; 1991, c. 689, s. 32(c); 2011-145, ss. 28.37(b), 31.1; 2013-360, s. 34.20(a); 2014-100, s. 8.15(c); 2015-241, s. 8.39(b); 2016-94, s. 8.5.)

§§ 115C-217 through 115C-221. Reserved for future codification purposes.

Article 14A.

Charter Schools.

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

(a) Purpose of Charter Schools. – The purpose of this Article is to authorize a system of charter schools to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently of existing schools, as a method to accomplish all of the following:

(1) Improve student learning;

(2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically gifted;

(3) Encourage the use of different and innovative teaching methods;

(4) Create new professional opportunities for teachers, including the opportunities to be responsible for the learning program at the school site;

(5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and

(6) Hold the schools established under this Article accountable for meeting measurable student achievement results, and provide the schools with a method to change from rule-based to performance-based accountability systems.

(b) North Carolina Charter Schools Advisory Board. –

(1) Advisory Board. – There is created the North Carolina Charter Schools Advisory Board, hereinafter referred to in this Article as the Advisory Board. The Advisory Board shall be located administratively within the Department of Public Instruction and shall report to the State Board of Education.

(2) Membership. – The State Superintendent of Public Instruction, or the Superintendent's designee, shall be the secretary of the Advisory Board

and a nonvoting member. The Advisory Board shall consist of the following 11 voting members:

a. Repealed by Session Laws 2016-126, 4th Ex. Sess., s. 17, effective January 1, 2017.

b. Four members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121.

c. Four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121.

d. Two members appointed by the State Board of Education who are not current members of the State Board of Education and who are charter school advocates in North Carolina.

e. The Lieutenant Governor or the Lieutenant Governor's designee.

(3) Covered board. – The Advisory Board shall be treated as a board for purposes of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes.

(4) Qualifications of members. – Members appointed to the Advisory Board shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, assessment, curriculum and instruction, public charter schools, and public education law. All appointed members of the Advisory Board shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.

(5) Terms of office and vacancy appointments. – Appointed members shall serve four-year terms of office beginning on July 1. No appointed member shall serve more than eight consecutive years. Vacancy appointments shall be made by the appointing authority for the remainder of the term of office.

(6) Presiding officers and quorum. – The Advisory Board shall annually elect a chair and a vice-chair from among its membership. The chair shall preside over the Advisory Board's meetings. In the absence of the chair, the vice-chair shall preside over the Advisory Board's meetings. A majority of the Advisory Board constitutes a quorum.

(7) Presiding officers and quorum. – Meetings. – Meetings of the Advisory Board shall be held upon the call of the chair or the vice-chair with the approval of the chair.

(8) Expenses. – Members of the Advisory Board shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).

(9) Removal. – Any appointed member of the Advisory Board may be removed by a vote of at least two-thirds of the members of the Advisory Board at any duly held meeting for any cause that renders the member incapable or unfit to discharge the duties of the office.

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

a. To make recommendations to the State Board of Education on the adoption of rules regarding all aspects of charter school operation, including time lines, standards, and criteria for acceptance and approval of applications, monitoring of charter schools, and grounds for revocation of charters.

b. To review applications and make recommendations to the State Board for final approval of charter applications.

c. To make recommendations to the State Board on actions regarding a charter school, including renewals of charters, nonrenewals of charters, and revocations of charters.

d. To undertake any other duties and responsibilities as assigned by the State Board.

(11) Duties of the chair of the Advisory Board. – In addition to any other duties prescribed in this Article, the chair of the Advisory Board, or the chair's designee, shall advocate for the recommendations of the Advisory Board at meetings of the State Board upon the request of the State Board.

(c) North Carolina Office of Charter Schools. –

(1) Establishment of the North Carolina Office of Charter Schools. – There is established the North Carolina Office of Charter Schools, hereinafter referred to in this Article as the Office of Charter Schools. The Office of Charter Schools shall be administratively located in the Department of Public Instruction. The Office of Charter Schools shall consist of an executive director appointed by the Superintendent of Public Instruction and such other professional, administrative, technical, and clerical personnel as may be necessary to assist the Office of Charter Schools in carrying out its powers and duties.

(2) Executive Director. – The Executive Director shall report to and serve at the pleasure of the Superintendent of Public Instruction at a salary established by the Superintendent within the funds appropriated for this purpose. The duties of the Executive Director shall include presenting the recommendations of the Advisory Board at meetings of the State Board upon the request of the State Board.

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

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

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

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

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

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

e1. Assist certain charter schools seeking to participate in the NC prekindergarten program in accordance with G.S. 115C-218.115.

f. Other duties as assigned by the State Board.

(4) Agency cooperation. – All State agencies and departments shall cooperate with the Office of Charter Schools in carrying out its powers and duties as necessary in accordance with this Article. (1995 (Reg. Sess., 1996), c. 731, s. 2; 2013-355, s. 1(a); 2014-101, s. 7; 2015-248, s. 1(a); 2016-126, 4th Ex. Sess., s. 17; 2017-6, s. 3; 2017-173, s. 5(a).)

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

(a) Any nonprofit corporation seeking to establish a charter school may apply to establish a charter school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

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

(1) A description of a program that implements one or more of the purposes in G.S. 115C-218.

(2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.

(3) The governance structure of the school including the names of the initial members of the board of directors of the nonprofit, tax-exempt corporation and the process to be followed by the school to ensure parental involvement. A teacher employed by the board of directors to teach in the charter school may serve as a nonvoting member of the board of directors for the charter school.

(4) The local school administrative unit in which the school will be located.

(5) Admission policies and procedures.

(6) A proposed budget for the school and evidence that the financial plan for the school is economically sound.

(7) Requirements and procedures for program and financial audits.

(8) A description of how the school will comply with G.S. 115C-218.20, 115C-218.25, 115C-218.30, 115C-218.40, 115C-218.45, 115C-218.50, 115C-218.55, 115C-218.60, 115C-218.65, 115C-218.70, 115C-218.75, 115C-218.80, 115C-218.85, and 115C-218.90.

(9) Types and amounts of insurance coverage, including bonding insurance for the principal officers of the school, to be obtained by the charter school.

(10) The term of the charter.

(11) The qualifications required for individuals employed by the school.

(12) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired.

(13) The number of students to be served, which number shall be at least 80, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 80 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.

(14) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided.

(15) The process for conducting a weighted lottery that reflects the mission of the school if the school desires to use a weighted lottery.

(c) The State Board shall establish reasonable fees of no less than five hundred dollars ($500.00) and no more than one thousand dollars ($1,000) for initial and renewal charter applications, in accordance with Article 2A of Chapter 150B of the General Statutes. No application fee shall be refunded in the event the application is rejected or the charter is revoked. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 1; 2011-282, s. 8; 2013-355, s. 1(b); 2014-101, ss. 1, 7; 2015-248, ss. 2, 3(a).)

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

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

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

§ 115C-218.3. Fast-track replication of high-quality charter schools.

Upon recommendations by the Office of Charter Schools and the Charter Schools Advisory Board, the State Board of Education shall adopt a process and rules for fast-track replication of high-quality charter schools currently operating in the State. The State Board of Education shall not require a planning year for applicants selected through the fast-track replication process. In addition to the requirements for charter applicants set forth in this Article, the fast-track replication process adopted by the State Board of Education shall, at a minimum, require a board of directors of a charter school to demonstrate one of the following in order to qualify for fast-track replication:

(1) A charter school in this State governed by the board of directors has student academic outcomes that are comparable to the academic outcomes of students in the local school administrative unit in which the charter school is located and can provide three years of financially sound audits.

(2) The board of directors agrees to contract with an education management organization or charter management organization that can demonstrate that it can replicate high-quality charter schools in the State that have proven student academic success and financial soundness.

The State Board of Education shall ensure that the rules for a fast-track replication process provide that decisions by the State Board of Education on whether to grant a charter through the replication process are completed in less than 120 days from the application submission date. The State Board shall provide a decision no later than October 15 of the year immediately preceding the year of the proposed school opening. (2014-101, s. 6.5; 2016-79, s. 2; 2017-173, s. 2(a).)

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

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

(1) The application meets the requirements set out in this Article and such other requirements as may be adopted by the State Board of Education.

(2) The applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner.

(3) Granting the application would achieve one or more of the purposes set out in G.S. 115C-218.

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

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

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

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

(e), (f) Repealed by Session Laws 2016-79, s. 1.1, effective June 30, 2016, and applicable beginning with the 2016-2017 school year. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 3; 2000-67, s. 8.23; 2001-424, s. 28.26; 2003-354, s. 2; 2004-203, s. 45(a); 2011-164, ss. 1, 2(a), 3; 2013-355, s. 1(d); 2013-359, s. 2; 2014-101, ss. 1.5, 2, 2.5(a), 7; 2015-248, s. 5; 2016-79, s. 1.1.)

§ 115C-218.6. Review and renewal of charters.

(a) The State Board of Education shall review the operations of each charter school at least once prior to the expiration of its charter to ensure that the school is meeting the expected academic, financial, and governance standards.

(b) The State Board of Education shall renew a charter upon the request of the chartering entity for subsequent periods of 10 years, unless one of the following applies:

(1) The charter school has not provided financially sound audits for the immediately preceding three years.

(2) The charter school's student academic outcomes for the immediately preceding three years have not been comparable to the academic outcomes of students in the local school administrative unit in which the charter school is located.

(3) The charter school is not, at the time of the request for renewal of the charter, substantially in compliance with State law, federal law, the school's own bylaws, or the provisions set forth in its charter granted by the State Board of Education.

If one of the conditions set forth in subdivisions (1) through (3) of this subsection applies, then the State Board may renew the charter for a period of less than 10 years or not renew the charter. (2016-79, s. 1.2.)

§ 115C-218.7. Material revisions of charters.

(a) A material revision of the provisions of a charter shall be made only upon the approval of the State Board of Education.

(b) Enrollment growth of greater than twenty percent (20%) shall be considered a material revision of the charter if the charter is currently identified as low-performing. The State Board shall not approve a material revision for enrollment growth of greater than twenty percent (20%) for a charter that is currently identified as low-performing. Enrollment growth of greater than thirty percent (30%) shall be considered a material revision of the charter for any charter school that is not identified as low-performing. The State Board may approve such additional enrollment growth of greater than thirty percent (30%) only if it finds all of the following:

(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment.
(2) The charter school has commitments for ninety percent (90%) of the requested maximum growth.
(3) The charter school is not currently identified as low-performing.
(4) The charter school meets generally accepted standards of fiscal management.
(5) The charter school is, at the time of the request for the enrollment increase, substantially in compliance with State law, federal law, the charter school's own bylaws, and the provisions set forth in its charter granted by the State Board.

(c) For the purposes of calculating actual enrollment and maximum authorized enrollment under subdivision (1) of subsection (b) of this section, if a charter school is pursuing a material revision of enrollment growth based on a proposed capital expansion of the charter school, but fails to meet the requirements of subdivision (1) of subsection (b) of this section, the State Board shall have the discretion to investigate and determine whether subdivision (1) of subsection (b) of this section may be waived to grant the school's material revision request to allow the capital expansion to move forward. In making such a determination, the charter school shall provide the State Board with documentation to show evidence that demonstrates sufficiently in the State Board's discretion all of the following:

(1) The requested increase in enrollment growth is within a reasonable margin of the threshold necessary to support the requested material revision.
(2) The charter school has secured financing for its proposed capital expansion conditioned on its obtaining the requested material revision of enrollment growth.

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

§ 115C-218.8. Nonmaterial revisions of charters.

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

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

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

§ 115C-218.10. Charter school exemptions.

Except as provided in this Article and pursuant to the provisions of its charter, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 4; 2013-355, s. 1(e); 2014-101, s. 7.)

§ 115C-218.15. Charter school operation.

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

(b) A charter school shall be operated by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application. The board of directors of the charter schools shall adopt a conflict of interest and anti-nepotism policy that includes, at a minimum, the following:

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

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

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

(c) A charter school shall operate under the written charter signed by the State Board and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during

the charter approval process, and any terms and conditions imposed on the charter school by the State Board of Education. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) The board of directors of the private nonprofit corporation operating the charter school may have members who reside outside of the State. However, the State Board of Education may require by policy that a majority of the board of directors and all officers of the board of directors reside within the State. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 4; 2013-355, s. 1(e); 2014-101, s. 7; 2015-248, s. 6(a).)

§ 115C-218.20. Civil liability and insurance requirements.

(a) The board of directors of a charter school may sue and be sued. The State Board of Education shall adopt rules to establish reasonable amounts and types of liability insurance that the board of directors shall be required by the charter to obtain. The board of directors shall obtain at least the amount of and types of insurance required by these rules to be included in the charter. Any sovereign immunity of the charter school, of the organization that operates the charter school, or its members, officers, or directors, or of the employees of the charter school or the organization that operates the charter school, is waived to the extent of indemnification by insurance.

(b) No civil liability shall attach to the State Board of Education, the Superintendent of Public Instruction, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2016-126, 4th Ex. Sess., s. 18.)

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

The charter school and board of directors of the private nonprofit corporation that operates the charter school are subject to the Public Records Act, Chapter 132 of the General Statutes, and the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes. Notwithstanding the requirements of Chapter 132 of the General Statutes, inspection of charter school personnel records for those employees directly employed by the board of directors of the charter school shall be subject to the requirements of Article 21A of this Chapter. The charter school and board of directors of the private nonprofit corporation that operates the charter school shall use the same schedule established by the Department of Natural and Cultural Resources for retention and disposition of records of local school administrative units. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s.

1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, ss. 5, 7; 2015-241, s. 14.30(s).)

§ 115C-218.30. Accountability; reporting requirements to State Board of Education.

(a) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.

(b) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.

(c) The school shall report at least annually to the State Board of Education the information required by the State Board. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7.)

§ 115C-218.35. Charter school facilities.

(a) A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space from a sectarian organization, the charter school shall not use the name of that organization in the name of the charter school.

(b) At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. For the purposes of this section, a building or land is available if it is closed, vacant, or otherwise unused for classrooms, administrative offices, or extracurricular activities of the schools of the local board of education. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility.

(c) The local board of education shall make a decision on the charter's request to lease a building or land within 90 days of the request. If the local board of education does not make a decision within 90 days of the request of the charter school, the local board of education shall provide a written explanation of its reasons for not acting on the request within the 90-day time period to the North Carolina Charter Schools Advisory Board and the Joint Legislative Education Oversight Committee.

(d) If a charter school has requested to lease available buildings or land and is unable to reach an agreement with the local board of education, the charter school shall have the right to appeal to the board of county commissioners in which the building or land is located. The board of county commissioners shall have the final decision-making authority on the leasing of the available building or land. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 4; 2013-355, s. 1(e); 2014-101, s. 7; 2016-79, s. 1.8.)

§ 115C-218.40. Charter school transportation.

The charter school may provide transportation for students enrolled at the school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school. At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board may contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles of the charter school. A local board may charge the charter school a reasonable charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this section if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7.)

§ 115C-218.45. Admission requirements.

(a) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school.

(b) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.

(c) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any local school administrative unit

in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.

(d) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.

(d1) A student who is not a domiciliary of the State shall be permitted to register to enroll in a charter school or participate in a lottery for admission to a charter school within the State by remote means, including electronic means, prior to commencement of the student's residency in the State if all of the following apply:

(1) A parent or legal guardian is on active military duty and is transferred or pending transfer pursuant to an official military order to a military installation or reservation in the State.

(2) Upon request by the charter school where the student seeks to register to enroll or participate in a lottery for admission, a parent or legal guardian provides a copy of the official military order transferring to a military installation or reservation located in the State.

(3) A parent or legal guardian completes and submits the charter school's required enrollment forms and documentation, except that proof of residency and documentation related to disciplinary actions pursuant to subsection (i) of this section shall not be required until the student transfers into the State, at which time they shall be required prior to commencing attendance.

A charter school shall make available to a student who registers to enroll or who participates in a lottery pursuant to this subsection the same opportunities available to a student enrolled or participating in a lottery contemporaneously with domicilia in the State, such as registering for courses and applying for programs that require additional request or application. A student enrolled pursuant to this subsection may not attend the charter school until proof of residency is provided in accordance with the requirements of the charter school. Nothing in this subsection shall be construed to curtail a charter school's authority pursuant to subsection (i) of this section.

(e) Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, or disability. A charter school shall not limit admission to students on the basis of race, creed, national origin, religion, or ancestry. A charter school whose mission is single-sex education may limit admission on the basis of sex. Within one year after the charter school begins operation, the charter school shall make efforts for the population of the school to reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(f) The charter school may give enrollment priority to any of the following:

(1) Siblings of currently enrolled students who were admitted to the charter school in a previous year. For the purposes of this section, the term "siblings" includes any of the following who reside in the same household: half siblings, stepsiblings, and children residing in a family foster home.

(2) Siblings of students who have completed the highest grade level offered by that school and who were enrolled in at least four grade levels offered by the charter school or, if less than four grades are offered, in the maximum number of grades offered by the charter school.

(2a) A student who was enrolled in a preschool program operated by the charter school in the prior year.

(3) Limited to no more than fifteen percent (15%) of the school's total enrollment, unless granted a waiver by the State Board of Education, the following:

a. Children of the school's full-time employees.

b. Children of the charter school's board of directors.

(4) A student who was enrolled in the charter school within the two previous school years but left the school (i) to participate in an academic study abroad program or a competitive admission residential program or (ii) because of the vocational opportunities of the student's parent.

(5) A student who was enrolled in another charter school in the State in the previous school year that does not offer the student's next grade level.

(6) A student who was enrolled in another charter school in the State in the previous school year that does not offer the student's next grade level and both of the charter schools have an enrollment articulation agreement to accept students or are governed by the same board of directors.

(7) A student who was enrolled in another charter school in the State in the previous school year.

(g) Lottery procedures for siblings:

(1) If siblings apply for admission to a charter school and a lottery is needed under subsection (h) of this section, the charter school may enter one surname into the lottery to represent all of the siblings applying at the same time. If that surname of the siblings is selected, then all of the siblings shall be admitted to the extent that space is available and does not exceed the grade level capacity.

(2) If multiple birth siblings apply for admission to a charter school and a lottery is needed under subsection (h) of this section, the charter school shall enter one surname into the lottery to represent all of the multiple birth siblings applying at the same time. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted.

(g1) If a procedure for a weighted lottery reflecting the mission of the school has been approved by the State Board as part of the charter, and a lottery is needed under subsection (h) of this section, the lottery shall be conducted according to the procedure in the charter.

(h) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.

(i) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, ss. 4, 4.5, 7; 2015-248, ss. 3(b), (c); 2016-79, s. 1.5; 2017-173, ss. 4, 5(b); 2018-5, s. 7.18(a).)

§ 115C-218.50. Charter school nonsectarian.

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations. A charter school shall not be affiliated with a nonpublic sectarian school or a religious institution.

(b) A charter school shall not charge tuition or fees except as follows:

(1) A charter school may charge any fees that are charged by the local school administrative unit in which the charter school is located.

(2) A charter school, upon approval by the board of directors of the charter school, may establish fees for extracurricular activities, except those fees shall not exceed the fees for the same extracurricular activities charged by a local school administrative unit in which forty percent (40%) or more of the students enrolled in the charter school reside. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2015-248, s. 7.)

§ 115C-218.55. Nondiscrimination in charter schools.

A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, ss. 3, 7.)

§ 115C-218.60. Student discipline.

The school is subject to and shall comply with Article 27 of Chapter 115C of the General Statutes, except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its charter after due process. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7.)

§ 115C-218.65. North Carolina School Report Cards.

A charter 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 charter school shall ensure that the overall school performance score and grade earned by the charter school for the current and previous four school years is prominently displayed on the school Web site. If a charter school earned an overall school performance grade of D or F, the charter school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2017-57, s. 7.26(h).)

§ 115C-218.70. Driving eligibility certificates.

In accordance with rules adopted by the State Board of Education, the designee of the school's board of directors shall do all of the following:

(1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.

(2) 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.

(3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7.)

§ 115C-218.75. General operating requirements.

(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. 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 Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five through 12. 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 Department of Public Instruction shall also ensure that charter schools provide students in grades seven through 12 with 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 Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

The Department of Public Instruction shall also ensure that the guidelines for individual diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are implemented in charter schools in which students with diabetes are enrolled and that charter schools otherwise comply with the provisions of G.S. 115C-375.3.

The Department of Public Instruction shall ensure that charter schools comply with G.S. 115C-375.2A. The board of directors of a charter 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.

(b) School Risk Management Plan. – Each charter school, in coordination with local law enforcement and emergency management agencies, is encouraged to adopt a School Risk Management Plan (SRMP) relating to incidents of school violence. In constructing and maintaining these plans, charter schools 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.

Charter schools are encouraged to 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.

(c) Policy Against Bullying. – A charter 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 charter school adopts a policy to prohibit bullying and harassing behavior, the charter 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).

(d) School Safety Exercises. – At least once a year, a charter school is encouraged to hold a full school-wide lockdown exercise with local law enforcement and emergency management agencies that are part of the charter school's SRMP.

(e) School Safety Information Provided to Division of Emergency Management. – A charter school is encouraged to 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.

(e1) **(Effective July 1, 2019)** Anonymous Tip Line. – A charter school shall develop and operate an anonymous tip line in accordance with G.S. 115C-105.51.

(f) Access for Youth Groups. – Charter 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. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a),

9.7(q); 2014-100, ss. 8.23(b), 8.32(b); 2014-101, s. 7; 2015-241, s. 8.26(h); 2015-249, s. 3; 2018-5, s. 7.26(c).)

§ 115C-218.80. Display of the United States and North Carolina flags and the recitation of the Pledge of Allegiance.

A charter school shall (i) display the United States and North Carolina flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand, salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each classroom. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7.)

§ 115C-218.85. Course of study requirements.

(a) Instructional Program. –

(1) The school shall provide instruction each year for at least 185 days or 1,025 hours over nine calendar months.

(2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the charter.

(3) A charter school shall conduct the student assessments required by the State Board of Education.

(4) The school is subject to and shall comply with Article 9 of Chapter 115C of the General Statutes and The Individuals with Disabilities Education Improvements Act, 20 U.S.C. § 1400, et seq., (2004), as amended.

(b) Reading Proficiency and Student Promotion. –

(1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.

(2) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and

reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:

a. Limited English Proficient students with less than two school years of instruction in an English as a Second Language program.

b. Students with disabilities, as defined in G.S. 115C-106.3(1), and whose individualized education program indicates (i) the use of the NCEXTEND1 alternate assessment, (ii) at least a two school year delay in educational performance, or (iii) receipt of intensive reading interventions for at least two school years.

c. Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment of reading comprehension. The charter school shall notify the State Board of Education of the alternative assessment used to demonstrate reading proficiency.

d. Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students.

e. Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second, or third grades.

(3) The charter school shall provide notice to parents and guardians when a student is not reading at grade level. The notice shall state that if the student's reading deficiency is not remediated by the end of third grade, the student shall be retained unless he or she is exempt from mandatory retention for good cause. Notice shall also be provided to parents and guardians of any student who is to be retained under this subsection of the reason the student is not eligible for a good cause exemption, as well as a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

(4) The charter school shall annually publish on the charter school's Web site and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:

a. The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.

b. The number and percentage of third grade students not demonstrating reading proficiency and who do not return to the charter school for the following school year.

c. The number and percentage of third grade students who take and pass an alternative assessment of reading comprehension and the name of each alternative assessment used for this purpose with the number of students who passed it.

d. The number and percentage of third grade students retained for not demonstrating reading proficiency.

e. The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in

subdivision (2) of this subsection. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-5, s. 9; 2014-101, s. 7; 2018-5, s. 7.24(c).)

§ 115C-218.90. Employment requirements.

(a) Employees. –

(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers or contract with an education management organization or charter management organization to employ and provide teachers to perform the particular service for which they are employed in the school; at least fifty percent (50%) of these teachers shall hold teacher licenses. All teachers who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.

The board also may employ necessary employees who are not required to hold teacher licenses to perform duties other than teaching and may contract for other services. The board may discharge teachers and nonlicensed employees.

(2) No local board of education shall require any employee of the local school administrative unit to be employed in a charter school.

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

(5) Education employee associations shall have equal access to charter school employees as provided in G.S. 115C-335.9.

(b) Criminal History Checks. –

(1) If the local board of education of the local school administrative unit in which a charter school is located has adopted a policy requiring criminal history checks under G.S. 115C-332, then the board of directors of each charter school located in that local school administrative unit shall adopt a policy mirroring the local board of education policy that requires an applicant for employment to be checked for a criminal history, as defined in G.S. 115C-332. Each charter school board of directors shall apply its policy uniformly in requiring applicants for employment to be checked for a criminal history before the applicant is given an unconditional job offer. A charter school board of directors may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check. If the local board of education adopts a policy providing for periodic checks of criminal history of employees, then the board of directors of each charter school

located in that local school administrative unit shall adopt a policy mirroring that local board of education policy. 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 an employee's criminal history was relevant to the employee's resignation or dismissal.

(2) There shall be no liability for negligence on the part of the State Board of Education or the board of directors of the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this subsection. 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. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2017-157, ss. 2(c), (n); 2017-173, s. 1; 2017-189, s. 4(a).)

§ 115C-218.94. Identification of low-performing and continually low-performing charter schools.

(a) Identification of Low-Performing Charter Schools. – The State Board of Education shall identify low-performing charter schools on an annual basis. Low-performing charter schools are those that earn an overall school performance grade of D or F and a school growth score of "met expected growth" or "not met expected growth" as defined by G.S. 115C-83.15.

(b) Identification of Continually Low-Performing Charter Schools. – The State Board of Education shall identify continually low-performing charter schools on an annual basis. A continually low-performing charter school is a charter school that has been designated by the State Board as low-performing for at least two of three consecutive years. (2016-79, s. 1.7(a); 2017-57, s. 7.26(i).)

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

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

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

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

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

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

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

Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings shall be conducted in private. Evidence of statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any court action. However, no evidence otherwise discoverable is inadmissible merely because it is

presented or discussed in a mediation. The mediator shall not be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediation in any civil proceeding for any purpose, except disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators. The mediator may determine that an impasse exists and discontinue the mediation at any time. The mediator shall not make any recommendations or public statement of findings or conclusions. The State Board and the charter school shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 6; 2011-164, s. 5; 2013-355, s. 1(g); 2014-100, s. 8.34(c); 2014-101, s. 7; 2016-79, s. 1.7(b).)

§ 115C-218.100. Dissolution of a charter school.

(a) Funds Reserved for Closure Proceedings. – A charter school that has elected to participate in the North Carolina Retirement System pursuant to G.S. 135-5.3 shall, for as long as the charter school continues to participate in the North Carolina Retirement System, maintain for the purposes of ensuring payment of expenses related to closure proceedings in the event of a voluntary or involuntary dissolution of the charter school, one or more of the options set forth in this subsection. The minimum aggregate value of the options chosen by the charter school shall be fifty thousand dollars ($50,000). The State Board of Education shall not allocate any funds under G.S. 115C-218.105 to a charter school unless the school has provided documentation to the State Board that the charter school has met the requirements of this subsection. Permissible options to satisfy the requirements of this subsection include one or more of the following:

(1) An escrow account.
(2) A letter of credit.
(3) A bond.
(4) A deed of trust.

(a1) In the event of a voluntary or involuntary dissolution of the charter school, the funds reserved for closure proceedings in subsection (a) of this section shall be used to pay wages owed to charter school employees, funds owed to the North Carolina Retirement System pursuant to G.S. 135-8, and funds owed to the State Health Plan, in that order. Other expenses shall be paid from the remaining balance in the funds reserved for closure proceedings in subsection (a) of this section.

(b) Distribution of Assets. – Upon dissolution of a charter school, all net assets of the charter school purchased with public funds shall be deemed the property of the local school administrative unit in which the charter school is located. (2014-100, s. 8.34(b); 2014-101, s. 7; 2015-168, s. 4; 2015-248, s. 8(a).)

§ 115C-218.105. State and local funds for a charter school.

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

(1) An amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which

the charter school is located for each child attending the charter 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 charter school who is a child with disabilities; and

(3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

In accordance with G.S. 115C-218.7 and G.S. 115C-218.8, the State Board shall allow for annual adjustments to the amount allocated to a charter school based on its enrollment growth in school years subsequent to the initial year of operation.

In the event a child with disabilities leaves the charter school and enrolls in a public school during the first 60 school days in the school year, the charter 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 a charter school during the first 60 school days in the school year, the State Board shall allocate to the charter school the pro rata amount of additional funds for children with disabilities.

(b) Funds allocated by the State Board of Education may be used to enter into operational and financing leases for real property or mobile classroom units for use as school facilities for charter schools and may be used for payments on loans made to charter schools for facilities, equipment, or operations. However, State funds shall not be used to obtain any other interest in real property or mobile classroom units. The school also may own land and buildings it obtains through non-State sources. No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions. Every contract or lease into which a charter school enters shall include the previous sentence.

(c) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil share of the local current expense fund of the local school administrative unit for the fiscal year. The per pupil share of the local current expense fund shall be transferred to the charter school within 30 days of the receipt of monies into the local current expense fund. The local school administrative unit and charter school may use the process for mediation of differences between the State Board and a charter school provided in G.S. 115C-218.95(d) to resolve differences on calculation and transference of the per pupil share of the local current expense fund. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides.

(d) The local school administrative unit shall also provide each charter school to which it transfers a per pupil share of its local current expense fund with all of the following information within the 30-day time period provided in subsection (c) of this section:

(1) The total amount of monies the local school administrative unit has in each of the funds listed in G.S. 115C-426(c).
(2) The student membership numbers used to calculate the per pupil share of the local current expense fund.
(3) How the per pupil share of the local current expense fund was calculated.
(4) Any additional records requested by a charter school from the local school administrative unit in order for the charter school to audit and verify the calculation and transfer of the per pupil share of the local current expense fund.

In addition, the local school administrative unit shall provide to the State Board of Education all of the information required by this subsection for each charter school to which it transfers a per pupil share of its local current expense fund. This information shall be provided to the State Board of Education by November 1 of each year. The State Board shall adopt a policy to govern the collection of this information. The State Board shall issue a letter of noncompliance to a local school administrative unit that does not provide the State Board with the information required by this subsection.

(e) Prior to commencing an action under subsection (c) of this section, the complaining party shall give the other party 15 days' written notice of the alleged violation. The court shall award the prevailing party reasonable attorneys' fees and costs incurred in an action under subsection (c) of this section. The court shall order any delinquent funds, costs, fees, and interest to be paid in equal monthly installments and shall establish a time for payment in full that shall be no later than one year from the entry of any judgment.

(f) Charter schools may request appropriations directly from cities, as authorized by G.S. 160A-700. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 7; 1998-212, s. 9.20(f); 2003-423, s. 3.1; 2006-69, s. 3(f); 2013-355, s. 1(h); 2014-101, ss. 5.2, 5.6, 7; 2016-79, s. 1.6; 2017-173, s. 7; 2018-5, s. 38.8(d).)

§ 115C-218.110. Notice of the charter school process; review of charter schools.

(a) The State Board of Education shall distribute information announcing the availability of the charter school process described in this Article to each local school administrative unit and public postsecondary educational institution and, through press releases, to each major newspaper in the State.

(b) The State Board of Education shall review and evaluate the educational effectiveness of the charter schools authorized under this Article and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report annually no later than January 15 to the Joint Legislative Education Oversight Committee on the following:

(1) The current and projected impact of charter schools on the delivery of services by the public schools.
(2) Student academic progress in the charter schools as measured, where available, against the academic year immediately preceding the first academic year of the charter schools' operation.
(3) Best practices resulting from charter school operations.

(4) Other information the State Board considers appropriate. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-18, s. 15(i); 1997-430, ss. 8, 9; 1999-27, s. 1; 2013-355, s. 1(i); 2014-101, s. 7; 2014-115, s. 85.)

§ 115C-218.115. Operation of NC Pre-K programs.

(a) A charter school may apply to a local contracting agency to participate in the NC prekindergarten (NC Pre-K) program as a local program site offering families a high-quality prekindergarten experience. A charter school that seeks to operate as a NC Pre-K program site may request administrative and technical assistance from the Office of Charter Schools with its application to the local contracting agency if the charter school meets all of the following:

(1) The charter school has operated as a charter school for at least three school years.
(2) The charter school is not currently identified as low-performing.
(3) The charter school meets generally accepted standards of fiscal management.
(4) The charter school is substantially in compliance with State law, federal law, the charter school's own bylaws, and the provisions set forth in its charter granted by the State Board.

(b) The Office of Charter Schools, in consultation with the Department of Health and Human Services, Division of Child Development and Early Education, shall assist a charter school under subsection (a) of this section with determining whether the charter school's proposed program meets (i) the building standards set forth in subsection (c) of this section and any other State standards for the charter school to be licensed as a child care facility and (ii) the standards required to be selected as a site under the NC Pre-K program. If the charter school does not meet these standards, the Office of Charter Schools shall provide assistance to the charter school in identifying any obstacles to its participation in the NC Pre-K program.

(c) A charter school that otherwise meets all of the requirements for a child care facility license may use an existing or newly constructed classroom in the charter school for three- and four-year-old preschool students without modifications to the classroom or building if the classroom meets all of the following:

(1) Has at least one toilet and one sink for hand washing.
(2) Meets kindergarten standards for overhead light fixtures.
(3) Meets kindergarten standards for floors, walls, and ceilings.
(4) Has floors, walls, and ceilings that are free from mold, mildew, and lead hazards. (2017-173, s. 5(c).)

Article 15.

North Carolina School of Science and Mathematics.

§§ 115C-222 through 115C-229: Repealed by Session Laws 1985, c. 757, s. 206(a).

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).)

§§ 115C-234 through 115C-238. Reserved for future codification purposes.

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).)

Part 9. Cooperative Innovative High School Programs.

§ 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.

(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).)

§ 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 provide instruction each school year for at least 185 days or 1,025 instructional hours during nine calendar months, shall comply with laws and policies relating to the education of students with disabilities, and shall comply with Article 27 of this Chapter. The requirements of G.S. 115C-84.2 shall not apply to the school calendar of a program approved under this Part.

(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.)

§ 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 on the evaluation of these schools. (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).)

§§ 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, 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.)

§ 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 of regional school.

(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. (2011-241, 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 devisor 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.

(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) School Risk Management Plan. – Each regional school, in coordination with local law enforcement agencies, is encouraged to adopt a School Risk Management Plan (SRMP) relating to incidents of school violence. In constructing and maintaining these plans, a regional 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.

(7b) Schematic diagrams and school crisis kits. – Regional schools are encouraged to 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.

(7c) School safety exercises. – At least once a year, a regional school is encouraged to hold a full school-wide lockdown exercise with local law enforcement and emergency management agencies that are part of the regional school's SRMP.

(7d) Safety information provided to the Department of Public Safety, Division of Emergency Management. – A regional school is encouraged to 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.

(7e) **(Effective July 1, 2019)** Anonymous Tip Line. – A regional school shall develop and operate an anonymous tip line in accordance with G.S. 115C-105.51.

(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. (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).)

§ 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. (2011-241, ss. 1, 6(b); 2013-360, s. 9.7(e), (r); 2017-157, ss. 2(d), (n).)

§ 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. (2011-241, s. 1; 2013-363, s. 3.5; 2018-5, s. 38.8(e).)

§ 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).)

Article 17.

Supporting Services.

Part 1. Transportation.

§ 115C-239. Authority of local boards of education.

Each local board of education is hereby authorized to acquire, own, lease, contract and operate school buses for the transportation of pupils enrolled in the public schools of such local school administrative unit, and of persons employed in the operation of such schools in accordance with rules and regulations adopted by the State Board of Education under the authority of G.S. 115C-12(17) and within the limitations set forth in G.S. 115C-239 to 115C-246, 115C-248 to 115C-254 and 115C-256 to 115C-259. Boards of education which own and operate school buses for the transportation of pupils shall have authority to establish separate systems of transportation for pupils attending elementary schools and for pupils attending middle schools, junior high schools, or senior high schools. Each such board may operate such buses to and from such of the schools within the local school administrative unit, and in such number, as the board shall from time to time find practicable and appropriate for the safe, orderly and efficient transportation of such pupils and employees to such schools. (1955, c. 1372, art. 21, s. 1; 1973, c. 586, s. 1; 1981, c. 423, s. 1; 1983, c. 630, s. 2; 2001-97, s. 3.)

§ 115C-240. Authority and duties of State Board of Education.

(a) The State Board of Education shall promulgate rules and regulations for the operation of a public school transportation system.

(b) The State Board of Education shall be under no duty to supply transportation to any pupil or employee enrolled or employed in any school. Neither the State nor the State Board of Education shall in any manner be liable for the failure or refusal of any local board of education to furnish transportation, by school bus or otherwise, to any pupil or employee of any school, or

for any neglect or action of any county or city board of education, or any employee of any such board, in the operation or maintenance of any school bus.

(c) The State Board of Education shall from time to time adopt such rules and regulations with reference to the construction, equipment, color, and maintenance of school buses, the number of pupils who may be permitted to ride at the same time upon any bus, and the age and qualifications of drivers of school buses as it shall deem to be desirable for the purpose of promoting safety in the operation of school buses. Every school bus that is capable of operating on diesel fuel shall be capable of operating on diesel fuel with a minimum biodiesel concentration of B-20, as defined in G.S. 143-58.4. No school bus shall be operated for the transportation of pupils unless such bus is constructed and maintained as prescribed in such regulations and is equipped with adequate heating facilities, a standard signaling device for giving due notice that the bus is about to make a turn, an alternating flashing stoplight on the front of the bus, an alternating flashing stoplight on the rear of the bus, and such other warning devices, fire protective equipment and first aid supplies as may be prescribed for installation upon such buses by the regulation of the State Board of Education.

(d) The State Board of Education shall assist local boards of education by establishing guidelines and a framework through which local boards may establish, review and amend school bus routes prepared pursuant to G.S. 115C-246. The State Board shall also require local boards to implement the Transportation Information Management System or an equivalent system approved by the State Board of Education, no later than September 1, 1992. The State Board of Education shall also assist local boards of education with reference to the acquisition and maintenance of school buses or any other question which may arise in connection with the organization and operation of school bus transportation systems of local boards.

(e) The State Board of Education shall allocate to the respective local boards of education funds appropriated from time to time by the General Assembly for the purpose of providing transportation to the pupils enrolled in the public schools within this State. Such funds shall be allocated by the State Board of Education in accordance with the number of pupils to be transported, the length of bus routes, road conditions and all other circumstances affecting the cost of the transportation of pupils by school bus to the end that the funds so appropriated may be allocated on a fair and equitable basis, according to the needs of the respective local school administrative units and so as to provide the most efficient use of such funds. Such allocation shall be made by the State Board of Education at the beginning of each fiscal year, except that the State Board may reserve for future allocation from time to time within such fiscal year as the need therefor shall be found to exist, a reasonable amount not to exceed ten percent (10%) of the total funds available for transportation in such fiscal year from such appropriation. If there is evidence of inequitable or inefficient use of funds, the State Board of Education shall be empowered to review school bus routes established by local boards pursuant to G.S. 115C-246 as well as other factors affecting the cost of the transportation of pupils by school bus.

(f) The respective local boards shall use such funds for the purposes of replacing, maintaining, insuring, and operating public school buses and service vehicles in accordance with the provisions of G.S. 115C-239 to 115C-246, 115C-248 to 115C-254 and 115C-256 to 115C-259 and for no other purpose, but in the making of expenditures for such purposes shall be subject to rules and regulations promulgated by the State Board of Education. (1955, c. 1372, art. 21, p. 2; 1981, c. 423, s. 1; 1983, c. 630, ss. 3-6; 1989 (Reg. Sess., 1990), c. 1066, s. 96(a); 1991 (Reg. Sess., 1992), c. 900, s. 77(a); 2007-423, s. 1.)

§ 115C-241. Assignment of school buses to schools.

The superintendent of the schools of each local school administrative unit which shall elect to operate a school bus transportation system, shall, prior to the commencement of each regular school year and subject to the approval of the local board of education, allocate and assign to the respective public schools within the jurisdiction of such local school administrative unit the school buses which the local board shall own and direct to be operated during such school year. From time to time during such school year, subject to the directions of the local board of education, the superintendent may revise such allocation and assignment of school buses in accordance with the changing transportation needs and conditions at the respective schools of such local school administrative unit, and may, pursuant to such revision, assign an additional bus or buses to a school or withdraw a bus or buses from a school in such local school administrative unit. (1955, c. 1372, art. 21, s. 3; 1981, c. 423, s. 1.)

§ 115C-242. Use and operation of school buses.

Public school buses may be used for the following purposes only, and it shall be the duty of the superintendent of the school of each local school administrative unit to supervise the use of all school buses operated by such local school administrative unit so as to assure and require compliance with this section:

(1) A school bus may be used for the transportation of pupils enrolled in and employees in the operation of the school to which such bus is assigned by the superintendent of the local school administrative unit. Except as otherwise herein provided, such transportation shall be limited to transportation to and from such school for the regularly organized school day, and from and to the points designated by the principal of the school to which such bus is assigned, for the receiving and discharging of passengers. No pupil or employee shall be so transported upon any bus other than the bus to which such pupil or employee has been assigned pursuant to the provisions of this Article: Provided, that children enrolled in a Headstart program or any NC Pre-K program may be transported on public school buses, and any additional costs associated with such contractual arrangements shall be incurred by the benefitting Head Start or NC Pre-K program: Provided further, that children with disabilities may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported are or have been placed in that program by a local school administrative unit as a result of the State or the unit's duty to provide such children with a free appropriate public education.

(2) In the case of illness or injury requiring immediate medical attention of any pupil or employee while such pupil or employee is present at the school in which such pupil is enrolled or such employee is employed, the principal of such school may, in his discretion, permit such pupil or employee to be transported by a school bus to a doctor or hospital for

medical treatment, and may, in his discretion, permit such other person as he may select to accompany such pupil.

(3) The board of education of any local school administrative unit may operate the school buses of such unit one day prior to the opening of the regular school term for the transportation of pupils and employees to and from the school to which such pupils are assigned or in which they are enrolled and such employees are employed, for the purposes of the registration of students, the organization of classes, the distribution of textbooks, and such other purposes as will, in the opinion of the superintendent of the schools of such unit, promote the efficient organization and operation of such public schools.

(4) A local board of education which elects to operate a school bus transportation system, shall not be required to provide transportation for any school employee, nor shall such board be required to provide transportation for any pupil living within one and one half miles of the school in which such pupil is enrolled.

(5) Local boards of education, under rules adopted by the State Board of Education, may permit the use and operation of school buses for the transportation of pupils and instructional personnel as the board deems necessary to serve the instructional programs of the schools. Included in the use permitted by this section is the transportation of children with disabilities, and children enrolled in programs that require transportation from the school grounds during the school day, such as special vocational or occupational programs. On any such trip, a city or county-owned school bus shall not be taken out of the State.

If State funds are inadequate to pay for the transportation approved by the local board of education, local funds may be used for these purposes. Local boards of education shall determine that funds are available to such boards for the transportation of children to and from the school to which they are assigned for the entire school year before authorizing the use and operation of school buses for other services deemed necessary to serve the instructional program of the schools.

Children with disabilities may be transported to and from the nearest appropriate private school having a special education program approved by the State Board of Education if the children to be transported have been placed in that program by a local school administrative unit as a result of the State or the unit's duty to provide those children with a free appropriate public education.

(6) School buses owned by a local board of education may be used for emergency management purposes in any state of disaster or local state of emergency declared under Chapter 166A of the General Statutes. Under rules and regulations adopted by a local board of education, its school buses may be used with its permission for the purpose of testing

emergency management plans; however, neither the State Board of Education nor the local board of education shall be liable for the operating cost, any compensation claims or any tort claims resulting from the test.

(7) Uses authorized by G.S. 115C-243. (1955, c. 1372, art. 21, s. 4; 1957, c. 1103; 1969, c. 47; 1973, c. 869; 1977, c. 830, ss. 2, 3; 1977, 2nd Sess., c. 1280, s. 2; 1979, c. 885; 1981, c. 423, s. 1; 1983, c. 630, s. 7; c. 768, s. 8; 1987, c. 827, s. 49; 2006-66, s. 7.18(i); 2006-69, s. 3(g); 2016-30, s. 1.)

§ 115C-242.1. Installation and operation of automated school bus safety camera.

(a) Definition. – An "automated school bus safety camera" is a device that is affixed to a school bus, as that term is used in G.S. 20-217, that is synchronized to automatically record photographs or video of a vehicle at the time the vehicle is detected for a violation of (i) G.S. 20-217 or (ii) an ordinance adopted under G.S. 153A-246.

(b) Installation and Operation. – Automated school bus safety cameras may be installed and operated on any school bus operated by a local board of education within a county that has adopted an ordinance under G.S. 153A-246 as follows:

(1) A local board of education may install and operate automated school bus safety cameras without contracting with a private vendor.

(2) A local board of education may enter into a service contract to install and operate automated school bus safety cameras with a private vendor. Contracts shall be let in accordance with the provisions of G.S. 143-129 applicable to purchases of apparatus, supplies, materials, or equipment. The maximum length of any contract entered into under this subdivision shall be three years. A contract entered into under this subdivision may contain an option to renew or extend the contract for only one additional term not to exceed three years.

(3) Upon request by one or more local boards of education, the State Board of Education shall enter into a contract for a statewide service or contracts for regional services to install and operate automated school bus safety cameras with a private vendor. These contracts shall be let in accordance with the provisions of Article 3 of Chapter 143 of the General Statutes.

(c) Interlocal Agreements. – Any local board of education, board of county commissioners, and law enforcement agency may enter into an interlocal agreement pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes that is necessary and proper to effectuate the purpose and intent of this section and G.S. 153A-246. Any agreement entered into pursuant to this subsection may include provisions on cost-sharing and reimbursement to which the local board of education, board of county commissioners, or law enforcement agency freely and voluntarily agree for the purposes of effectuating this section and G.S. 153A-246.

(d) Evidence in Criminal Proceeding. – Any photographs or videos recorded by an automated school bus safety camera that capture a violation of G.S. 20-217 shall also be provided to the investigating law enforcement agency for use as evidence in any proceeding alleging a violation of G.S. 20-217. (2017-188, s. 2.)

§ 115C-243. Use of school buses by senior citizen groups.

(a) Any local board of education may enter into agreements with the governing body of any county, city, or town, or with any State agency, or any agency established or identified pursuant to Public Law 89-73, Older Americans Act of 1965, to provide for the use of school buses to provide transportation for the elderly.

(b) Each agreement entered into under this section must provide the following:

(1) That the board of education shall be reimbursed in full for the proportionate share of any and all costs, both fixed and variable, of such buses attributable to the uses of the bus pursuant to the agreement.

(2) That the board of education shall be held harmless from any and all liability by virtue of uses of the buses pursuant to the agreement.

(3) That adequate liability insurance is maintained under G.S. 115C-42 to insure the board of education, and that adequate insurance is maintained to protect the property of the board of education. The minimum limit of liability insurance shall not be less than the maximum amount of damages which may be awarded under the Tort Claims Act, G.S. 143-291. The costs of said insurance shall be paid by the agency contracting for the use of the bus, either directly or through the fee established by the agreement.

(c) Before any board of education shall enter into any agreement under this section, it must by resolution establish a policy for use of school buses by the elderly. The policy must give first priority to school uses under G.S. 115C-242 and 115C-42. The resolution must provide for a schedule of charges under this section. Such resolution, if adopted, shall be amended or readopted at least once per year to provide for adjustments to the schedule of charges or to provide for maintaining the same schedule of charges. If the price bid for the service by a private bus carrier is less than the schedule of charges adopted by the board of education, then the board of education may not enter into the agreement.

(d) No board of education shall be under any duty to sign any agreement under this section.

(e) No bus operated under the provisions of this section shall travel outside of the area consisting of the county or counties where the local board of education is located and the county or counties contiguous to that county or counties, but not outside of the State of North Carolina.

(f) Before any agreement under this section may be signed, the State Board of Education shall adopt a uniform schedule of charges for the use of buses under this section. Such schedule shall include a charge by the hour and by the mile which shall cover all costs both fixed and variable, including depreciation, gasoline, fuel, labor, maintenance, and insurance. The schedule may be amended by the State Board of Education. The schedule of charges adopted by the local board of education under subsection (c) may vary from the State schedule only to cover changes in wages. (1977, 2nd Sess., c. 1280, s. 1; 1981, c. 423, s. 1; 1983, c. 717, s. 92; 1985 (Reg. Sess., 1986), c. 955, ss. 17, 18; 2006-203, s. 32.)

§ 115C-244. Assignment of pupils to school buses.

(a) The superintendent or superintendent's designee shall assign the pupils and employees who may be transported to and from school upon the bus or buses assigned to each school and shall implement and enforce the plan developed under G.S. 115C-246. No pupil or employee shall be permitted to ride upon any school bus to which such pupil or employee has not been so assigned

by the superintendent or superintendent's designee, except by the express direction of the superintendent or superintendent's designee.

(b) In the event that the superintendent or superintendent's designee assigns a school bus to be used in the transportation of pupils to two or more schools, the superintendent or superintendent's designee shall assign the pupils to be transported to and from each school by that bus, and the principals of the respective schools shall implement and enforce this assignment of pupils.

(c) Any pupil enrolled in any school, or the parent or guardian of any such pupil, or the person standing in loco parentis to such pupil, may apply to the principal of such school for transportation of such pupil to and from such school by school bus for the regularly organized school day. The principal shall deliver the application to the superintendent or superintendent's designee, who shall assign a pupil to a school bus if the pupil is entitled to school bus transportation under this Article and the rules of the State Board of Education. Such assignment shall be made by the superintendent or superintendent's designee so as to provide for the orderly, safe and efficient transportation of pupils to such school and so as to promote the orderly and efficient administration of the school and the health, safety and general welfare of the pupils to be so transported. Assignments of pupils and employees to school buses may be changed by the superintendent or superintendent's designee as he may from time to time find proper for the safe and efficient transportation of such pupils and employees.

(d) The parent or guardian of any pupil enrolled in any school, or the person standing in loco parentis to any such pupil, who shall apply under subsection (c) of this section for the transportation of such pupil to and from such school by school bus, may, if such application is denied, or if such pupil is assigned to a school bus not satisfactory to such parent, guardian, or person standing in loco parentis to such pupil, pursuant to rules and regulations established by the local board of education, apply to such board for such transportation upon a school bus designated in such application, and shall be entitled to a prompt and fair hearing by such board in accordance with the rules and regulations established by it. The majority of such board shall be a quorum for the purpose of holding such hearing and passing upon such application, and the decision of the majority of the members present at such hearing shall be the decision of the board. If, at such hearing, the board shall find that pupil is entitled to be transported to and from such school upon the school bus designated in such application, or if the board shall find that the transportation of such pupil upon such bus to and from such school will be for the best interests of such pupil, will not interfere with the proper administration of such school, or with the safe and efficient transportation by school bus of other pupils enrolled in such school and will not endanger the health or safety of the children there enrolled, the board shall direct that such child be assigned to and transported to such school upon such bus.

(e) A decision of a local board under subsection (d) is final and, except as provided in this subsection, is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision.

(f) No employee shall be assigned to or permitted to ride upon a school bus when to do so will result in the overcrowding of such bus or will prevent the assignment to such bus of a pupil entitled to ride thereon, or will otherwise, in the opinion of the superintendent or superintendent's designee, be detrimental to the comfort or safety of the pupils assigned to such bus, or to the safe, efficient and proper operation of such bus. (1955, c. 1372, art. 21, s. 5; 1981, c. 423, s. 1; 1987, c. 827, ss. 47, 48; 1998-220, s. 3.)

§ 115C-245. School bus drivers; monitors; safety assistants.

(a) Each local board, which elects to operate a school bus transportation system, shall employ the necessary drivers for such school buses. The drivers shall have all qualifications prescribed by the regulations of the State Board of Education herein provided for and must be at least 18 years old and have at least six months driving experience as a licensed operator of a motor vehicle before employment as a regular or substitute driver, but the selection and employment of each driver shall be made by the local board of education, and the driver shall be the employee of such local school administrative unit. Each local board of education shall assign the bus drivers employed by it to the respective schools within the jurisdiction of such board, and the superintendent or superintendent's designee shall assign the drivers to the school buses to be driven by them. No school bus shall at any time be driven or operated by any person other than the bus driver assigned to such bus except by the express direction of the superintendent or superintendent's designee or in accordance with rules and regulations of the appropriate local board of education.

(b) The driver of a school bus subject to the direction of the superintendent or superintendent's designee shall have complete authority over and responsibility for the operation of the bus and the maintaining of good order and conduct upon such bus, and shall report promptly to the principal any misconduct upon such bus or disregard or violation of the driver's instructions by any person riding upon such bus. The principal may take such action with reference to any such misconduct upon a school bus, or any violation of the instructions of the driver, as he might take if such misconduct or violation had occurred upon the grounds of the school.

(c) The driver of any school bus shall permit no person to ride upon such bus except pupils or school employees assigned thereto or persons permitted by the express direction of the superintendent or superintendent's designee to ride thereon.

(d) The superintendent or superintendent's designee may, in his discretion, appoint a monitor for any bus assigned to any school. It shall be the duty of such monitor, subject to the direction of the driver of the bus, to preserve order upon the bus and do such other things as may be appropriate for the safety of the pupils and employees assigned to such bus while boarding such bus, alighting therefrom or being transported thereon, and to require such pupils and employees to conform to the rules and regulations established by the local board of education for the safety of pupils and employees upon school buses. Such monitors shall be unpaid volunteers who shall serve at the pleasure of the superintendent or superintendent's designee.

(e) A local board of education may, in its discretion within funds available, employ transportation safety assistants upon recommendation of the principal through the superintendent. The safety assistants thus employed shall assist the bus drivers with the safety, movement, management, and care of children boarding the bus, leaving the bus, or being transported in it. The safety assistant should be either an adult or a certified student driver who is available as a substitute bus driver. (1955, c. 1372, art. 21, s. 6; 1979, c. 719, ss. 1-4; 1979, 2nd Sess., c. 1156; 1981, c. 423, s. 1; 1987, c. 276; 1989, c. 558, s. 2; 1998-220, s. 4.)

§ 115C-246. School bus routes.

(a) The superintendent of the local school administrative unit shall, prior to the commencement of each regular school year, prepare a plan for a definite route, including stops for receiving and discharging pupils, for each school bus so as to assure the most efficient use of such bus and the safety and convenience of the pupils assigned thereto. The superintendent may, in his

discretion, obtain the advice of the State Board of Education with reference to the plan. The buses shall be operated upon the route so established and not otherwise, except as provided in this Article. From time to time the principal may suggest changes in any such bus route as he shall deem proper for the said purposes, and the same shall be effective when approved by the superintendent of the local school administrative unit.

(b) Unless road or other conditions make it inadvisable, public school buses shall be routed on state-maintained highways, municipal streets, or other streets with publicly dedicated right-of-way. The local board of education shall not be responsible for damage to the roadway. Each public school bus shall be routed so that the bus passes within one mile of the residence of each pupil assigned to that bus. A pupil who lives one and one-half miles or more from the school to which the pupil is assigned shall be eligible for school bus transportation.

(c) All bus routes when established pursuant to this section shall be filed in the office of the board of education of the local school administrative unit, and all changes made therein shall be filed in the office of such board within 10 days after such change shall become effective.

(d) Repealed by Session Laws 1985 (Regular Session, 1986), c. 975, s. 24.

(e) No provision of this Article shall be construed to place upon the State, or upon any county or city, any duty to supply any funds for the transportation of pupils, or any duty to supply funds for the transportation of pupils who live within the corporate limits of the city or town in which is located the public school in which such pupil is enrolled or to which such pupil is assigned, even though transportation to or from such school is furnished to pupils who live outside the limits of such city or town. (1955, c. 1372, art. 21, s. 7; 1959, c. 573, s. 15; 1963, c. 990, ss. 2, 3; 1965, c. 1095, ss. 2, 3; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 24; 1987, c. 827, s. 49; 1989 (Reg. Sess., 1990), c. 1066, s. 96(b); 2005-151, s. 1.)

§ 115C-247. Purchase of activity buses by local boards.

The several local boards of education in the State are hereby authorized and empowered to take title to school buses purchased with local or community funds for the purpose of transporting pupils to and from athletic events and for other local school activity purposes, and commonly referred to as activity buses.

Each local board of education that operates activity buses shall adopt a policy relative to the proper use of the vehicles. The policy shall permit the use of these buses for travel to athletic events during the regular season and playoffs and for travel to other school-sponsored activities.

The provisions of G.S. 115C-42 shall be fully applicable to the ownership and operation of such activity school buses. Activity buses may also be used as provided in G.S. 115C-243. (1955, c. 1256; 1957, c. 685; 1959, c. 573, s. 2; 1961, c. 1102, s. 4; 1977, 2nd Sess., c. 1280, s. 3; 1981, c. 423, s. 1; 2006-208, s. 1.)

§ 115C-248. Inspection of school buses and activity buses; report of defects by drivers; discontinuing use until defects remedied.

(a) The superintendent of each local school administrative unit, shall cause each school bus owned or operated by such local school administrative unit to be inspected at least once each 30 days during the school year for mechanical defects, or other defects which may affect the safe operation of such bus. A report of such inspection, together with the recommendations of the person making the inspection, shall be filed promptly in the office of the superintendent of such local school administrative unit, and a copy thereof shall be forwarded to the principal of the school to which such bus is assigned.

(b) It shall be the duty of the driver of each school bus to report promptly to the principal of the school, to which such bus is assigned, any mechanical defect or other defect which may affect the safe operation of the bus when such defect comes to the attention of the driver, and the principal shall thereupon report such defect to the superintendent of the local school administrative unit. It shall be the duty of the superintendent of the local school administrative unit to cause any and all such defects to be corrected promptly.

(c) If any school bus is found by the principal of the school, to which it is assigned, or by the superintendent of the local school administrative unit, to be so defective that the bus may not be operated with reasonable safety, it shall be the duty of such principal or superintendent to cause the use of such bus to be discontinued until such defect is remedied, in which event the principal of the school, to which such bus is assigned, may permit the use of a different bus assigned to such school in the transportation of the pupils and employees assigned to the bus found to be defective.

(d) The superintendent of each local school administrative unit, shall cause each activity bus which is used for the transportation of students by such local school administrative unit or any public school system therein to be inspected for mechanical defects, or other defects which may affect the safe operation of such activity bus, at the same time and in the same way and manner as the regular public school buses for the normal transportation of public school pupils are inspected. A report of such inspection, together with the recommendations of the person making the inspection, shall be filed with the principal of the school which uses and operates such activity bus and a copy shall be forwarded to the superintendent of the local school administrative unit involved. It shall be the duty of the driver of each activity bus to make the same reports to the principal of the school using and operating such activity bus as is required by this section. If any public school activity bus is found to be so defective that the activity bus may not be operated with reasonable safety, it shall be the duty of such principal to cause the use of such activity bus to be discontinued until such defect is remedied to the satisfaction of the person making the inspection and a report to this effect has been filed in the manner herein prescribed. Nothing in this subsection shall authorize the use of State funds for the purchase, operation or repair of any activity bus. (1955, c. 1372, art. 21, s. 8; 1961, c. 474; 1975, c. 150, s. 2; 1981, c. 423, s. 1.)

§ 115C-249. Purchase and maintenance of school buses, materials and supplies.

(a) To the extent that the funds shall be made available to it for such purpose, a local board of education is authorized to purchase from time to time such additional school buses and service vehicles or replacements for school buses and service vehicles, as may be deemed by such board to be necessary for the safe and efficient transportation of pupils enrolled in the schools within such local school administrative unit. Any school bus so purchased shall be constructed and equipped as prescribed by the provisions of this Article and by the regulations of the State Board of Education issued pursuant thereto. Any school bus so purchased that is capable of operating on diesel fuel shall be capable of operating on diesel fuel with a minimum biodiesel concentration of B-20, as defined in G.S. 143-58.4. At least two percent (2%) of the total volume of fuel purchased annually by local school districts statewide for use in school bus diesel engine motor vehicles shall be biodiesel fuel of a minimum blend of B-20, to the extent that biodiesel blend is available and compatible with the technology of the vehicles or equipment used.

(b) The tax-levying authorities of any county are hereby authorized to make provision from time to time in the capital outlay budget of the county for the purchase of such school buses or service vehicles.

(c) Any funds appropriated from time to time by the General Assembly for the purchase of school buses or service vehicles shall be allocated by the State Board of Education to the respective local boards of education in accordance with the requirements of such boards as determined by the State Board of Education, and thereupon shall be paid over to the respective local boards of education in accordance with such allocation.

(c1) In determining which school buses in the statewide fleet are to be replaced with State funds in a given year, the State Board of Education shall give highest priority to safety concerns.

A bus is eligible for replacement with State funds based on its age and mileage when it is either 20 years old by model year or has been operated for 250,000 miles, except as follows:

(1) A bus that has been operated for less than 150,000 miles is not eligible for replacement regardless of its model year.

(2) A bus that is less than 15 years old by model year is not eligible for replacement until the bus has been operated for 300,000 miles.

(c2) The State Board of Education may authorize the replacement of up to 30 buses each year due to safety concerns regarding the bus or mechanical or structural problems that would place an undue burden on a local school administrative unit.

(c3) A local school administrative unit shall receive an incentive payment of two thousand dollars ($2,000) at the beginning of each school year for each bus that it continues to operate although the bus is eligible for replacement, until the bus is 23 years old by model year. The local school administrative unit may use these bonus funds for the additional maintenance costs of operating buses with higher mileage or for any other school purpose.

(d) The title to any additional or replacement school bus or service vehicle purchased pursuant to the provisions of this section, shall be taken in the name of the board of education of such local school administrative unit, and such bus shall in all respects be maintained and operated pursuant to the provisions of this Article in the same manner as any other public school bus.

(e) It shall be the duty of the county board of education to provide adequate buildings and equipment for the storage and maintenance of all school buses and service vehicles owned or operated by the board of education of any local school administrative unit in such county. It shall be the duty of the tax-levying authorities of such county to provide in its capital outlay budget for the construction or acquisition of such buildings and equipment as may be required for this purpose.

(f) In the event of the damage or destruction of any school bus or service vehicle by fire, collision, or otherwise, the board of education of the local school administrative unit which shall own or operate such bus or service vehicle may apply to the State Board of Education for funds with which to replace it. If the State Board of Education finds that such bus or service vehicle has been destroyed or damaged to the extent that it cannot be made

suitable for further use, and if the State Board of Education finds that the replacement of such bus or service vehicle is necessary in order to enable such local school administrative unit to operate properly its school bus transportation system, the State Board of Education shall allot to the board of education of such local school administrative unit from the funds now held by the State Board of Education for the replacement of school buses or service vehicles, or from funds hereafter appropriated by the General Assembly for that purpose, a sum sufficient to purchase a new school bus or service vehicle to be used as a replacement for such damaged or destroyed bus or service vehicle and upon such allocation such sum shall be paid over to or for the account of the board of education of such local school administrative unit for such purpose.

(g) Repealed by Session Laws 2003-147, s. 3, effective for a local school administrative unit when the unit is certified as being E-Procurement compliant, or April 1, 2004, whichever occurs first.

(h) Appropriations by the General Assembly for the purchase of public school buses shall not revert to the General Fund. Any unexpended portion of those appropriations shall at the end of each fiscal year be transferred to a reserve account and be held, together with any other funds appropriated for the purpose, for the purchase of public school buses. (1955, c. 1372, art. 21, s. 9; 1961, c. 833, s. 16; 1975, c. 879, s. 46; 1981, c. 423, s. 1; 1987, c. 827, s. 49; 1991 (Reg. Sess., 1992), c. 1039, s. 24; 2003-147, s. 3; 2004-203, s. 72(b); 2007-423, s. 2; 2013-360, s. 8.11(a).)

§ 115C-249.1. Purchase of tires for school buses; repair or refurbishment of tires for school buses.

(a) Definitions. – The following terms apply in this section:

(1) Critical tire information. – Tire brand name, tire line name, tire identification numbers, load and pressure markings, tire size designation, service descriptions such as load and speed ratings, and other information and specifications placed on the original tire sidewall by the original tire manufacturer.

(2) School bus. – A vehicle as defined in G.S. 20-4.01(27)m. and G.S. 20-4.01(27)n. that is owned, rented, or leased by a local board of education.

(b) Forensic Tire Standards. – In order to preserve critical tire information, a local board of education shall procure and install for school buses only tires that possess the original, unaltered, and uncovered tire sidewall. Furthermore, a local board of education shall not execute a contract for the repair or refurbishment of tires for school buses that provides for the removal, covering, or other alteration in any manner of the critical tire information contained on the original tire sidewall.

(c) Tire Purchase and Contract Standards Applicability. – All contracts for the purchase, repair, or refurbishment of tires for school buses, or contracts for the purchase of products or services related to the repair or refurbishment of tires for school buses, executed on or after the date this section becomes effective shall comply with the provisions of this section.

(d) Exemption. – Notwithstanding the provisions of this section, a local board of education that owns or has a legally binding contract in place for the future purchase of tires having altered or covered sidewalls prior to the date that this section becomes effective shall perform its existing contractual obligations related thereto and may continue to use those tires on school buses for the useful life of the retreaded tire. (2011-145, s. 28.36(b); 2017-102, s. 5.2(b).)

§ 115C-250. Authority to expend funds for transportation of children with disabilities.

(a) The State Board of Education and local boards of education may expend public funds for transportation of children with disabilities who are unable because of their disability to ride the regular school buses and who have been placed in programs by a local school board as a part of its duty to provide these children with a free appropriate education under Article 9 of this Chapter. At the option of the local board of education with the concurrence of the State Board of Education, funds appropriated to the State Board of Education for contract transportation of children with disabilities may be used to purchase buses and minibuses as well as for the purposes authorized in the budget. The State Board of Education shall adopt rules concerning the construction and equipment of these buses and minibuses.

The Departments of Health and Human Services and Public Safety may also expend public funds for transportation of children with disabilities who are unable because of their disability to ride the regular school buses and who have been placed in programs by one of these agencies as a part of that agency's duty to provide these children with a free appropriate public education under Article 9 of this Chapter.

If a local area mental health center places a child with a disability in an educational program, the local area mental health center shall pay for the transportation of the child who is unable due to the disability to ride the regular school buses to the program.

(b) Funds appropriated for the transportation of children with disabilities may be used to pay transportation safety assistants employed in accordance with G.S. 115C-245(e) for buses to which children with disabilities are assigned. (1955, c. 1372, art. 21, s. 6; 1973, c. 1351, s. 1; 1975, c. 678, ss. 9, 10; 1977, c. 830, s. 1; 1979, c. 719, ss. 1-4; 1979, 2nd Sess., c. 1156; 1981, c. 423, s. 1; c. 912, s. 1; 1981 (Reg. Sess., 1982), c. 1282, s. 31; 1985, c. 479, s. 26(b); 1987, c. 769; 1997-443, s. 11A.118(a); 1998-202, s. 4(n); 2000-137, s. 4(q); 2006-69, s. 3(h); 2017-186, s. 2(ccccc).)

§ 115C-251. Transportation supervisors.

The State Board of Education shall from time to time adopt such rules and regulations with regard to the qualifications of persons employed by local boards of education as chief mechanic or supervisor of transportation as it shall deem necessary or desirable for the purpose of assuring the proper maintenance and safety of school buses. A local board of education shall not employ any person as chief mechanic or supervisor of transportation if that person does not meet the qualifications established by the State Board. (1977, c. 314; 1981, c. 423, s. 1.)

§ 115C-252. Aid in lieu of transportation.

(a) When, by reason of road conditions or otherwise, any local board of education, which shall elect to operate a school bus transportation system, shall find it impracticable to furnish to a pupil transportation by school bus to the school in which such pupil is enrolled, or to which such pupil is assigned, the board may assign such pupil to such other school within such local school administrative unit as the board shall deem advisable, unless the parent or guardian of such pupil or the person standing in loco parentis to such pupil, shall notify the principal of the school, in which such pupil is enrolled or to which such pupil is assigned, of the desire of such pupil to continue to attend such school without the benefit of transportation by school bus.

(b) In the event that any local board of education, which shall operate a system of school bus transportation, shall find it impracticable to furnish to a pupil such transportation to the school in which such pupil is enrolled or to which such pupil is assigned, and if, as a result thereof, such pupil shall be required to obtain board and lodging at a place other than the residence of such pupil in order to attend a school, such board may, in its discretion, provide for the payment to the parent or guardian of such pupil of a sum not to exceed fifty dollars ($50.00) per month for each school month that such pupil shall so obtain board and lodging at a place other than the residence of the pupil for the purpose of attending a school. (1955, c. 1372, art. 21, s. 10; 1973, c. 932; 1981, c. 423, s. 1.)

§ 115C-253. Contracts for transportation.

Any local board of education may, in lieu of the operation by it of public school buses, enter into a contract with any person, firm or corporation for the transportation by such person, firm or corporation of pupils enrolled in the public schools of such local school administrative unit for the same purposes for which such local school administrative unit is authorized by this Article to operate public school buses. Any vehicle used by such person, firm or corporation for the transportation of such pupils shall be constructed and equipped as provided in rules and regulations promulgated by the State Board of Education, and the driver of such vehicle shall possess all of the qualifications prescribed by rules and regulations promulgated by the State Board of Education. Where a contract for transportation of pupils is entered into between a local board of education and any person, firm or corporation which contemplates the use of an automobile or vehicle other than a bus for the transportation of 16 pupils or less, the automobile or vehicle shall not be required to be constructed and equipped as provided for in G.S. 115C-240(c), but shall be constructed and equipped pursuant to rules and regulations promulgated by the State Board of Education. In the event that any local board of education shall enter into such a contract, the board may use for such purposes any funds which it might use for the operation of school buses owned by the board, and the tax-levying authorities of the county or of the city may provide in the county or city budget such additional funds as may be necessary to carry out such contracts. (1955, c. 1372, art. 21, s. 11; 1975, c. 382; 1981, c. 423, s. 1; 1987, c. 827, ss. 49, 50; 2007-423, s. 3.)

§ 115C-254. Use of school buses by State defense militia or North Carolina National Guard.

When requested to do so by the Governor, the board of education of any local school administrative unit is authorized and directed to furnish a sufficient number of school buses to the North Carolina State Defense Militia or the North Carolina National Guard for the purpose of transporting members of the State defense militia or members of the North Carolina National Guard to and from authorized places of encampment, or to and from places to which members of the State defense militia or members of the North Carolina

National Guard are ordered to proceed for the purpose of suppressing riots or insurrections, repelling invasions or dealing with any other emergency. Public school buses so furnished by any local school administrative unit to the State defense militia or the North Carolina National Guard shall be operated by members or employees of the State defense militia or North Carolina National Guard, and all expense of such operation, including any repair or replacement of any bus occasioned by such operation, shall be paid by the State from the appropriations available for the use of the State defense militia or the North Carolina National Guard. (1955, c. 1372, art. 21, s. 12; 1981, c. 423, s. 1; 1999-456, s. 33(e); 2009-281, s. 1; 2011-183, s. 77.)

§ 115C-255. Liability insurance and waiver of immunity as to certain acts of bus drivers.

The securing of liability insurance and the waiver of immunity as to certain torts of school bus drivers, school transportation service vehicle drivers and school activity bus drivers, is subject to the provisions of G.S. 115C-42, except when such vehicles are operated with funds from the State Public School Fund. (1981, c. 423, s. 1.)

§ 115C-256. School bus drivers under Workers' Compensation Act.

Awards to school bus drivers under the Workers' Compensation Act shall be made pursuant to the provisions of G.S. 115C-337(b). (1981, c. 423, s. 1.)

§ 115C-257. Attorney General to pay claims.

The Attorney General is hereby authorized to pay reasonable medical expenses, not to exceed three thousand dollars ($3,000), incurred within one year from the date of accident to or for each pupil who sustains bodily injury or death caused by accident, while boarding, riding on, or alighting from a school bus operated by any local school administrative unit. (1955, c. 1372, art. 22, s. 1; 1981, c. 423, s. 1; c. 576, s. 1; 1998-212, s. 9.17(a).)

§ 115C-258. Provisions regarding payment.

The claims authorized herein may be paid, regardless of whether the injury received by the pupil was due to negligence on the part of the school bus driver, the injured pupil, or any other person. To the extent of payments made under this Article, the Attorney General shall be subrogated to the right of the pupil against any third party legally responsible for the injury. Further, any amounts paid shall constitute a credit against any obligation arising under the provisions of the Tort Claims Act. (1955, c. 1372, art. 22, s. 2; 1981, c. 423, s. 1; c. 576, s. 1.)

§ 115C-259. Claims must be filed within one year.

The right to payment as authorized herein shall be forever barred unless a claim be filed with the Attorney General within one year after the accident. (1955, c. 1372, art. 22, s. 3; 1981, c. 423, s. 1; c. 576, s. 1.)

§§ 115C-260 through 115C-261: Repealed by Session Laws 1981, c. 576, s. 2.

§ 115C-262. Liability insurance and tort liability.

Liability insurance and tort liability of local boards of education for actions arising out of activities conducted pursuant to this Part, are subject to the provisions of G.S. 115C-42. (1981, c. 423, s. 1.)

Part 2. Food Service.

§ 115C-263. Required provision of services.

As a part of the function of the public school system, local boards of education shall provide to the extent practicable school food services in the schools under their jurisdiction. All school food services made available under this authority shall be provided in accordance with standards and regulations recommended by the Superintendent of Public Instruction and approved by the State Board of Education. (1955, c. 1372, art. 5, s. 34; 1965, c. 912; 1967, c. 990; 1975, c. 384; 1981, c. 423, s. 1.)

§ 115C-264. Operation.

(a) In the operation of their public school nutrition programs, the public schools shall participate in the National School Lunch Program established by the federal government. The program shall be under the jurisdiction of the Division of School Support, Child Nutrition Services of the Department of Public Instruction and in accordance with federal guidelines as established by the Food and Nutrition Service of the United States Department of Agriculture.

(b) For nutritional purposes, the public schools shall not (i) use cooking oils in their school food programs that contain trans-fatty acids or (ii) sell processed foods containing trans-fatty acids that were formed during the commercial processing of the foods.

(c) All school food services shall be operated on a nonprofit basis, and any earnings therefrom over and above the cost of operation as defined herein shall be used to reduce the cost of food, to serve better food, or to provide free or reduced-price lunches to indigent children and for no other purpose. The term "cost of operation" means the actual cost incurred in the purchase and preparation of food, the salaries of all personnel directly engaged in providing food services, and the cost of nonfood supplies as outlined under standards adopted by the State Board of Education. "Personnel" means child nutrition supervisors or directors, bookkeepers directly engaged in food service record keeping and those persons directly involved in preparing and serving food. Child nutrition personnel shall be paid from the funds of food services only for services rendered in behalf of the child nutrition program. Any cost incurred in the provisions and maintenance of school food services over and beyond the cost of operation shall be included in the budget request filed annually by local boards of education with boards of county commissioners. Public schools are not required to comply with G.S. 115C-522(a) in the purchase of supplies and food for such school food services. (1955, c. 1372, art. 5, s. 34; 1965, c. 912; 1967, c. 990; 1975, c. 384; 1981, c. 423, s. 1; 1991 (Reg. Sess., 1992), c. 900, s. 78; 2003-147, s. 5; 2004-124, s. 7.29(a); 2004-203, ss. 72(a), (b); 2005-253, s. 1.)

§ 115C-264.1. Preference to high-calcium foods and beverages in purchasing contracts.

(a) In addition to any requirements established by the United States Department of Agriculture under the National School Lunch Program, the School Breakfast Program, or other federally supported food service programs, local boards of education shall give preference in purchasing contracts to high-calcium foods and beverages. For purposes of this section, "high-calcium foods and beverages" means foods and beverages that contain a higher level of calcium and that are equal to or lower in price than other products of the same type or quality.

(b) Notwithstanding the provisions of subsection (a) of this section, if a local school board determines that a high-calcium food or beverage would interfere with the proper treatment and care of an individual receiving services from the public school food program, the local school

board shall not be required to purchase a high-calcium food or beverage for that individual. A local school board that has entered into a contract with a supplier to purchase food or beverages before the effective date of this section is not required to purchase high-calcium foods or beverages for the duration of that contract if purchasing those products would change the terms of the contract. (2003-257, s. 1.)

§ 115C-264.2. Vending machine sales.

(a) Each school may, with the approval of the local board of education, sell to students beverages in vending machines during the school day so long as:

(1) Soft drinks are not sold (i) during the breakfast and lunch periods, (ii) at elementary schools, or (iii) contrary to the requirements of the National School Lunch Program;

(2) Sugared carbonated soft drinks, including mid-calorie carbonated soft drinks, are not offered for sale in middle schools;

(3) Not more than fifty percent (50%) of the offerings for sale to students in high schools are sugared carbonated soft drinks;

(4) Diet carbonated soft drinks are not considered in the same category as sugared carbonated soft drinks; and

(5) Bottled water products are available in every school that has beverage vending.

(b) Nothing in subsection (a) of this section prohibits a school from adopting stricter policies with respect to beverage vending.

(c) Snack vending in all schools shall, by school year 2006-2007, meet the Proficient Level of the NC Eat Smart Nutrition Standards, such that in elementary schools, no snack vending is available to students, and in middle and high schools, seventy-five percent (75%) of snack vending products have not more than 200 calories per portion or snack vending package. (2005-253, s. 2.)

§ 115C-264.3. Child Nutrition Program standards.

The State Board of Education, in direct consultation with a cross section of local directors of child nutrition services, shall establish statewide nutrition standards for school meals, a la carte foods and beverages, and items served in the After School Snack Program administered by the Department of Public Instruction and child nutrition programs of local school administrative units. The nutrition standards will promote gradual changes to increase fruits and vegetables, increase whole grain products, and decrease foods high in total fat, trans fat, saturated fat, and sugar. The nutrition standards adopted by the State Board of Education shall be implemented initially in elementary schools. All elementary schools shall achieve a basic level by the end of the 2009-2010 school year, followed by middle schools and then high schools. (2005-457, s. 1; 2007-323, s. 7.36A(a); 2008-107, s. 7.25(a).)

§ 115C-264.4. Local preference for produce in schools.

A local school board may develop and implement policies and procedures to facilitate and maximize to the extent practicable, purchases of food grown or raised in North Carolina, including, but not limited to, policies that permit a percentage price preference for the purpose of procuring food grown or raised within the State. As used in this section, "price percentage preference" means the percent by which a responsive bid from a

responsible bidder whose product is grown or raised in North Carolina may exceed the lowest responsive bid submitted by a responsible bidder whose product is not grown or raised in North Carolina. (2016-113, s. 8.)

Part 3. Library/Media Personnel.

§ 115C-265. Rules and regulations for distribution of library/media personnel funds; employment of personnel.

(a) The State Board of Education is authorized to promulgate rules and regulations for the distribution of library/media personnel funds, on the basis of average daily membership (ADM), to each local school administrative unit of the State.

(b) Each local school administrative unit in the State shall employ library/media personnel in accordance with State library/media guidelines approved by the State Board of Education insofar as funds are approved for that purpose by the North Carolina General Assembly. (1977, c. 1088, ss. 2, 3; 1981, c. 423, s. 1.)

§§ 115C-266 through 115C-268: Reserved for future codification purposes.

SUBCHAPTER V. PERSONNEL.

Article 17C.

Professional Educator Preparation and Standards Commission.

§ 115C-268.1. Professional Educator Preparation and Standards Commission.

(a) Commission. – There is created the Professional Educator Preparation and Standards Commission (Commission). The purpose of the Commission is to involve stakeholders in establishing high standards for North Carolina educators. The Commission shall make rule recommendations regarding all aspects of preparation, licensure, continuing education, and standards of conduct of public school educators.

(b) Location. – The Commission shall be located administratively under the State Board of Education but shall exercise its powers and duties independently of the State Board of Education.

(c) Membership. – The Commission shall consist of the following 18 members:

(1) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint the following:

a. One superintendent.

b. One principal.

c. One dean, or dean's designee, of an educator preparation program at a constituent institution of The University of North Carolina.

d. One dean, or dean's designee, of an educator preparation program at a nonpublic postsecondary educational institution in North Carolina.

e. One dean, or dean's designee, of an educator preparation program at a historically black college or university in North Carolina.

f. One teacher.

g. One personnel administrator from a local school administrative unit in North Carolina with at least 30,000 students.
h. One at-large member.

(2) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint the following:
a. One superintendent.
b. One principal.
c. One dean, or dean's designee, of an educator preparation program at a constituent institution of The University of North Carolina.
d. One dean, or dean's designee, of an educator preparation program at a nonpublic postsecondary educational institution in North Carolina.
e. One teacher.
f. One personnel administrator from a local school administrative unit in North Carolina with less than 30,000 students.
g. One member of the State Advisory Council on Indian Education.
h. One at-large member.

(3) The State Teacher of the Year.

(4) The Superintendent of Public Instruction or his or her designee.

In making appointments, the General Assembly is encouraged to select qualified citizens who are committed to improving the teaching profession and student achievement and who represent the racial, geographic, and gender diversity of the State. Before their appointment to this Commission, with the exception of the at-large members, the members must have been actively engaged in the profession of teaching, in the education of students in educator preparation programs, or in the practice of public school administration for at least three years, at least two of which occurred in this State. Appointed members shall serve for two-year terms. Initial terms shall begin September 1, 2017. Vacancies in the membership shall be filled by the General Assembly, as provided in G.S. 120-122, using the same criteria as provided in this subsection.

(d) Organization and Functioning. – The Commission shall elect a chair, a vice-chair, and a secretary from among its membership. In the absence of the chair, the vice-chair shall preside over the Commission's meetings. All members are voting members and a majority of the Commission constitutes a quorum. The Commission shall adopt rules to govern its proceedings.

(e) Meetings. – Meetings of the Commission shall be held upon the call of the chair or the vice-chair in the absence of the chair. The Superintendent shall call the initial meeting of the Commission.

(f) Compensation and Reimbursement. – Members of the Commission shall receive compensation for their services and reimbursement for expenses incurred in the performance of their duties required by this Article at the rate prescribed in G.S. 138-5 and G.S. 138-6.

(g) Personnel. – The Commission may employ, subject to Chapter 126 of the General Statutes, the necessary personnel for the performance of its functions and fix compensation within the limits of funds available to the Commission. (2017-189, s. 1(a).)

§ 115C-268.5. Powers and duties of the Commission.

(a) Duties. – The Commission shall:

(1) Develop and recommend to the State Board of Education rules related to all aspects of educator preparation programs in accordance with Article 17D of this Chapter. These rules shall include the following:

a. Requirements for appropriate pedagogy to be included in residency license programs.

b. Appropriate courses to be used for calculation of individual and cohort grade point averages for admission to educator preparation programs, which may account for prior degrees attained, type of license, and areas of licensure. The Commission shall consider which grade point average, either the grade point average in the content courses relevant to the licensure area or the cumulative grade point average, would be most appropriate for clinical residency students.

(2) Develop and recommend to the State Board of Education rules related to all aspects of professional standards for North Carolina educators in accordance with Article 17E of this Chapter. These rules shall include specific hour requirements for the following:

a. Preservice training and field experiences prior to entering the classroom for individuals issued residency licenses.

b. Preservice training prior to entering the classroom for individuals issued emergency licenses.

(3) Provide recommendations as requested to the State Board of Education related to the educator preparation programs and professional standards of North Carolina educators.

(b) The Commission shall recommend ways to ensure that the clinical practice requirements described in G.S. 115C-269.25(d) effectively prepare high-quality professional educators who meet the demands of North Carolina schools.

(c) State Board Approval. – The Commission shall submit its recommendations under subsection (a) of this section to the State Board. The State Board shall adopt or reject the rules recommendations. The State Board shall not make any substantive changes to any rules recommendation that it adopts. If the State Board rejects the rules recommendation, it shall state with specificity its reasons for rejection; the Commission may then amend that rules recommendation and resubmit it to the State Board. The Board shall adopt or reject the amended rules recommendation. If the State Board fails to adopt the Commission's original and amended rule recommendations, the State Board may develop and adopt its own rules.

(d) Annual Report. – The Commission shall submit a report by December 1, 2018, and annually thereafter, to the Joint Legislative Education Oversight Committee and the State Board of Education of its activities during the preceding year, together with any recommendations and findings regarding improvement of the teaching profession. (2017-189, s. 1(a).)

Article 17D.

Educator Preparation Programs.

§ 115C-269.1. Definitions.

As used in this Article, the following definitions shall apply:

(1) Approved EPP. – An EPP that has been approved by the State Board as meeting the requirements established by rule, as provided in G.S. 115C-269.10.

(2) Authorized EPP. – An EPP that (i) has met the accountability performance standards described in G.S. 115C-269.35 and (ii) has been approved by the State Board or accredited by CAEP to prepare, train, and recommend students for licensure.

(3) CAEP. – Council for the Accreditation of Educator Preparation.

(4) Clinical educator. – An individual employed by a partner school, including a classroom teacher, who assesses, supports, and develops a clinical intern's knowledge, skills, and professional disposition during an internship.

(5) Clinical intern or intern. – Any student enrolled in a recognized EPP who is jointly assigned by that EPP and a local board of education to teach under the direction and supervision of a clinical educator, as provided in G.S. 115C-269.25.

(6) Clinical internship or internship. – Type of field experience in which a clinical intern works under the supervision of a clinical educator and may be delegated those duties granted to an educator by G.S. 115C-307 and any other part of the school program for which the clinical educator is responsible.

(7) Clinical mentor or mentor. – An individual employed by an elementary or secondary school, including a classroom teacher, who assesses, supports, and develops a clinical resident's knowledge, skills, and professional disposition during the residency.

(8) Clinical residency or residency. – Type of field experience in which a clinical resident who already holds a bachelor's degree is enrolled in a recognized EPP and also employed by a local school administrative unit as an educator and supervised by the recognized EPP in partial fulfillment of the recognized EPP's training requirements.

(9) Clinical resident. – Any student who meets the following criteria:

a. Holds a bachelor's degree.

b. Is enrolled in a recognized EPP.

c. Is employed by a local school administrative unit as an educator and supervised by the recognized EPP in partial fulfillment of the recognized EPP's training requirements.

(10) Educator preparation program or EPP. – Any entity that prepares, trains, and recommends students for teacher licensure.

(11) Field experience. – Placement of students enrolled in a recognized EPP in settings to provide opportunities to observe, practice, and demonstrate knowledge and skills. A field experience may include preclinical classroom experiences.

(12) Field supervisor. – An individual who is employed by a recognized EPP to observe students, monitor their performance, and provide constructive feedback to improve their effectiveness as educators during their clinical internship or residency.

(13) Initially authorized EPP. – An EPP that has been either approved by the State Board or accredited by CAEP to prepare, train, and recommend students for licensure, but lacks data required by the performance standards described in G.S. 115C-269.35.

(14) Partner school. – An elementary or secondary school located in North Carolina that includes (i) a public school governed by a local board of education, a charter school board of directors, a regional school board of directors, or a UNC laboratory school board of trustees; (ii) a Department of Defense Elementary and Secondary School established pursuant to 10 U.S.C. § 2164; and (iii) a nonpublic school that meets the requirements of Part 1 or 2 of Article 39 of this Chapter.

(15) Recognized educator preparation program or recognized EPP. – An entity that is initially authorized or authorized by the State Board to recommend students for educator licensure.

(16) Student. – An individual enrolled in a recognized educator preparation program. (2017-189, s. 2(i).)

§ 115C-269.5. Educator preparation programs.

(a) Role of EPPs. – An EPP shall prepare students for educator licensure and meet the standards and requirements set forth in this Article. To recommend students for licensure, an EPP shall be recognized by the State Board.

(b) State Board Authority. – The State Board shall initially authorize and recognize an EPP as required by this Article. The State Board shall have authority to regulate EPPs in accordance with this Article.

(c) Initial Authorization. – The State Board shall assign the status of initially authorized to an EPP if it has not yet generated sufficient data to meet the performance standards, but the EPP meets one of the following criteria:

(1) The EPP is approved by the State Board.

(2) The EPP is nationally accredited by CAEP.

(d) Authorization. – The State Board shall assign the status of authorized to an EPP if the EPP meets the following criteria:

(1) The EPP is approved by the State Board or nationally accredited by CAEP.

(2) The EPP satisfies the performance standards to the extent that the EPP has not been assigned revoked status described in G.S. 115C-269.45.

(e) The State Board shall assign the status of recognized EPP to an EPP that has the status of initially authorized or authorized. (2017-189, s. 2(i).)

§ 115C-269.10. Educator preparation program approval process.

(a) State Board Authority. – The State Board shall have authority to approve an EPP that meets the requirements established by rule as provided in subsection (b) of this section.

(b) Rules for Granting State Approval. – The State Board shall adopt rules for granting approval to EPPs in accordance with this Article. The rules shall ensure the following:

(1) A rigorous approval process that requires that the criteria in this Article are met.

(2) An application process, peer review, and technical assistance provided by the State Board.

(3) An approval period of five years and process for renewal of approval.

(c) Minimum Approval Standards. – At a minimum, the rules established as provided in subsection (b) of this section shall include the following standards:

(1) Students shall develop a deep understanding of the critical concepts and principles of their discipline and, by completion, be able to use discipline-specific practices flexibly to advance the learning of all students toward attainment of college- and career-ready standards.

(2) Effective partnerships and high-quality clinical practice shall be central to preparation so that students develop the knowledge, skills, and professional dispositions necessary to demonstrate positive impact on all elementary and secondary students' learning and development.

(3) Quality of students shall be a continuing and purposeful part of the EPP's responsibility from recruitment, at admission, through the progression of courses and field experiences, and to decisions that completers are prepared to teach effectively and are recommended for licensure. The EPP shall demonstrate that development of student quality is the goal of educator preparation in all phases of the program through evidence of impact under subdivision (4) of this subsection.

(4) The EPP shall demonstrate the impact of its completers on elementary and secondary student learning and development, classroom instruction, and schools, and the satisfaction of its completers with the relevance and effectiveness of their preparation.

(5) The EPP shall maintain a quality assurance system comprised of valid data from multiple measures, including evidence of students' and completers' positive impact on elementary and secondary student learning and development. The EPP shall support continuous improvement that is sustained and evidence-based and that evaluates the effectiveness of its completers. The EPP shall use the results of inquiry and data collection to establish priorities, enhance program elements and capacity, and test

innovations to improve completers' impact on elementary and secondary student learning and development.

(d) Application. – An EPP seeking to be approved by the State Board shall complete the application process established by the State Board.

(e) Peer Review. – An EPP seeking to be approved by the State Board shall undergo a peer review process established by the State Board that includes highly qualified and trained members to adequately review programs within the State.

(f) Technical Assistance. – For EPPs seeking approval, the State Board shall provide technical assistance in efforts to do the following:

(1) Improve education quality and EPP performance.

(2) Inform EPPs about the program approval process as part of EPP performance based on outcome data.

(3) Assist with State and federal reporting processes.

(4) Help build and maintain partnerships between elementary and secondary schools and EPPs. (2017-189, s. 2(i).)

§ 115C-269.15. Minimum admissions requirements for educator preparation programs.

(a) Testing. – A recognized EPP shall not admit a student until that student has met one of the following criteria:

(1) Attained a passing score or prescribed minimum score set by the State Board for a preprofessional skills test.

(2) Achieved the appropriate required scores, as determined by the State Board, on the verbal and mathematics portions of the SAT or ACT. The minimum combined verbal and mathematics score set by the State Board for the SAT shall be 1,100 or greater. The minimum composite score set by the State Board for the ACT shall be 24 or greater.

(3) Holds a bachelor's degree.

(b) Individual Grade Point Average. – A recognized EPP shall not admit a student into an EPP unless that student has earned a grade point average of at least a 2.7.

(c) Grade Point Average Exceptions. – Notwithstanding subsection (b) of this section, the individual grade point average requirement does not apply to a clinical resident student if the hiring local school administrative unit determines that one of the following criteria is met:

(1) The student has at least 10 years of relevant experience.

(2) For a program leading to licensure in career and technical education, the student has at least five years of relevant experience.

(d) Cohort Grade Point Average. – A recognized EPP shall ensure that the minimum cohort grade point average for each entering cohort to an EPP is at least a 3.0. (2017-189, s. 2(i).)

§ 115C-269.20. Content and pedagogy requirements.

(a) Content and Pedagogy Requirements. – To ensure that EPPs remain current and reflect a rigorous course of study that is aligned to State and national standards, the State Board shall require at least the following minimum requirements with demonstrated competencies in its rules:

(1) All EPPs shall include instruction in the following:

a. The identification and education of children with disabilities.

b. Positive management of student behavior and effective communication techniques for defusing and de-escalating disruptive or dangerous behavior.

c. Demonstration of competencies in using digital and other instructional technologies to provide high-quality, integrated digital teaching and learning to all students.

d. The skills and responsibilities required of educators.

e. The expectations for student performance based on State standards.

f. The supply of and demand for educators in this State, as identified in the vacancy report required by G.S. 115C-299.5(e).

g. The State's framework for appraisal of educators.

(2) EPPs providing training for elementary education teachers shall include the following:

a. Adequate coursework in the teaching of reading, writing, and mathematics.

b. Assessment prior to licensure to determine if a student possesses the requisite knowledge in scientifically based reading, writing, and mathematics instruction that is aligned with the State Board's expectations.

c. Instruction in application of formative and summative assessments within the school and classroom setting through technology-based assessment systems available in State schools that measure and predict expected student improvement.

d. Instruction in integration of arts education across the curriculum.

(3) EPPs providing training for elementary and special education general curriculum teachers shall ensure that students receive instruction in early literacy intervention strategies and practices that are aligned with State and national reading standards and shall include the following:

a. Instruction in the teaching of reading, including a substantive understanding of reading as a process involving oral language, phonological and phonemic awareness, phonics, fluency, vocabulary, and comprehension. Instruction shall include appropriate application of instructional supports and services and reading interventions to ensure reading proficiency for all students.

b. Instruction in evidence-based assessment and diagnosis of specific areas of difficulty with reading development and of reading deficiencies.

c. Instruction in appropriate application of instructional supports and services and reading interventions to ensure reading proficiency for all students.

(4) EPPs providing training for middle and high school teachers shall include the following:

a. Adequate coursework in the relevant content area. For clinical residency programs, students may instead demonstrate mastery of the relevant content area through the passage of the relevant content area examination approved by the State Board.

b. Adequate coursework in the teaching of the relevant content area.

c. For EPPs providing training for science teachers, adequate preparation in issues related to science laboratory safety.

(b) Reserved. (2017-189, s. 2(i).)

§ 115C-269.25. Clinical partnerships and practice in educator preparation programs.

(a) Collaborative Partnerships With Elementary and Secondary Schools. – EPPs shall establish and maintain collaborative, formalized partnerships with elementary and secondary partner schools that are focused on student achievement, continuous school improvement, and the professional development of elementary and secondary educators, as well as those preparing educators.

(b) Memorandum of Understanding With Local School Administrative Units. – EPPs shall enter into a memorandum of understanding with the local school administrative unit or the partner school where students are placed or employed. In the memorandum, the EPP and the local school administrative unit or partner school, as applicable, shall:

(1) Define the collaborative relationship between the EPP and the local school administrative unit or partner school and how this partnership will be focused on continuous school improvement and student achievement.

(2) Adopt a plan for collaborative clinical educator or mentor selection, orientation, and student placement.

(3) Determine how information will be shared and verified between the EPP and the local school administrative unit or partner school.

(c) Field Experience Requirements. – To the extent practicable, EPPs shall require, in all programs leading to initial professional licensure, the following:

(1) Field experiences in every semester that include organized and sequenced engagement of students in settings that provide them with opportunities to observe, practice, and demonstrate knowledge and skills. The experiences shall be systematically designed and sequenced to increase the complexity and levels of engagement with which students apply, reflect upon, and expand their knowledge and skills, and to increase in each semester prior to the student's internship the number of hours spent in field experiences.

(2) A minimum of two hours of field experience in the first semester of the program and a cumulative total of at least 12 hours of field experiences prior to the student's internship.

(3) At least one field experience in a low-performing school.

(d) Clinical Practice Requirements. – EPPs shall require clinical practice in the form of one of the following:

(1) Internship that lasts for a minimum of 16 weeks. Internships may be over the course of two semesters and shall, to the extent practicable, provide field experiences at both the beginning and ending of the school year. It shall be the responsibility of a clinical educator, in cooperation with the principal and the representative of the EPP, to assign to the intern responsibilities and duties that will provide adequate preparation for teaching.

(2) Residency that meets the following criteria:

a. The residency lasts for a minimum of one year.

b. The EPP provides ongoing support to a student for the full term of the residency.

c. The EPP assigns a clinical mentor to the resident.

d. The resident completes field experiences and training required by the State Board prior to the residency.

(e) Clinical Educator Requirements. – The EPP shall ensure clinical educators who supervise students in internships meet the following requirements:

(1) Be professionally licensed in the field of licensure sought by the student.

(2) Have a minimum of three years of experience in a teaching role.

(3) Have been rated, through the educator's most recent formal evaluations, at least at the "proficient" level as part of the North Carolina Teacher Evaluation System, or the equivalent on an evaluation system utilized by another state or partner school, as applicable, in the field of licensure sought by the student. The principal shall determine which clinical educator best meets the needs of each intern and shall assign the most appropriate clinical educator to that intern, with priority consideration for those clinical educators rated as "distinguished" and "accomplished." If a principal determines that a teacher rated as "proficient" is the most appropriate clinical educator for an intern, the principal shall maintain records of the reasons for that determination.

(f) Legal Protection of Interns. – An intern under the supervision of a clinical educator or principal shall have the protection of the laws accorded to a licensed educator.

(g) Pedagogy Assessment. – EPPs shall require, in addition to a content assessment, a nationally normed and valid pedagogy assessment to determine clinical practice performance. Passing scores and mastery criteria shall be determined by the State Board. (2017-189, ss. 2(i), 6(p).)

§ 115C-269.30. Teacher assistants engaged in internships.

(a) Program for Teacher Assistants. – The State Board shall adopt a program to facilitate the process by which teacher assistants may become teachers. Teacher assistants who participate in this program shall meet the following requirements:

(1) Be enrolled in a recognized EPP.

(2) Be employed in a North Carolina public school.

(b) Internship Assignments. – Local school administrative units are encouraged to assign teacher assistants to a different classroom during an internship than the classroom they are assigned to as a teacher assistant. To the extent possible, they may be assigned to another school within the same local school administrative unit.

(c) Salary and Benefits. – Teacher assistants shall continue to receive their salary and benefits while interning in the same local school administrative unit where they are employed as a teacher assistant.

(d) Consultation With Institutions of Higher Education. – The State Board shall consult with the Board of Governors of The University of North Carolina and the North Carolina Independent Colleges and Universities in the development of the program. (2017-189, ss. 2(i), 6(n).)

§ 115C-269.35. Accountability for educator preparation programs.

(a) Performance Measures. – The State Board shall adopt rules necessary to establish standards of performance to govern the continuing accountability of all EPPs. At a minimum, the performance standards shall be based on the following information that is disaggregated with respect to race, sex, and ethnicity:

(1) Performance based on the standards and criteria for annual evaluations of licensed employees.

(2) Proficiency and growth of students taught by educators holding an initial professional license, to the extent practicable. When available, EVAAS data shall be used to measure student proficiency and growth.

(3) Results from an educator satisfaction survey, developed by the State Board with stakeholder input, performed at the end of the educator's first year of teaching after receiving an initial professional license.

(4) Quality of students entering the EPP, including the average grade point average and average score on preprofessional skills tests or college entrance exams that assess reading, writing, mathematics, and other competencies.

(b) Annual Performance Reports. – The State Board shall require all recognized EPPs to submit annual performance reports. The performance reports shall provide the State Board with a focused review of the EPPs and the current authorization process in order to ensure that the programs produce graduates that are well prepared to teach. At a minimum, the annual report shall contain the following indicators:

(1) Performance data from subsection (a) of this section.

(2) Data related to the EPP's compliance with requirements for field supervision of students during their internship and residency experiences.

(3) The following information, disaggregated by race, sex, and ethnicity:

a. The number of students who apply.

b. The number of students admitted.

c. The number of students retained.

d. The number of students completing the program.

e. The number of students employed as beginning teachers under initial professional licenses by not later than the first anniversary of completing the program.
f. The amount of time required by students employed as beginning teachers under residency licenses to be issued initial professional licenses.
g. The number of students retained in the profession.
h. Any other information required by federal law.

(4) The ratio of field supervisors to students completing an internship or residency.
(5) Graduation rates.
(6) Time-to-graduation rates.
(7) Average scores of graduates on professional, pedagogy, and content area examinations for the purpose of licensure.
(8) Percentage of graduates receiving initial professional licenses.
(9) The extent to which the program prepares educators, including general education teachers and special education teachers, to effectively teach the following:
a. Students with disabilities.
b. Students of limited English proficiency.

(10) The activities offered by the program that are designed to prepare educators to do the following:
a. Integrate technology effectively into curricula and instruction, including activities consistent with the principles of universal design for learning.
b. Use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of increasing student academic achievement.

(11) The perseverance of beginning educators in the profession, as determined on the basis of the number of beginning educators who maintain status as active contributing members in the North Carolina State Employee Retirement System at least three years after licensure in comparison to similar programs.
(12) The results of surveys given to school principals that involve evaluation of the program's effectiveness in preparing participants to succeed in the classroom, based on experience with employed program participants.
(13) Any other information necessary to enable the State Board to assess the effectiveness of the program on the basis of educator retention and success criteria adopted by the State Board.

(c) Submission of Annual Performance Reports. – Performance reports shall be provided annually to the following:
(1) The State Board.
(2) The board of trustees or board of directors of the entity submitting the report.

(d) Information Requests by EPPs. – The State Board of Education shall annually provide, upon request, the data required to be included in an EPP's annual performance report related to subdivisions (1) and (2) of subsection (a) of this section and subdivision (11) of subsection (b) of this section. The State Board of Education shall provide this information to an EPP as aggregate data and disaggregated by race, sex, and ethnicity. Notwithstanding Article 21A of this Chapter, local school administrative units shall provide to the State Board of Education for the purposes of these information requests any North Carolina Educator Evaluation System effectiveness status assigned to teachers based on queries from the State Board. The State Board of Education shall not report aggregated or disaggregated data to the EPP that reveals confidential information in a teacher's personnel file, as defined by Article 21A of this Chapter, such as making the effectiveness status personally identifiable to an individual teacher. (2017-189, s. 2(i).)

§ 115C-269.40. Risk factors for educator preparation programs; risk-assessment model.

(a) Risk Factor Rules. – The State Board shall adopt rules establishing risk factors for assessment of the overall risk level of each EPP. The set of risk factors shall include the following:

(1) A history of the EPP's compliance with State law and rules, with consideration given to the following:

a. The seriousness of any violation of a law or rule.

b. Whether the violation resulted in an action being taken against the EPP.

c. Whether the violation was promptly remedied by the EPP.

d. The number of alleged violations.

e. Any other matter considered to be appropriate in evaluating the EPP's compliance history.

(2) Whether the program meets the accountability performance standards under G.S. 115C-269.35.

(b) CAEP Accreditation. – The rules for risk factors developed by the State Board may include whether an EPP is accredited by CAEP.

(c) Use of Risk Factors. – The State Board shall use the rules for risk factors when conducting monitoring, inspections, and compliance audits of EPPs, including evaluations associated with renewals of approval under G.S. 115C-269.10. (2017-189, s. 2(i).)

§ 115C-269.45. Sanctions.

(a) Accountability Statuses. – The State Board shall at least annually review the accountability status of each EPP. The State Board shall adopt rules necessary for the sanction of EPPs that do not meet accountability standards or comply with State law or rules. The rules shall provide for the assignment of warned, probation, or revoked statuses according to the following criteria:

(1) Warned. – An EPP shall be assigned warned status if the program meets any of the following criteria:

a. Fails to meet the performance standards set by the State Board for the overall performance of all its students on any of the indicators set forth in G.S. 115C-269.35(a) in any one year.

b. Fails to meet the performance standards in any two sex, race, or ethnicity demographic groups on any of the indicators set forth in G.S. 115C-269.35(a) in any one year.

c. Fails to meet the performance standards for a sex, race, or ethnicity demographic group on any of the indicators set forth in G.S. 115C-269.35(a) for two consecutively measured years, regardless of whether the deficiency is in the same demographic group or standard.

d. The State Board determines that the EPP has violated applicable laws or rules that should result in warned status.

(2) Probation. – An EPP shall be assigned probation status if the program meets any of the following criteria:

a. Fails to meet the performance standards set by the State Board for the overall performance of all its students on any of the indicators set forth in G.S. 115C-269.35(a) for two consecutively measured years.

b. Fails to meet the performance standards in any three sex, race, or ethnicity demographic groups on any of the indicators set forth in G.S. 115C-269.35(a) in any one year.

c. Fails to meet the performance standards for a sex, race, or ethnicity demographic group on any of the indicators set forth in G.S. 115C-269.35(a) for three consecutively measured years, regardless of whether the deficiency is in the same demographic group or standard.

d. The State Board determines that the EPP has violated applicable laws or rules that should result in probation status.

(3) Revoked. – An EPP shall be assigned revoked status and its approval to recommend students for educator licensure revoked if it meets any of the following criteria:

a. Is assigned probation status for three consecutively measured years.

b. Has been on probation status for one year and the State Board determines that revoking the program's approval is reasonably necessary to achieve the purposes of this Article.

(b) Revocation. – Any revocation of an EPP's accountability status shall meet the following criteria:

(1) Complies with the requirements of notice as described in subsection (f) of this section.

(2) Upon assignment of revoked status of EPP approval, the EPP shall not admit new students, but may complete the training of students already admitted by the program and recommend them for licensure. If necessary, the State Board and other EPPs shall cooperate to assist the previously admitted students of the revoked EPP to complete their training.

(3) A revocation shall be effective for a period of at least two years. After two years, the program may seek initial authorization to prepare educators for licensure.

(c) Range of Sanctions. – In addition to revocation as provided in subsections (a) and (b) of this section, the rules described in subsection (a) of this section shall provide for the State Board to assign other sanctions deemed necessary, including one or more of the following:

(1) Requiring the EPP to obtain technical assistance approved by the State Board.
(2) Requiring the EPP to obtain professional services under contract with another entity.
(3) Appointing a monitor to participate in and report to the State Board on the activities of the EPP.
(4) Managing the EPP's enrollment.

(d) Particular Fields of Licensure. – Any sanction authorized or required to be taken against an EPP under subsection (c) of this section may also be taken with regard to a program for a particular field of licensure authorized to be offered by an EPP.

(e) Costs. – Any costs associated with the sanctions under subsection (c) of this section shall be paid by the EPP.

(f) Notice, Hearing, and Appeal. – The State Board shall give written notice to the EPP by certified mail of an EPP's revocation of authorized status, including a written explanation of the basis for the revocation. An EPP may commence a contested case as provided in Article 3 of Chapter 150B of the General Statutes as to the revocation by the State Board. (2017-189, s. 2(i).)

§ 115C-269.50. EPP report cards.

The State Board shall create an annual report card for each EPP that, at a minimum, summarizes the information collected in the annual performance reports, as set forth in G.S. 115C-269.35(b). The report cards shall provide user-friendly access to the public, and shall provide the ability to easily compare annual report card information between EPPs, including performance and other data reported by each EPP, as provided in G.S. 115C-269.35(b). The State Board shall make the report cards available to the public through the State Board's Internet Web site on an annual basis beginning December 15, 2019, and shall submit the report to the Joint Legislative Education Oversight Committee annually by that date. (2017-189, s. 2(i); 2018-32, s. 3(a).)

§ 115C-269.55. Reports of alleged violations regarding educator preparation programs.

(a) Authority. – The State Board shall adopt rules necessary to establish a process for a student to report a violation of this Article to the State Board.

(b) EPP Notice to Students. – The State Board by rule shall require an EPP to notify students of the complaint process adopted under subsection (a) of this section. The notice shall include the appropriate contact information, including name, mailing address, telephone number, and Internet Web site address for the purpose of directing complaints to the State Board. The EPP shall provide for that notification as follows:

(1) On the Internet Web site of the EPP, if the program maintains a Web site.

(2) On a sign prominently displayed in program facilities.
(3) In the student handbook.

(c) Notice of Complaint Process. – The State Board shall post the complaint process adopted under subsection (a) of this section on the State Board's Internet Web site.

(d) Limits on State Board Authority. – The State Board has no authority to mediate, arbitrate, or resolve contractual or commercial issues between an EPP and a student. (2017-189, s. 2(i).)

Article 17E.

Licensure.

§ 115C-270.1. Definitions.

As used in this Article, the following definitions shall apply:

(1) Administrator. – An administrator or supervisor who serves in general and program administrator roles, as classified by the State Board. Administrators shall include superintendents, assistant or associate superintendents, principals, assistant principals, or curriculum-instructional specialists.
(2) Professional educator. – An administrator, teacher, or student services personnel.
(3) Recognized educator preparation program or recognized EPP. – As defined in G.S. 115C-269.1(15).
(4) Student services personnel. – An individual providing specialized assistance to students, teachers, administrators, or the education program in general, as classified by the State Board. Student services personnel shall include individuals employed in school counseling, school social work, school psychology, audiology, speech-language pathology, and media coordination.
(5) Teacher. – An individual whose major responsibility is to either teach or directly supervise teaching, as classified by the State Board. (2017-189, s. 3(c).)

§ 115C-270.5. State Board of Education establishes licensure requirements.

(a) Authority. – The State Board of Education shall have entire control of licensing all applicants for professional educator positions in all public schools of North Carolina, subject to the requirements of this Article. The State Board shall adopt rules for the issuance, renewal, and extension of all licenses and shall determine and fix the salary for each grade and type of license which it authorizes.

(b) Consultation – The State Board shall receive recommendations from the Professional Educator Preparation and Standards Commission and seek input from The University of North Carolina Board of Governors, the State Board of Community Colleges,

educator preparation programs, and such other public and private agencies as are necessary in adopting rules required by this Article. (2017-189, s. 3(c).)

§ 115C-270.10. Licensure fees.

(a) Fee Schedule. – The State Board of Education shall establish by rule a schedule of fees for professional educator licensure and administrative changes. The fees established under this section shall not exceed the actual cost of providing the service. The schedule may include fees for any of the following services:

(1) Application for demographic or administrative changes to a license.
(2) Application for a duplicate license or for copies of documents in the licensure files.
(3) Application for a renewal, extension, addition, upgrade, reinstatement, and variation to a license.
(4) Initial application for a new graduate from any recognized educator preparation program.
(5) Initial application for an out-of-state applicant.
(6) All other applications.

An applicant must pay any nonrefundable or nontransferable service fees at the time an application is submitted.

(a1) Notwithstanding subsection (a) of this section, the State Board of Education shall reimburse the initial application fee for any new graduate from any recognized EPP the first time an applicant submits an application for teacher licensure, if the applicant has successfully earned an initial professional license in North Carolina. The State Board shall issue the reimbursement to the application fee within 30 days of the date the applicant successfully earns an initial professional license in North Carolina.

(b) Fee Increase Reporting. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee by March 15 in any year that the amount of fees in the fee schedule established under this section has been modified during the previous 12 months. The report shall include the number of personnel paid from licensure receipts, any change in personnel paid from receipts, other related costs covered by the receipts, and the estimated unexpended receipts as of June 30 of the year reported. (2017-189, ss. 3(c), 6(q).)

§ 115C-270.15. Examination requirements for initial professional licenses.

(a) Examination Score Requirements. – The State Board of Education shall require an applicant for an initial professional license to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. Elementary education (K-6) and special education general curriculum teachers shall also achieve a prescribed minimum score on subtests or standard examinations specific to teaching reading and mathematics.

(b) Establishment of Minimum Scores. – The State Board shall adopt rules that establish the minimum scores for any required standard examinations and other measures necessary to assess the qualifications of professional educators as required under this

section. For purposes of this section, the State Board shall not be subject to Article 2A of Chapter 150B of the General Statutes. At least 30 days prior to changing any rule adopted under this section, the State Board shall provide written notice to all recognized educator preparation programs and to all local boards of education. The written notice shall include the proposed revised rule. The State Board of Education shall make any required standard initial professional licensure exam rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has received high-quality academic and professional preparation to teach effectively.

(c) Time Line for Completion of Examinations. – The State Board of Education shall permit an applicant to fulfill any such testing requirement before or during the applicant's second year of teaching, provided the applicant took the examination at least once during the first year of teaching. (2017-189, s. 3(c).)

§ 115C-270.20. Licensure requirements.

(a) Teacher Licenses. – The State Board shall adopt rules for the issuance of the following classes of teacher licenses, including required levels of preparation for each classification:

(1) Continuing professional license or CPL. – A five-year renewable license issued to a teacher who has at least three years of licensed teaching experience and meets other requirements established by the State Board. A CPL shall remain in effect for five years after retirement.

(2) Emergency license or EL. – A one-year nonrenewable license issued to an individual who holds a bachelor's degree with coursework relevant to the requested licensure area, but has not successfully completed a recognized educator preparation program and does not qualify for a residency license. An emergency license shall only be requested by the local board of education, and applicants for emergency licenses shall meet all other requirements established by the State Board, including preservice training, prior to teaching.

(3) Initial professional license or IPL. – A three-year nonrenewable license issued to an individual who has successfully completed a recognized educator preparation program and meets other requirements established by the State Board.

(4) Lifetime license. – A license issued to a teacher after 50 or more years of teaching as a licensed teacher that requires no renewal.

(5) Residency License or RL. – A one-year license, renewable twice, that meets both of the following requirements:

a. Is requested by the local board of education and accompanied by a certification of supervision from the recognized educator preparation program in which the individual is enrolled.

b. The individual for whom the license is requested meets all of the following requirements:

1. Holds a bachelor's degree.

2. Has either completed coursework relevant to the requested licensure area or passed the content area examination relevant to the requested licensure area that has been approved by the State Board.
3. Is enrolled in a recognized educator preparation program.
4. Meets all other requirements established by the State Board, including completing preservice requirements prior to teaching.

(6) Retirement licensure. – A five-year renewable license issued to a teacher who retired with 30 or more years of teaching experience in North Carolina and who has been employed by a local school administrative unit after retirement as any of the following:

a. A substitute teacher.
b. A part-time provider of any of the following services: classroom instruction, tutoring, mentoring teachers, writing curricula, developing and leading staff development programs for teachers, or working in after-school programs.

(b) Administrator and Student Services Personnel. – The State Board shall establish classification and levels of preparation necessary for issuance of licenses for administrators and student services personnel.

(c) Notwithstanding the requirement in subsection (a) of this section that an individual must hold a bachelor's degree with coursework relevant to the requested licensure area for individuals seeking licensure in a career or technical education area, the State Board may establish alternate criteria related to that area to establish competency in lieu of a bachelor's degree. (2017-189, s. 3(c).)

§ 115C-270.21. Licensure exception for Cherokee language instruction.

(a) Upon the recommendation of the Superintendent of Public Instruction, the State Board of Education shall enter into a memorandum of understanding (MOU) with the Eastern Band of Cherokee Indians specifying the criteria that must be met in order for individuals to teach Cherokee language and culture classes. Notwithstanding any other provision of law, individuals approved to teach in accordance with an MOU entered into pursuant to this section shall be authorized to teach Cherokee language and culture classes without a license.

(b) A memorandum of understanding entered into under this section shall at least include the following:

(1) Requirements for approval of individuals employed under this section, including a requirement that the individual has demonstrated mastery of the Cherokee language through a credential issued by the Eastern Band of Cherokee Indians.
(2) A three-year approval period, which may be renewed, for individuals employed under this section.
(3) Authority of the Superintendent of Public Instruction or the Superintendent's designee to approve and renew approval of individuals

employed under this section, subject to the requirements of the memorandum of understanding.

(4) Requirements for renewing approval of individuals employed under this section after three years.

(5) A clear statement that an individual authorized to teach pursuant to this section shall not be permitted to provide instruction in other content areas unless the individual possesses a license issued in accordance with G.S. 115C-270.20. (2018-7, s. 2(a).)

§ 115C-270.25. Out-of-state license applicants.

Initial applications from an individual with an out-of-state teacher's license shall require the applicant to provide evidence of that teacher's effectiveness, when available, as measured by the evaluation system used in that applicant's state of current licensure at the time of application, including any growth measures included in that evaluation system. Applications that include the evidence of that educator's effectiveness shall be prioritized for review over initial applications from applicants with out-of-state licenses that do not include that information. An individual who does not include evidence of that teacher's effectiveness with the initial application shall only be eligible for an IPL. (2017-189, s. 3(c).)

§ 115C-270.30. Licensure renewal.

(a) Licensure Renewal. – The State Board shall adopt rules establishing the requirements for renewal of all professional educator licenses. These requirements shall reflect rigorous standards for continuing licensure and shall be aligned with high-quality professional development programs that reflect State priorities for improving student achievement.

(b) Teacher Licensure Renewal. – Rules for continuing licensure for teachers shall include the following:

(1) For all teachers, at least eight continuing education credits with at least three credits required in a teacher's academic subject area.

(2) For elementary school teachers, at least three continuing education credits related to literacy. Literacy renewal credits shall include evidence-based assessment, diagnosis, and intervention strategies for students not demonstrating reading proficiency. Oral language, phonemic and phonological awareness, phonics, vocabulary, fluency, and comprehension shall be addressed in literacy-related activities leading to license renewal for elementary school teachers.

(3) For retirement licensure, at least 640 hours of documented employment in a local school administrative unit each renewal cycle and eight hours of annual professional development approved by a local school administrative unit.

(4) For all teachers employed by a local board of education, evidence of a rating of at least proficient on the most recent annual evaluation to

maintain the current license status. A teacher who is unable to satisfy this requirement but has been placed on a mandatory improvement plan may be eligible to receive an IPL if that teacher satisfies all other licensure requirements.

(5) A member of the General Assembly is exempt from the continuing education credit requirements for teachers during any five-year licensure renewal cycle in which the member serves a term or some portion thereof in the General Assembly as long as the member notifies the Department of Public Instruction of the exemption during that five-year licensure renewal cycle.

(c) License Renewal Rules Review. – The rules for licensure renewal shall be reviewed at least once every five years by the State Board to do the following:

(1) Reevaluate and enhance the requirements for renewal of professional educator licenses.

(2) Consider modifications in the license renewal achievement to make it a mechanism for professional educators to renew continually their knowledge and professional skills.

(3) Integrate digital teaching and learning into the requirements for licensure renewal. (2017-189, s. 3(c).)

§ 115C-270.35. License suspension and revocation.

(a) Rules. – The State Board shall adopt rules to establish the reasons and procedures for the suspension and revocation of licenses, subject to the requirements of this section.

(b) Automatic Revocation With No Hearing. – The State Board shall automatically revoke the license of a professional educator without the right to a hearing upon receiving verification of the identity of the professional educator together with a certified copy of a criminal record showing that the professional educator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes:

(1) Murder in the first or second degree, G.S. 14-17.

(2) Conspiracy or solicitation to commit murder, G.S. 14-18.1.

(3) Rape or sexual offense, as defined in Article 7B of Chapter 14 of the General Statutes.

(4) Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32.

(5) Kidnapping, G.S. 14-39.

(6) Abduction of children, G.S. 14-41.

(7) Crime against nature, G.S. 14-177.

(8) Incest, G.S. 14-178 or G.S. 14-179.

(9) Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6.

(10) Dissemination to minors under the age of 16 years, G.S. 14-190.7.

(11) Dissemination to minors under the age of 13 years, G.S. 14-190.8.

(12) Displaying material harmful to minors, G.S. 14-190.14.
(13) Disseminating harmful material to minors, G.S. 14-190.15.
(14) First degree sexual exploitation of a minor, G.S. 14-190.16.
(15) Second degree sexual exploitation of a minor, G.S. 14-190.17.
(16) Third degree sexual exploitation of a minor, G.S. 14-190.17A.
(17) Taking indecent liberties with children, G.S. 14-202.1.
(18) Solicitation of child by computer to commit an unlawful sex act, G.S. 14-202.3.
(19) Taking indecent liberties with a student, G.S. 14-202.4.
(20) Prostitution, G.S. 14-204.
(21) Patronizing a prostitute who is a minor or has a mental disability, G.S. 14-205.2(c) or (d).
(22) Promoting prostitution of a minor or a person who has a mental disability, G.S. 14-205.3(b).
(23) Child abuse under G.S. 14-318.4.

The State Board shall mail notice of its intent to act pursuant to this subsection by certified mail, return receipt requested, directed to the professional educator's last known address. The notice shall inform the professional educator that it will revoke the person's license unless the professional educator notifies the State Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the professional educator. If the professional educator provides this written notice to the State Board, the State Board shall not revoke the license unless it can establish as a fact that the defendant and the professional educator are the same person.

(c) Mandatory Revocation. – The State Board shall revoke the license of a professional educator if the State Board receives notification from a local board of education or the Secretary of Health and Human Services that a professional educator has received a rating on any standard that was identified as an area of concern on the mandatory improvement plan that was below proficient or otherwise represented unsatisfactory or below standard performance under G.S. 115C-333(d) and G.S. 115C-333.1(f).

(d) Discretionary Revocation. – The State Board may revoke or refuse to renew a professional educator's license when the Board identifies the school in which the professional educator is employed as low-performing under G.S. 115C-105.37 or G.S. 143B-146.5, and the assistance team assigned to that school makes the recommendation to revoke or refuse to renew the professional educator's license for one or more reasons established by the State Board in its rules for license suspension or revocation.

(e) Subpoena Power. – The State Board may issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with proceedings to suspend or revoke licenses. In addition, the Board may contract with individuals who are qualified to conduct investigations in order to obtain all information needed to assist the Board in the proper disposition of allegations of misconduct by licensed persons. (2017-189, s. 3(c); 2018-47, s. 4(*l*).)

SUBCHAPTER V. PERSONNEL.

Article 18.

Superintendents.

§ 115C-271. Selection by local board of education, term of office.

(a) It is the policy of the State that each local board of education has the sole discretion to elect a superintendent of schools. However, the State Board shall adopt rules that establish the qualifications for election. At a minimum, each superintendent shall have been a principal in a North Carolina public school or shall have other leadership, management, and administrative experience. In addition, the State Board shall adopt rules that include minimum credentials, educational prerequisites, and relevant experience requirements that would qualify a person to serve as a superintendent without having direct experience or certification as an educator. It is the duty of each local board to elect a superintendent who is qualified. If a local board elects a superintendent who is not qualified or who cannot qualify under this section, then the election and contract are null and void, and the board shall elect a person who is qualified.

(b) Each local board of education shall elect a superintendent under a written contract of employment for a term of no more than four years, ending on June 30 of the final months of the contract. Contracts of employment for a period of less than one year shall be governed and limited by G.S. 115C-275. Each local board shall file a copy of the contract with the State Board of Education before the individual is eligible for this office.

(c) At any time after the first 12 months of the contract, a local board may, with the written consent of the current superintendent, extend or renew the term of the superintendent's contract for a term of no more than four years from the date of the extension. If new board members have been elected or appointed and are to be sworn in, a board shall not act to extend or renew the current superintendent's contract until after the new members have been sworn in.

(d) A local board may terminate the superintendent's contract before the contract term of employment has expired so long as all the following conditions are met:

(1) No State funds are used for this purpose.

(2) Local funds appropriated for teachers, textbooks, or classroom materials, supplies, and equipment are not transferred or used for this purpose.

(3) The local board makes public the funds that are to be transferred or used for this purpose.

(4) The local board notifies the State Board of the funds that are to be transferred or used for this purpose.

(5) No funds acquired through donation or fund-raising are used for this purpose, except for funds raised specifically for this purpose or for funds donated by private for-profit corporations.

Immediately upon receipt of the notification from a local board under this subsection, the State Board shall review the accounts of that local school administrative unit. If the State Board finds that the local board failed to meet all the conditions set out in this subsection, the State Board shall issue a warning to the local board as provided in G.S. 115C-451 and, in addition to any other actions the State Board may take under G.S. 115C-451, shall order the local board to take action to comply with this subsection. (1981, c. 423, s. 1; 1983, c. 478; 1983 (Reg. Sess., 1984), c. 1103, s. 3; 1987, c. 389; 1989, c. 339; 1991, c. 238, s. 1; 1997-443, s. 8.7; 2001-174, s. 1.)

§ 115C-272. Residence, oath of office, and salary of superintendent.

(a) Every superintendent shall reside in the county in which he is employed. The superintendent shall not teach, nor be regularly employed in any other capacity that may limit or interfere with his duties as superintendent. Each superintendent, before entering upon the duties of his office, shall take an oath for the faithful performance thereof. The salary of the superintendent shall be in accordance with a State standard salary schedule, fixed and determined by the State Board of Education as provided by law; and such salary schedule for superintendents shall be determined on the same basis for both county and city superintendents and shall take into consideration the amount of work inherent to the office of both county and city superintendents; and such schedule shall be published in the same way and manner as the schedules for teacher and principal salaries are now published.

(b) Superintendents shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All superintendents employed by any local school administrative unit who are paid from local funds shall be paid promptly as provided by law and as State allotted superintendents are paid. Superintendents paid from State funds shall be paid as follows:

(1) Each local board of education shall establish a set date on which monthly salary payments to superintendents shall be made. This set pay date may differ from the end of the calendar month of service. Superintendents shall only be paid for the days employed as of the set pay date. Payment for a full month when days employed are less than a full month is prohibited as this constitutes prepayment. The daily rate of pay shall equal the number of weekdays in the pay period. Included within their term of employment shall be annual vacation leave at the same rate provided for State employees. Included within the 12 months' employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Human Resources Commission for State employees.

(2) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of individuals and shall not be cumulative from one fiscal year to another fiscal year: Provided, that superintendents may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any superintendent with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by the superintendent will be upon the authorization of his immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours or 30 days when separated from service due to resignation, dismissal, reduction in force,

death, or service retirement. Upon separation from service due to service retirement, any annual vacation leave over 30 days will convert to sick leave and may be used for creditable service at retirement in accordance with G.S. 135-4(e). If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision.

(3) Each local board of education shall sustain any loss by reason of an overpayment to any superintendent paid from State funds.

(4) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars ($50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.

(c) The State Board of Education, in fixing the State standard salary schedule of superintendents as authorized by law, shall provide that superintendents who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service, shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals or superintendents in the public schools of the State after having been honorably discharged from the armed or auxiliary forces of the United States. (1955, c. 1372, art. 6, s. 1; art. 17, s. 9; art. 18, s. 6; 1961, c. 1085; 1971, c. 1052; 1973, c. 647, s. 1; 1975, cc. 383, 608; c. 834, ss. 1, 2; 1979, c. 600, ss. 1-5; 1981, c. 423, s. 1; c. 946, s. 1; 1983, c. 872, s. 1; 1985, c. 757, s. 145(c); 1985 (Reg. Sess., 1986), c. 975, s. 15; 1987, c. 414, s. 4; 1989 (Reg. Sess., 1990), c. 1066, s. 93; 1993, c. 321, s. 73(a); 1995, c. 450, s. 17; 1997-443, s. 8.38(f); 1999-237, s. 28.26(c); 2013-382, s. 9.1(c).)

§ 115C-273. Salary schedule for superintendents.

Every local board of education may adopt, as to assistant or associate superintendents not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force. (1955, c. 1372, art. 5, s. 32; 1965, c. 584, s. 3; 1981, c. 423, s. 1.)

§ 115C-274. Removal.

(a) Local boards of education are authorized to remove a superintendent who is guilty of immoral or disreputable conduct or who shall fail or refuse to perform the duties required of him by law. In case the State Board of Education has sufficient evidence at any time that any

superintendent of schools is not capable of discharging, or is not discharging, the duties of his office as required by law or is guilty of immoral or disreputable conduct, the State Board of Education shall report this matter to the board of education employing said superintendent of schools. It shall then be the duty of that board of education to hear the evidence in the case and, if after careful investigation it shall find the charges true, it shall declare the office vacant at once and proceed to elect a successor: Provided, that such superintendent shall have the right to try his title to office in the courts of the State.

(b) If the superintendent shall fail in the duties enumerated in G.S. 115C-276(g), 115C-276(h), 115C-276(i), or any other duties as may be assigned him, he shall be subject, after notice, to an investigation by the State Board of Education or by his board of education for failure to perform his duties. For persistent failure to perform these duties, the State Board of Education may revoke the superintendent's certificate and the superintendent may be dismissed by his board of education.

(c) The identification by the State Board of Education of more than half the schools in a local school administrative unit as low-performing under G.S. 115C-105.37 is evidence that the superintendent is unable to fulfill the duties of the office, and the State Board may appoint an interim superintendent to carry out the duties of the superintendent under G.S. 115C-105.39, may revoke the superintendent's certificate under this section, may dismiss the superintendent under G.S. 115C-105.39, or may take any combination of these actions. (1955, c. 1372, art. 5, s. 25; art. 6, s. 4; 1981, c. 423, s. 1; 1995 (Reg. Sess., 1996), c. 716, s. 6.)

§ 115C-275. Vacancies in office of superintendent.

In case of vacancy by death, resignation, or otherwise, in the office of a superintendent, such vacancy shall be filled by the local board of education in which such vacancy occurred. If the vacancy is filled on a temporary basis, subject to the same approvals and to the same educational qualifications as provided for superintendents, the individual appointed to fill the vacancy on a temporary basis shall be paid the salary provided for superintendents. During the time any superintendent is on an approved leave of absence, without pay, an acting superintendent may be appointed in the same manner to serve during the interim period, which appointment shall be subject to the same approvals and to the same educational qualifications as provided for superintendents. In case such position is not filled immediately on a permanent or temporary basis, or in case of absence of a superintendent on account of illness or other approved reason, the board of education, by resolution duly adopted and recorded in the minutes of such board, may assign to an employee of such school board, with the approval of the Superintendent of Public Instruction, any duty or duties of such superintendent which necessity requires be performed during such time. If the superintendent's duty of signing warrants and checks is assigned, the board shall give proper notice immediately to the State Controller and to the appropriate local disbursing official. (1955, c. 1372, art. 6, s. 2; 1959, c. 573, s. 3; 1977, c. 298; 1981, c. 423, s. 1; 1987 (Reg. Sess., 1988), c. 1025, s. 11; 1991, c. 542, s. 1.)

§ 115C-276. Duties of superintendent.

(a) In General. – All acts of local boards of education, not in conflict with State law, shall be binding on the superintendent, and it shall be his duty to carry out all rules and regulations of the board.

All the powers, duties and responsibilities imposed by law upon the superintendents of county administrative units shall, with respect to city administrative units, be imposed

upon, and exercised by, the superintendents of city administrative units, in the same manner and to the same extent, insofar as applicable thereto, as such powers and duties are exercised and performed by superintendents of county administrative units with reference to said county administrative units.

(b) To Serve as Secretary to Board. – Superintendents shall be ex officio secretary to their respective boards of education. As secretary to the board of education, the superintendent shall record all proceedings of the board, issue all notices and orders that may be made by the board, and otherwise be executive officer of the board of education. He shall see that the minutes of the meetings of the board of education are promptly and accurately recorded in the minute book which shall be kept in the office of the board of education and be open at all times to public inspection.

(c) To Monitor Condition of School Plants. – It shall be the duty of every superintendent to visit the schools of his unit, to keep his board of education informed at all times as to the condition of the school plants in his administrative unit, and to make immediate provisions to remedy any unsafe or unsanitary conditions existing in any school building.

(d) To Attend Professional Meetings. – It shall be the duty of every superintendent to attend professional meetings conducted by the State Superintendent of Public Instruction and such other professional meetings as are necessary to keep him informed on educational matters.

(e) To Report Certain Information to the Superintendent of Public Instruction. – It shall be the duty of every superintendent to furnish as promptly as possible to the State Superintendent when requested by him, information and statistics on any phase of the school work in his administrative unit.

(f) To Administer Oaths When Required. – The superintendent shall have authority to administer oaths to teachers and all other school officials when an oath is required of the same.

(g) To Familiarize Himself with and to Implement State Policies and Rules. – It shall be the duty of the superintendent to keep himself thoroughly informed as to all policies promulgated and rules adopted by the State Superintendent of Public Instruction and the State Board of Education, for the organization and government of the public schools. The superintendent shall notify and inform his board of education, supervisors, principals, teachers, janitors, bus drivers, and all other persons connected with the public schools, of such policies and rules. In the performance of these duties, the superintendent shall confer, work, and plan with all school personnel to achieve the best methods of instruction, school organization and school government.

(h) To Hold Necessary Teachers' Meetings. – The superintendent shall hold each year such teachers' meetings and study groups as in his judgment will improve the efficiency of the instruction in the schools of his unit.

(i) To Distribute Certain Supplies and Information. – The superintendent shall distribute to all school personnel all blanks, registers, report cards, record books, bulletins, and all other supplies and information furnished by the State Superintendent and the State Board of Education and give instruction for their proper use.

(j) To Assist the Local Board in Electing School Personnel. – It shall be the duty of the superintendent to recommend and the board of education to elect all principals, teachers, and other school personnel in the administrative unit.

(k) To Submit Organization Reports and Other Information to the State Board. – Each year the superintendent of each local school administrative unit shall submit to the State Board of Education statistical reports, certified by the chairman of the board of education, showing the organization of the schools in his or her unit and any additional information the State Board may require. At the end of the second month of school each year, local boards of education, through the superintendent, shall report school organization, employees' duties, and class sizes to the State Board. As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size maximums in kindergarten through third grade that occur at that time.

(l) To Maintain Personnel Files and to Participate in Firing and Demoting of Staff. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains complaints, commendations, or suggestions for correction or improvement about the teacher and shall participate in the firing and demoting of staff, as provided in Part 3 of Article 22 of this Chapter.

(m) To Furnish Boundaries of Special Taxing Districts. – It shall be the duty of county superintendents, and of city superintendents where their administrative units are not coterminous with city or township limits, to furnish tax listers at tax listing time the boundaries of each taxing district and city administrative unit in which a special tax will be levied to the end that all property in such district or unit may be properly listed.

(n) To Issue Salary Vouchers. – The authority for a superintendent to issue vouchers for the salary of all school employees, whether paid from State or local funds, shall be a monthly payroll, prepared on forms furnished by the State Board of Education and containing all information required by the State Board of Education. This monthly payroll shall be signed by the principal of the school. If any voucher so drawn is chargeable against district funds, the amount so charged and the district to which said amount is charged shall be specified on the voucher. The superintendent shall not approve the vouchers for the pay of principals or teachers until the monthly and annual reports required by the local board of education are made.

(o) To Participate in the School Budget and Finances. – The superintendent shall participate in the school budget and finances, as provided in Article 31 of this Chapter.

(p) To Require Teachers and Principals to Make Reports. – The superintendents may require teachers to make reports to the principals and principals to make reports to the superintendent. Any superintendent who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a Class 1 misdemeanor and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

(q) To Assign School Principals. – Subject to local board policy, the superintendent shall have the authority to assign principals to school buildings. When making an

assignment, the superintendent shall consider (i) whether a principal has demonstrated the leadership ability to increase student achievement at a school where conditions indicated a significant risk of low student performance; and (ii) how to maintain stability at a school where, during the time the principal has been at a school, there has been significant improvement on end-of-course or end-of-grade tests and other accountability measures developed by the State Board of Education.

(r) To Maintain Student Discipline. – The superintendent shall maintain student discipline in accordance with Article 27 of this Chapter and shall keep data on each student to whom corporal punishment was administered, who was suspended for more than 10 days, who was reassigned for disciplinary reasons, or who was expelled. This data shall include the race, gender, age, grade level, ethnicity, and disability status of each student, the duration of suspension for each student, whether alternative education services were provided for each student, and whether a student had multiple suspensions in that academic year.

(s) To Provide for Annual Evaluations and Mandatory Improvement Plans. – The superintendent shall provide for the annual evaluation of all licensed employees assigned to low-performing schools that did not receive an assistance team. The superintendent shall determine whether all principals and assistant principals who evaluate licensed employees are trained in the proper administration of the employee evaluations and the development of appropriate mandatory improvement plans. The superintendent also shall arrange for principals and assistant principals who evaluate licensed employees to receive the appropriate training.

(t) Repealed by Session Laws 2012-142, s. 7.13(c), effective July 1, 2012. (1955, c. 1372, art. 5, s. 24; art. 6, ss. 3-6, 10, 15; art. 17, s. 6; art. 18, s. 7; 1959, c. 1294; 1963, c. 688, s. 3; 1965, c. 584, ss. 5, 6, 16; 1969, c. 539; 1973, c. 770, ss. 1, 2; 1975, c. 965, s. 3; 1977, c. 1088, s. 4; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, ss. 17, 18, 24; 1987 (Reg. Sess., 1988), c. 1025, s. 12; c. 1086, s. 89(c); 1993, c. 169, s. 2; c. 210, s. 4; c. 539, s. 882; 1994, Ex. Sess., c. 24, s. 14(c); 1995, c. 386, s. 2; 1995 (Reg. Sess., 1996), c. 716, s. 25; 1998-5, s. 6; 1998-182, s. 38; 1998-220, s. 10; 2011-282, s. 10; 2011-348, s. 4; 2012-142, s. 7.13(c); 2013-360, s. 9.7(f); 2013-363, s. 3.3(c).)

§ 115C-277. Office, equipment, and clerical assistance to be provided by board.

It shall be the duty of the various boards of education to provide the superintendent of schools with an appropriate office. Likewise, it shall be the duty of the various boards of education to furnish adequately the superintendent's office and provide all necessary office supplies. Authority is hereby given to boards of education to employ sufficient clerical assistants and purchase sufficient office machines and equipment to the end that the business of the superintendent of schools shall always be conducted in a prompt and efficient manner. (1955, c. 1372, art. 5, s. 23; 1981, c. 423, s. 1.)

§ 115C-278. Assistant superintendent and associate superintendent.

Local boards of education shall have authority to employ an assistant superintendent, in addition to those that may be furnished by the State when, in the discretion of the board of education, the schools of the administrative unit can thereby be more efficiently and more

economically operated and when funds for the same are provided in the current expense fund budget. The duties of such assistant superintendent shall be assigned by the superintendent with the approval of the board of education.

Local boards of education may, upon the recommendation of the superintendent, elect assistant or associate superintendents for a term of from one to four years. The term may not, however, exceed the expiration date of the superintendent's contract, unless the remaining time of the superintendent's contract is less than one year. If there is less than one year remaining on the superintendent's contract, the assistant or associate superintendent shall be given a contract through the next school year.

The term of employment shall be stated in a written contract which shall be entered into between the board of education and the assistant or associate superintendent, a copy of which shall be filed with the Superintendent of Public Instruction as a matter of information. The assistant or associate superintendent may not be dismissed during the term to which he is elected except for misconduct of such a nature as to indicate he is unfit to continue in his position, incompetence, neglect of duty, or failure or refusal to carry out validly assigned duties. (1955, c. 1372, art. 5, s. 27; 1971, c. 1188, s. 1; 1973, c. 733; 1981, c. 423, s. 1.)

§§ 115C-279 through 115C-283. Reserved for future codification purposes.

Article 19.

Principals and Supervisors.

§ 115C-284. Method of selection and requirements.

(a) Principals and supervisors shall be elected by the local boards of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

(b) In the city administrative units, principals shall be elected by the board of education of such administrative unit upon the recommendation of the superintendent of city schools.

(b1) To qualify for certification as a school administrator, an individual must meet all of the following requirements:

(1) Submit a complete application to the State Board.

(2) Pay the applicable fee.

(3) Have a bachelor's degree from an accredited college or accredited university.

(4) Have one of the following:

a. A graduate degree from a public school administration program that meets the public school administration program approval standards established by the State Board of Education.

b. A master's degree from an accredited college or accredited university and, by December 31, 1999, have completed a public school administration program that meets the public school administration program approval standards set by the State Board of Education.

c. Education and training determined by the State Board of Education as equivalent.

(5) Pass the exam adopted by the State Board.

(c) The State Board of Education shall have entire control of certifying all applicants for supervisory and professional positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates, and shall determine and fix the salary for each grade and type of certificate which it authorizes. The State Board of Education shall require each applicant for an initial certificate or graduate certificate to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score at least equivalent to that required by the Board on November 30, 1972, on a standard examination appropriate and adequate for that purpose. If the Board shall specify the National Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, 1972. The Board shall not issue provisional certificates for principals.

The Board shall issue a one-year provisional assistant principal's certificate to an employee of a local board only if: (i) the local board determines there is a shortage of persons who hold or are qualified to hold a principal's certificate and the employee enrolls in an approved program leading to a masters degree in school administration before the provisional certificate expires; or (ii) the employee is enrolled in an approved masters in school administration program and is participating in the required internship under the masters program. The Board shall extend the provisional certificate for a total of no more than two additional years while the employee is completing the program.

(c1) It is the policy of the State of North Carolina to maintain the highest quality principal and assistant principal education programs in order to enhance the competence of professional personnel certified in North Carolina. To ensure that principal and assistant principal preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education shall submit to the General Assembly not later than March 1, 1992, a plan to promote this policy. In developing this plan, the State Board shall consider (i) requiring these programs to include additional preparation for site-based decision making and for the additional autonomy being granted to local school units, (ii) enhancing program entrance requirements to include assessment of an applicant's ability to complete the program and to perform as a principal, and (iii) enhancing the overall content of the programs.

The State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors and such other public and private agencies as are necessary, shall refine the several certification requirements, standards for approval of institutions of principal and assistant principal education, standards for institution-based innovative and experimental programs, and standards for improved efficiencies in the administration of the approved programs.

(c2) The State Board of Education shall adopt new standards by July 1, 2008, for school administrator preparation programs. The new standards shall:

(1) Be aligned with the revised standards for the evaluation of school executives and specifically address the use of the results of the Teacher Working Conditions Survey;

(2) Require evidence of a high level of institutional commitment, including dedicated resources, for administrator preparation program improvements and redesign;

(3) Require the use of cross-functional work teams to determine a common curriculum framework that (i) is designed to align with defined standards, (ii) includes rigorous core courses, and (iii) will produce administrators who meet the defined standards. The cross-functional work teams shall include school-based personnel, faculty from schools of education and other disciplines from institutions of higher education, and representatives of State agencies;

(4) Require the use of cross-functional work teams to design and periodically update specific standards regarding placement, required activities, and evaluations of clinical experiences. These standards shall include appropriate training for the school leaders who agree to accept and supervise interns;

(5) Require written agreements between the institution of higher education and a local school administrative unit to govern their shared responsibility for (i) recruitment and preparation of school administrators, especially with regard to clinical experiences including the internship, and (ii) a new administrator's success once employed;

(6) Require authentic partnerships between adjunct faculty and full-time faculty to fully address the need for both practical, field-based experience and academic, theory-based experience. These partnerships may require a change in the institution of higher education's definition of scholarly activity and its reward system;

(7) Require all candidates to complete a year-long internship; and

(8) Require the development of portfolios for emerging leaders that provide evidence they are applying their training to actual school needs and challenges.

Institutions of higher education shall redesign their school administrator preparation programs to meet the new standards and report to the State Board of Education on the redesign by July 1, 2009.

(c3) The State Board of Education shall require that all students in school administrator preparation programs demonstrate competencies in (i) using digital and other instructional technologies and (ii) supporting teachers and other school personnel to use digital and other instructional technologies to ensure provision of high-quality, integrated digital teaching and learning to all students. The State Board of Education shall include continuing education in high-quality, integrated digital teaching and learning as a requirement of licensure renewal.

(d) Repealed by Session Laws 1989, c. 385, s. 1.

(d1) It is the policy of the State of North Carolina that, subsequent to the adoption of a system of classroom teacher differentiation and prerequisites to candidacy for principal, a classroom teacher must have attained at least the second level of differentiation, have at least four years of classroom teaching experience, and possess, at least, a Masters Degree in Education Administration. This subsection shall not apply to educational personnel certified as of July 1, 1984.

(e) It shall be unlawful for any board of education to employ or keep in service any principal or supervisor who neither holds nor is qualified to hold a license in compliance with the provision of the law or in accordance with the regulations of the State Board of Education. However, a local board of education may select a retired principal or retired assistant principal to serve as an interim principal for the remainder of any school year, regardless of licensure status.

(f) The allotment of classified principals shall be one principal for each duly constituted school with seven or more state-allotted teachers.

(g) Local boards of education shall have authority to employ supervisors in addition to those that may be furnished by the State when, in the discretion of the board of education, the schools of the local school administrative unit can thereby be more efficiently and more economically operated and when funds for the same are provided in the current expense fund budget. The duties of such supervisors shall be assigned by the superintendent with the approval of the board of education.

(h) All principals and supervisors employed in the public schools of the State or in schools receiving public funds, shall be required either to hold or be qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education. (1955, c. 1372 art. 5, ss. 4, 27; art. 6, s. 6; art. 18, ss. 1-4; 1963, c. 688, s. 3; 1965, c. 584, ss. 6, 20.1; 1969, c. 539; 1971, c. 1188, s. 1; 1973, cc. 236, 733; c. 770, ss. 1, 2; 1975, c. 437, s. 7; c. 686, s. 1; c. 731, ss. 1, 2; c. 965, s. 3; 1977, c. 1088, s. 4; 1981, c. 423, s. 1; 1983 (Reg. Sess., 1984), c. 1103, s. 4; 1985 (Reg. Sess., 1986), c. 975, s. 16; 1989, c. 385, s. 1; 1991, c. 689, s. 200(a); 1991 (Reg. Sess., 1992), c. 1030, s. 28; 1993, c. 392, s. 2; 1999-30, s. 1; 1999-394, s. 1; 2006-264, s. 56(b); 2007-517, s. 1; 2008-187, s. 43; 2013-11, s. 2; 2017-189, s. 2(j).)

§ 115C-284.1. School administrator preparation programs.

Rules for approval of school administrator preparation programs shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program. (2017-189, s. 2(k).)

§ 115C-285. Salary.

(a) Principals and supervisors shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All principals and supervisors employed by any local school administrative unit who are to be paid from local funds shall be paid promptly as provided by law and as state-allotted principals and supervisors are paid.

Principals and supervisors paid from State funds shall be paid as follows:

(1) Classified principals and State-allotted supervisors shall be employed for a term of 12 calendar months. Each local board of education shall establish a set date on which monthly salary payments to classified principals and State-allotted supervisors shall be made. This set pay date may differ from the end of the calendar month of service. Classified principals and State-allotted supervisors shall only be paid for the days employed as of the set pay date. Payment for a full month when days employed are less than a full month is prohibited as this constitutes prepayment. They shall earn annual vacation leave at the same rate provided for State employees. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at the time agreed upon by the employee and his immediate supervisor. They shall be provided by the board the same or an equivalent number of legal holidays as those designated by the State Human Resources Commission for State employees.

(2) Supervisors and classified principals paid on an hourly or other basis whether paid from State or from local funds may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any supervisor or principals with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by the employee will be upon the authorization of his immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours or 30 days when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. Upon separation from service due to service retirement, any annual vacation leave over 30 days will convert to sick leave and may be used for creditable service at retirement in accordance with G.S. 135-4(e). If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision.

(3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. Vacation days shall not be used for extending the term of employment of

individuals and shall not be cumulative from one fiscal year to another fiscal year, except as provided in subdivision (5) of this section.

(4) Each local board of education shall sustain any loss by reason of an overpayment to any principal or supervisor paid from State funds.

(5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars ($50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.

(6) The State Board of Education, in fixing the State standard salary schedule of principals as authorized by law, shall provide that principals who entered the armed or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service, shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals or superintendents in the public schools of the State after having been honorably discharged from the armed or auxiliary forces of the United States.

(7) All persons employed as principals in the schools and institutions listed in G.S. 115C-325.10 shall be compensated at the same rate as are teachers in the public schools in accordance with the salary schedule adopted by the State Board of Education.

(8) A teacher who becomes an assistant principal shall be paid, on a monthly basis, at least as much as he or she would earn as a teacher employed by that local school administrative unit.

(8a) A teacher who becomes a principal shall be paid on a monthly basis, at least as much as he or she would earn as a teacher employed by that local school administrative unit.

(9) An assistant principal who becomes a principal shall be paid, on a monthly basis, at least as much as he or she would earn as an assistant principal employed by that local school administrative unit.

(b) Every local board of education may adopt, as to principals and supervisors not paid out of State funds, a salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force.

(c) The board of education may withhold the salary of any supervisor or principal who delays or refuses to render such reports as are required by law, but when the reports are delivered in accordance with law, the salary shall be paid forthwith. (1955, c. 1372, art. 5, s. 32; art. 6, s. 13; art. 17, s. 9; art. 18, s. 6; 1961, c. 1085; 1965, c. 584, s. 3; 1971, c. 1052; 1973, c. 315, s. 2; c. 647, s. 1; 1975, c. 383; c. 437, s. 9; c. 608; c. 834, ss. 1, 2; 1979, c. 600, ss. 1-5; 1981, c. 423, s. 1; c. 639, s. 4; c. 946, s. 2; 1983, c. 872, s. 2; 1985, c.

757, s. 145(d); 1985 (Reg. Sess., 1986), c. 975, s. 15; 1987, c. 414, s. 5; 1989, c. 386, s. 1; 1993, c. 321, s. 73(b); 1995, c. 450, s. 18; 1997-443, s. 8.38(g); 1999-237, s. 28.26(d); 2013-360, s. 9.7(g); 2013-382, s. 9.1(c); 2015-241, ss. 9.5(a), (b); 2016-94, s. 9.3(a).)

§115C-286. Rules for conduct of principals and supervisors.

The conduct of principals and supervisors, the kind of reports they shall make, and their duties in the care of school property are subject to the rules of the local board, as provided in G.S. 115C-47(18). (1981, c. 423, s. 1.)

§ 115C-286.1. Evaluations of principals.

Local school administrative units shall evaluate all principals and assistant principals at least once each year. Either the superintendent or the superintendent's designee shall conduct the evaluations.

The State Board of Education shall ensure that the standards and criteria for the evaluations include the accountability measures of teacher retention, teacher support, and school climate. The State Board shall revise its evaluation instruments to include these measures. A local board shall use the performance standards and criteria adopted by the State Board unless the board develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board. (2005-276, s. 7.29.)

§ 115C-287: Repealed by Session Laws 1993, c. 210, s. 5.

§ 115C-287.1. Method of employment of principals, assistant principals, supervisors, and directors.

(a) (1) All persons employed as school administrators shall be employed pursuant to this section.

(2) Repealed by Session Laws 2013-360, s. 9.6(d), effective July 1, 2014.

(3) For purposes of this section, school administrator means a:

a. Principal;

b. Assistant principal;

c. Supervisor; or

d. Director,

whose major function includes the direct or indirect supervision of teaching or of any other part of the instructional program.

(4) Repealed by Session Laws 2013-360, s. 9.6(d), effective July 1, 2014.

(b) Local boards of education shall employ school administrators upon the recommendation of the superintendent. The initial contract between a school administrator and a local board of education shall be for two to four years, ending on June 30 of the final 12 months of the contract. In the case of a subsequent contract between a principal or assistant principal and a local board of education, the contract shall be for a term of four years. In the case of an initial contract between a school administrator and a local board of education, the first year of the contract may be for a period of less than 12 months provided

the contract becomes effective on or before September 1. A local board of education may, with the written consent of the school administrator, extend, renew, or offer a new school administrator's contract at any time after the first 12 months of the contract so long as the term of the new, renewed, or extended contract does not exceed four years. Rolling annual contract renewals are not allowed. Nothing in this section shall be construed to prohibit the filling of an administrative position on an interim or temporary basis.

(c) The term of employment shall be stated in a written contract that shall be entered into between the local board of education and the school administrator. The school administrator shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure by which a teacher may be dismissed or demoted for cause as set forth in G.S. 115C-325.4.

(d) If a superintendent intends to recommend to the local board of education that the school administrator be offered a new, renewed, or extended contract, the superintendent shall submit the recommendation to the local board for action. The local board may approve the superintendent's recommendation or decide not to offer the school administrator a new, renewed, or extended school administrator's contract.

If a superintendent decides not to recommend that the local board of education offer a new, renewed, or extended school administrator's contract to the school administrator, the superintendent shall give the school administrator written notice of his or her decision no later than May 1 of the final year of the contract. The superintendent's reasons may not be arbitrary, capricious, discriminatory, personal, political, or prohibited by State or federal law. No action by the local board or further notice to the school administrator shall be necessary unless the school administrator files with the superintendent a written request, within 10 days of receipt of the superintendent's decision, for a hearing before the local board. Failure to file a timely request for a hearing shall result in a waiver of the right to appeal the superintendent's decision. If a school administrator files a timely request for a hearing, the local board shall conduct a hearing pursuant to the provisions of G.S. 115C-45(c) and make a final decision on whether to offer the school administrator a new, renewed, or extended school administrator's contract.

If the local board decides not to offer the school administrator a new, renewed, or extended school administrator's contract, the local board shall notify the school administrator of its decision by June 1 of the final year of the contract. A decision not to offer the school administrator a new, renewed, or extended contract may be for any cause that is not arbitrary, capricious, discriminatory, personal, political, or prohibited by State or federal law.

(e) Repealed by Session Laws 1995, c. 369, s. 1.

(f) If the superintendent or the local board of education fails to notify a school administrator by June 1 of the final year of the contract that the school administrator will not be offered a new school administrator's contract, the school administrator shall be entitled to 30 days of additional employment or severance pay beyond the date the school administrator receives written notice that a new contract will not be offered.

(f1) If, prior to appointment as a school administrator, the school administrator held career status as a teacher in the local school administrative unit in which he or she is

employed as a school administrator, the school administrator shall retain career status as a teacher if the school administrator is not offered a new, renewed, or extended contract by the local board of education, unless the school administrator voluntarily relinquished career status or is dismissed or demoted pursuant to G.S. 115C-325.

(g) Repealed by Session Laws 2013-360, s. 9.6(d), effective July 1, 2014.

(h) An individual who holds a provisional assistant principal's license and who is employed as an assistant principal under G.S. 115C-284(c) shall be considered a school administrator for purposes of this section. Notwithstanding subsection (b) of this section, a local board may enter into one-year contracts with a school administrator who holds a provisional assistant principal's license. If the school administrator held career status as a teacher in the local school administrative unit prior to being employed as an assistant principal and the State Board of Education for any reason does not extend the school administrator's provisional assistant principal's license, the school administrator shall retain career status as a teacher unless the school administrator voluntarily relinquished career status or is dismissed or demoted pursuant to G.S. 115C-325. Nothing in this subsection or G.S. 115C-284(c) shall be construed to require a local board to extend or renew the contract of a school administrator who holds a provisional assistant principal's license. (1993, c. 210, s. 6; 1993 (Reg. Sess., 1994), c. 677, s. 16(a); 1995, c. 369, s. 1; 1998-220, s. 16; 1999-30, s. 3; 2003-291, s. 1; 2013-360, s. 9.6(d); 2014-115, s. 65; 2017-157, s. 2(e).)

§ 115C-288. Powers and duties of principal.

(a) To Grade and Classify Pupils. – The principal shall have authority to grade and classify pupils, except as provided in G.S. 115C-83.7(a). In determining the appropriate grade for a pupil who is already attending a public school, the principal shall consider the pupil's classroom work and grades, the pupil's scores on standardized tests, and the best educational interests of the pupil. The principal shall not make the decision solely on the basis of standardized test scores. If a principal's decision to retain a child in the same grade is partially based on the pupil's scores on standardized tests, those test scores shall be verified as accurate.

A principal shall not require additional testing of a student entering a public school from a school governed under Article 39 of this Chapter if test scores from a nationally standardized test or nationally standardized equivalent measure that are adequate to determine the appropriate placement of the child are available.

(b) To Make Accurate Reports to the Superintendent and to the Local Board. – The principal shall make all reports to the superintendent. Every principal of a public school shall make such reports as are required by the boards of education, and the superintendent shall not approve the vouchers for the pay of principals until the required monthly and annual reports are made: Provided, that the superintendents may require teachers to make reports to the principals and principals to make reports to the superintendent: Provided further, that any principal or supervisor who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a Class

1 misdemeanor and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

(c) To Improve Instruction and Community Spirit. – The principal shall give suggestions to teachers for the improvement of instruction.

(d) To Conduct Fire Drills and Inspect for Fire Hazards. – It shall be the duty of the principal to conduct a fire drill during the first week after the opening of school and thereafter at least one fire drill each school month, in each building in his charge, where children are assembled. Fire drills shall include all pupils and school employees, and the use of various ways of egress to simulate evacuation of said buildings under various conditions, and such other regulations as shall be prescribed for fire safety by the Commissioner of Insurance, the Superintendent of Public Instruction and the State Board of Education. A copy of such regulations shall be kept posted on the bulletin board in each building.

It shall be the duty of each principal to inspect each of the buildings in his charge at least twice each month during the regular school session. This inspection shall include cafeterias, gymnasiums, boiler rooms, storage rooms, auditoriums and stage areas as well as all classrooms. This inspection shall be for the purpose of keeping the buildings safe from the accumulation of trash and other fire hazards.

It shall be the duty of the principal to file two copies of a written report once each month during the regular school session with the superintendent of his local school administrative unit, one copy of which shall be transmitted by the superintendent to the chairman of the local board of education. This report shall state the date the last fire drill was held, the time consumed in evacuating each building, that the inspection has been made as prescribed by law and such other information as is deemed necessary for fire safety by the Commissioner of Insurance, the Superintendent of Public Instruction and the State Board of Education.

It shall be the duty of the principal to minimize fire hazards pursuant to the provisions of G.S. 115C-525.

(e) To Discipline Students and to Assign Duties to Teachers with Regard to the Discipline, General Well-being, and Medical Care of Students. –

The principal shall have authority to exercise discipline over the pupils of the school under policies adopted by the local board of education in accordance with G.S. 115C-390.1 through G.S. 115C-390.12. The principal may use reasonable force pursuant to G.S. 115C-390.3 and may suspend students pursuant to G.S. 115C-390.5. The principal shall assign duties to teachers with regard to the general well-being and the medical care of students under G.S. 115C-307 and Article 26A of this Chapter.

(f) To Protect School Property. – The principal shall protect school property as provided in G.S. 115C-523.

(g) To Report Certain Acts to Law Enforcement and the Superintendent. – When the principal has personal knowledge or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon

in violation of the law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

Notwithstanding any other provision of law, the State Board of Education shall not require the principal to report to law enforcement acts in addition to those required to be reported by law.

For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area, or athletic field, in the charge of the principal.

The principal or the principal's designee shall notify the superintendent or the superintendent's designee in writing or by electronic mail regarding any report made to law enforcement under this subsection. This notification shall occur by the end of the workday in which the incident occurred when reasonably possible but not later than the end of the following workday. The superintendent shall provide the information to the local board of education.

Nothing in this subsection shall be interpreted to interfere with the due process rights of school employees or the privacy rights of students.

(h) To Make Available School Budgets and School Improvement Plans. – The principal shall maintain a copy of the school's current budget and school improvement plan, including any amendments to the plan, and shall allow parents of children in the school and other interested persons to review and obtain such documents in accordance with Chapter 132 of the General Statutes.

(i) To Evaluate Licensed Employees and Develop Mandatory Improvement Plans. – Each school year, the principal assigned to a low-performing school that has not received an assistance team shall provide for the evaluation of all licensed employees assigned to the school. The principal also shall develop mandatory improvement plans as provided under G.S. 115C-333(b) and G.S. 115C-333.1(b) and shall monitor an employee's progress under a mandatory improvement plan.

(j) To Transfer Student Records. – The principal shall not withhold the transfer of student records, except as is provided in G.S. 115C-403(b).

(k) To Sign Driving Eligibility Certificates and to Notify the Division of Motor Vehicles. – In accordance with rules adopted by the State Board of Education, the principal or the principal's designee shall do all of the following:

(1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.

(2) 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.

(3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions.

(l) To Establish School Improvement Teams. – Each school year, the principal shall ensure that a school improvement team is established under G.S. 115C-105.27 for the purpose of developing, reviewing, and revising a school improvement plan.

(m) To Address the Unique Needs of Military-Connected Students. – The principal shall develop a means for serving the unique needs of students identified as military-connected students as required in G.S. 115C-12(18)f. (1955, c. 1372, art. 17, ss. 6, 8; 1957, c. 843; 1959, c. 573, s. 13; c. 1294; 1965, c. 584, s. 15; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 4; 1987, c. 572, s. 3; 1993, c. 327, s. 1; c. 539, s. 883; 1994, Ex. Sess., c. 24, s. 14(c); 1995 (Reg. Sess., 1996), c. 716, s. 7.1; 1996, 2nd Ex. Sess., c. 18, s. 18.27; 1997-443, s. 8.29(t); 1998-5, s. 7; 1998-220, s. 13; 1999-243, s. 7; 1999-373, s. 2; 2001-424, s. 28.17(b); 2005-22, s. 5; 2009-410, s. 1; 2011-145, s. 7.13(s), (t); 2011-248, s. 1; 2011-282, s. 11; 2011-348, s. 5; 2011-391, s. 14(b); 2012-142, s. 7A.1(g); 2012-149, s. 7; 2012-194, s. 55(c); 2014-15, s. 2.)

§ 115C-289. Assignment of principal's duties to assistant or acting principal; duties of State-funded assistant principals.

(a) Any duty or responsibility assigned to a principal by statute, State Board of Education regulation, or by the superintendent may, with the approval of the local board of education, be assigned by the principal to an assistant principal designated by the local board of education or to an acting principal designated by a principal.

(b) All persons employed as assistant principals in State-allotted positions, or as assistant principals in full-time positions regardless of funding source, in the public schools of the State or in schools receiving public funds, shall, in addition to other applicable requirements, be required either to hold or be qualified to hold a principal's certificate or a provisional assistant principal's certificate in compliance with applicable law and in accordance with the regulations of the State Board of Education. It shall be unlawful for any board of education to employ or keep in service any assistant principal who neither holds nor is qualified to hold a principal's certificate or a provisional assistant principal's certificate in compliance with applicable law and in accordance with the regulations of the State Board of Education. Persons who hold a provisional assistant principal's certificate and who are employed as assistant principals shall be employed under G.S. 115C-287.1(h).

(c) Repealed by Session Laws 1991, c. 689, s. 200(b).

(d) Assistant principals paid from State funds shall not have regularly assigned teaching duties. (1977, c. 539; 1981, c. 423, s. 1; 1987, c. 328; c. 830, s. 89(c); 1991, c. 689, s. 200(b); 1999-30, s. 2.)

§ 115C-289.1. Supervisor duty to report; intimidation of school employee.

(a) When a supervisor of a school employee has actual notice that the school employee has been the victim of an assault by a student in violation of G.S. 14-33(c)(6) resulting in physical injury, as that term is defined in G.S. 14-34.7, the supervisor shall immediately report to the principal the assault against the school employee. For the purpose of this subsection, the term "supervisor of a school employee" does not include the principal or superintendent.

(b) A principal, superintendent, or supervisor of a school employee shall not, by threats or in any other manner, intimidate or attempt to intimidate that school employee from reporting to law enforcement an assault by a student under G.S. 14-33(c)(6).

(c) Nothing in this section shall be interpreted to interfere with the due process rights of school employees or the privacy rights of students. (2012-149, s. 8.)

§ 115C-290. Reserved for future codification purposes.

Article 19A.

Standards Board for Public School Administration.

§§ 115C-290.1 through 115C-290.9: Repealed by Session Laws 2006-264, s. 56, effective August 27, 2006.

§ 115C-291: Reserved for future codification purposes.

§ 115C-292: Reserved for future codification purposes.

§ 115C-293: Reserved for future codification purposes.

§ 115C-294: Reserved for future codification purposes.

Article 20.

Teachers.

§ 115C-295. Minimum age and license prerequisites.

(a) All teachers employed in the public schools of the State or in schools receiving public funds, shall be required either to hold or be qualified to hold a license in compliance with the provision of the law or in accordance with the regulations of the State Board of Education: Provided, that nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe: Provided further, that no person shall be employed to teach who is under 18 years of age.

(b) It shall be unlawful for any board of education to employ or keep in service any teacher who neither holds nor is qualified to hold a license in compliance with the provision of the law or in accordance with the regulations of the State Board of Education.

(c) This section shall not prohibit the employment of individuals exempted from licensure under G.S. 115C-270.21. (1955, c. 1372, art. 18, ss. 1, 4; 1975, c. 437, s. 7; c. 731, ss. 1, 2; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 16; 2018-7, s. 2(b).)

§ 115C-295.1: Repealed by Session Laws 2011-145, s. 7.32, as added by Session Laws 2011-391, s. 17, effective July 1, 2011 and by Session Laws 2011-266, s. 1.39, effective July 1, 2011.

§ 115C-295.2: Repealed by Session Laws 2011-145, s. 7.32, as added by Session Laws 2011-391, s. 17, effective July 1, 2011, and by Session Laws 2011-266, s. 1.39, effective July 1, 2011.

§ 115C-295.3. Repealed by Session Laws 1999-96, s. 6.

§ 115C-296: Repealed by Session Laws 2017-189, s. 3(a), effective July 27, 2017, and applicable beginning with the 2017-2018 school year.

§ 115C-296.1. Expired.

§ 115C-296.2. National Board for Professional Teaching Standards Certification.

(a) State Policy. – It is the goal of the State to provide opportunities and incentives for good teachers to become excellent teachers and to retain them in the teaching profession; to attain this goal, the State shall support the efforts of teachers to achieve national certification by providing approved paid leave time for teachers participating in the process, lending teachers the participation fee, and paying a significant salary differential to teachers who attain national certification from the National Board for Professional Teaching Standards (NBPTS).

The National Board for Professional Teaching Standards (NBPTS) was established in 1987 as an independent, nonprofit organization to establish high standards for teachers' knowledge and performance and for development and operation of a national voluntary system to assess and certify teachers who meet those standards. Participation in the program gives teachers the time and the opportunity to analyze in a systematic way their professional development as teachers, successful teaching strategies, and the substantive areas in which they teach. Participation also gives teachers an opportunity to demonstrate superior ability and to be compensated as superior teachers. To receive NBPTS certification, a teacher must successfully (i) complete a process of developing a portfolio of student work and videotapes of teaching and learning activities and (ii) participate in NBPTS assessment center simulation exercises, including performance-based activities and a content knowledge examination.

(b) Definitions. – As used in this subsection:

(1) A "North Carolina public school" is a school operated by a local board of education, the Department of Health and Human Services, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or The University of North Carolina; a school affiliated with The University of North Carolina; or a charter school approved by the State Board of Education.

(2) A "teacher" is a person who:

a. Either:

1. Is certified to teach in North Carolina; or

2. Holds a certificate or license issued by the State Board of Education that meets the professional license requirement for NBPTS certification.

b. Is a State-paid employee of a North Carolina public school.

c. Is paid on the teacher salary schedule.

d. Spends at least seventy percent (70%) of his or her work time:

1. In classroom instruction, if the employee is employed as a teacher. Most of the teacher's remaining time shall be spent in one or more of the following: mentoring teachers, doing demonstration lessons for teachers, writing curricula, developing and leading staff development programs for teachers;
2. In work within the employee's area of certification or licensure, if the employee is employed in an area of NBPTS certification other than direct classroom instruction; or
3. As an instructional coach, as classified by the Department of Public Instruction, in a Title I school. As used in this sub-sub-subdivision, a Title I school is a school identified under Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended.

(c) Payment of the NBPTS Participation Fee; Paid Leave. – The State shall lend teachers the participation fee and shall provide up to three days of approved paid leave to all teachers participating in the NBPTS program who:

(1) Have completed three full years of teaching in a North Carolina public school; and
(2) Have (i) not previously received State funds for participating in any certification area in the NBPTS program, (ii) repaid any State funds previously received for the NBPTS certification process, or (iii) received a waiver of repayment from the State Board of Education.

Teachers participating in the program shall take paid leave only with the approval of their supervisors.

(d) Repealed by Session Laws 2009-451, s. 7.30(b), effective July 1, 2010, and applicable beginning with the 2010-2011 school year.

(d1) Repayment of the Application Fee. – A teacher shall repay the application fee to the State Education Assistance Authority within three years. The commencement of cash repayment shall begin 12 months following the disbursement of the loan funds. The State Education Assistance Authority may forgive the loan upon the death of the teacher or upon an injury deemed to leave the teacher totally and permanently disabled.

All funds appropriated to, or otherwise received by, the Authority to provide loans to teachers pursuant to this section, all funds received as repayment of loans, and all interest earned on these funds shall be placed in a trust fund. This fund shall be used only for loans made pursuant to this section and administrative costs of the Authority.

(e) Repealed by Session Laws 2009-451, s. 7.30(b), effective July 1, 2010, and applicable beginning with the 2010-2011 school year.

(e1) Repealed by Session Laws 2009-451, 7.41(a), effective June 30, 2011.

(f) Rules. – The State Education Assistance Authority shall adopt rules and guidelines regarding the loan and repayment of the NBPTS application fee. The State Board shall adopt policies and guidelines to implement the remainder of this section. (2000-67, s. 8.16; 2000-137, s. 3; 2008-86, s. 1; 2009-451, ss. 7.30(b), 7.41(a); 2009-575,

s. 3H; 2010-31, s. 7.11(a); 2011-145, s. 19.1(h), (l); 2014-100, s. 8.21; 2017-186, ss. 2(ddddd), 3(a).)

§ 115C-296.3: Expired June 30, 2004, by operation of Session Laws 2003-284, s. 7.20(h).

§ 115C-296.4: Repealed by Session Laws 2011-145, s. 7.31(a), as added by Session Laws 2011-391, s. 17, effective July 1, 2011, and by Session Laws 2011-266, s. 1.37(a), effective July 1, 2011.

§ 115C-296.5. North Carolina Center for the Advancement of Teaching; powers and duties of trustees; reporting requirement.

(a) The North Carolina Center for the Advancement of Teaching (hereinafter called "NCCAT"), through itself or agencies with which it may contract, shall:

(1) Provide career teachers with opportunities to study advanced topics in the sciences, arts, and humanities and to engage in informed discourse, assisted by able mentors and outstanding leaders from all walks of life; and

(2) Offer opportunities for teachers to engage in scholarly pursuits through a center dedicated exclusively to the advancement of teaching as an art and as a profession.

(b) Priority for admission to NCCAT opportunities shall be given to teachers with teaching experience of 15 years or less.

(c) NCCAT may also provide training and support for beginning teachers to enhance their skills and in support of the State's effort to recruit and retain beginning teachers.

(d) The Board of Trustees of the North Carolina Center for the Advancement of Teaching shall hold all the powers and duties necessary or appropriate for the effective discharge of the functions of NCCAT.

(e) The Executive Director shall submit a copy of the NCCAT annual report to the Chair of the State Board of Education at the time of issuance. (1985, c. 479, s. 74; 2006-66, s. 9.15(a); 2009-451, ss. 9.13(b), (c).)

§ 115C-296.6. Composition of board of trustees; terms; officers.

(a) The NCCAT Board of Trustees shall be composed of the following membership:

(1) Two ex officio members: the Chairman of the State Board of Education and the State Superintendent of Public Instruction or their designees;

(2) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate;

(3) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives; and

(4) Eight members appointed by the Governor, one from each of the eight educational regions.

The appointing authorities shall give consideration to assuring, through Board membership, the statewide mission of NCCAT.

(b) Members of the NCCAT Board of Trustees shall serve four-year terms. Members may serve two consecutive four-year terms. The Board shall elect a new chair every two years from its membership. The chair may serve two consecutive two-year terms as chair.

(c) The chief administrative officer of NCCAT shall be an executive director who shall be appointed by the NCCAT Board of Trustees. (1985, c. 479, s. 74; 1995, c. 490, s. 2; 2006-66, s. 9.15(b); 2009-451, s. 9.13(d), (e).)

§ 115C-296.7. North Carolina Teacher Corps.

(a) There is established the North Carolina Teacher Corps (NC Teacher Corps) to recruit and place recent graduates of colleges and universities and mid-career professionals as teachers in high needs public schools.

(b) The State Board of Education, in consultation with the Board of Governors of The University of North Carolina and the North Carolina Independent Colleges and Universities, shall develop and administer the NC Teacher Corps. In the development of the NC Teacher Corps, the State Board of Education shall consider examples of other successful teacher recruitment models used nationally and in other states.

(c) Applications shall be received annually for admission to the NC Teacher Corps. The State Board of Education shall establish application criteria, including, at a minimum, an award of a bachelor's degree from an accredited college or university. The State Board of Education may establish a committee to annually evaluate and select candidates for admission to the NC Teacher Corps.

(d) The State Board of Education shall identify local school administrative units with unmet recruitment needs, especially for career and technical education teachers, and high needs schools and shall coordinate placement of NC Teacher Corps members in those schools.

(e) The State Board of Education, in coordination with the Board of Governors, shall develop an intensive summer training institute for NC Teacher Corps members to provide coursework and training on essential teaching frameworks, curricula, and lesson-planning skills, as well as identification and education of students with disabilities, positive management of student behavior, effective communication for defusing and deescalating disruptive and dangerous behavior, and safe and appropriate use of seclusion and restraint. The intensive summer training institute also shall address identification of difficulty with reading development and of reading deficiencies and the provision of reading instruction, intervention, and remediation strategies.

(f) The State Board of Education, in coordination with the Board of Governors, shall provide ongoing support to NC Teaching Corps members through coaching, mentoring, and continued professional development.

(g) NC Teaching Corps members shall be granted residency licenses pursuant to Article 17E of this Chapter.

(h) The State Board of Education is authorized to contract for the administration of the NC Teacher Corps. (2012-142, s. 7A.7(a); 2013-1, s. 2(a); 2013-360, s. 8.21(c); 2015-241, s. 8.41(i); 2017-189, s. 6(b).)

§§ 115C-296.8 through 115C-296.13: Repealed by Session Laws 2017-189, ss. 2(a)-(f), effective July 27, 2017, and applicable beginning with the 2017-2018 school year.

§ 115C-297: Repealed by Session Laws 1989, c. 385, s. 2.

§ 115C-298: Repealed by Session Laws 1997-18, s. 9.

§ 115C-298.5. Adjunct K-12 instructors in core academic subjects.

(a) Adjunct Hiring Criteria. – The State Board of Education shall develop minimum criteria of relevant education or employment experience for an individual who is currently employed at an institution of higher education as a faculty member to qualify that individual to contract as an adjunct instructor in specific core academic subjects in grades kindergarten through 12 and shall make such criteria available to local boards of education.

(b) Contracting With Adjunct Instructors. – Notwithstanding any provisions in this Article to the contrary and Part 3 of Article 22 of this Chapter, a local board of education may contract with an individual to serve as an adjunct instructor who meets the adjunct hiring criteria established by the State Board of Education for specific core academic subjects. The local board of education may contract with an adjunct instructor on an annual or semester basis, subject to the following requirements:

(1) An adjunct instructor may be employed for less than 20 hours per week or for less than six full consecutive months of employment. Adjunct instructors may be classified as temporary full-time or part-time employees. Based on the status as a temporary public school employee, an adjunct instructor shall not be eligible to earn paid leave, participate in the Teachers' and State Employees' Retirement System, or receive or purchase health benefits through the State Health Plan for Teachers and State Employees.

(2) An adjunct instructor shall be subject to a criminal history check to ensure that the person has not been convicted of any crime listed in G.S. 115C-332.

(3) An adjunct instructor shall not be required to hold or apply for licensure as a teacher.

(4) If an adjunct instructor is not licensed as a teacher, the adjunct instructor shall complete preservice training, which may be offered through an educator preparation program or by a local school administrative unit, in all of the following areas prior to beginning instruction:

a. The identification and education of children with disabilities.

b. Positive management of student behavior.

c. Effective communication for defusing and de-escalating disruptive or dangerous behavior.

d. Safe and appropriate use of seclusion and restraint. (2017-91, s. 1.)

§ 115C-299. Hiring of teachers.

(a) In the city administrative units, teachers shall be elected by the board of education of such administrative unit upon the recommendation of the superintendent of city schools.

Teachers shall be elected by the county and city boards of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

(b) No person otherwise qualified shall be denied the right to receive credentials from the State Board of Education, to receive training for the purpose of becoming a teacher, or to engage in practice teaching in any school on the grounds that such person is totally or partially blind; nor shall any local board of education refuse to employ such a person on such grounds. (1955, c. 1372, art. 5, s. 4; 1971, c. 949; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 5.)

§ 115C-299.5. Duty to monitor the state of the teaching profession.

(a) Definitions. – As used in this section, the following definitions apply:

(1) Hard-to-staff school. – Any school identified as low-performing, as provided in G.S. 115C-105.37.

(2) Hard-to-staff subject area. – A subject area that is either of the following:

a. As defined by the United States Department of Education.

b. A subject area that has resulted in a long-term vacancy of 16 months or more at a particular school in a local school administrative unit.

(b) State of the Teaching Profession Report. – The State Board of Education shall monitor and compile an annual report by December 15 annually on the state of the teaching profession in North Carolina that includes data on the decisions of teachers to leave the teaching profession and vacancies in teaching positions as provided in subsections (c) and (e) of this section. The State Board shall adopt standard procedures for each local board of education to use in requesting information required by this report and shall require each local board of education to report the information to the State Board in a standard format adopted by the State Board.

(c) Teachers Leaving the Profession. – The report shall include the following data on the decisions of teachers to leave the teaching profession in the prior school year:

(1) The number of teachers who left the profession without remaining in the field of education and the reasons for teachers leaving the profession.

(2) The number of teachers who left their employment to teach in other states.

(3) The number of teachers who left their employment to work in another school in North Carolina, including nonpublic schools and charter schools.

(4) The number of teachers who left a classroom position for another type of educational position.
(5) The number of teachers who left employment in hard-to-staff schools.
(6) The number of teachers who left employment in hard-to-staff subject areas.

(d) The annual teacher transition report by the State Board of Education shall disaggregate the data included in subsection (c) of this section by teacher effectiveness status at a statewide level. The report shall not disaggregate data on teacher effectiveness status at a local school administrative unit level. Notwithstanding Article 21A of this Chapter, local school administrative units shall provide to the State Board of Education, for the purposes of this report, any North Carolina Educator Evaluation System (NCEES) effectiveness status assigned to teachers who left employment. The State Board of Education shall not report disaggregated data that reveals confidential information in a teacher's personnel file, as defined by Article 21A of this Chapter, such as making the effectiveness status personally identifiable to an individual teacher.

(e) Teacher Vacancies. – The report shall include data on teaching positions that local boards of education are unable to fill with a teacher licensed in that subject area by the fortieth school instructional day of the local school administrative unit's calendar. The report shall aggregate all data to provide both statewide information and information specific to each local school administrative units, including the following:

(1) The number of teacher vacancies by subject area.
(2) The number of teacher vacancies by school with identification of hard-to-staff schools. (2017-189, s. 5(b).)

§ 115C-300. In-service training.

Local boards of education are authorized to provide for the professional growth of teachers while in service and to pass rules and regulations requiring teachers to cooperate with their superintendent for the improvement of instruction in the classroom and for promoting community improvement. (1955, c. 1372, art. 5, s. 29; 1981, c. 423, s. 1.)

§ 115C-300.1. New teacher induction programs.

(a) Induction Program. – The State Board of Education shall develop a new teacher induction program to provide ongoing support for teachers entering the profession.

(b) New Teacher Guidelines. – For the purpose of helping local boards to support new teachers, the State Board shall develop and distribute guidelines that address optimum teaching load, extracurricular duties, student assignment, and other working condition considerations. These guidelines shall provide that teachers holding initial professional licenses not be assigned extracurricular activities unless they request the assignments in writing and that other noninstructional duties of these teachers be minimized.

(c) Mentor Teacher Training. – The State Board shall develop and coordinate a mentor teacher training program. The State Board shall develop criteria for selecting excellent, experienced, and qualified teachers to be participants in the mentor teacher training program as follows:

(1) Mentor teachers shall be either of the following:
   a. Teachers rated, through formal evaluations, at least at the "proficient" level as part of the North Carolina Teacher Evaluation System.
   b. Retired teachers.
(2) The principal shall determine which mentor teacher best meets the needs of each new teacher and shall assign the most appropriate mentor teacher to that new teacher, with priority consideration for those mentor teachers rated as "distinguished" and "accomplished."
(3) If a principal determines that a teacher rated as "proficient" or a retired teacher is the most appropriate mentor for a new teacher, the principal shall maintain records of the reasons for that determination.
(4) A teacher may be a mentor at a different school building from which the mentor is assigned if the following criteria are met:
   a. The principals of each school and the mentor teacher approve of the assignment.
   b. The mentor teacher is rated, through formal evaluations, at least at the "accomplished" level as part of the North Carolina Teacher Evaluation System.
   c. The new teacher's principal maintains a record of the reasons for selecting the mentor from a different school building. (2017-189, ss. 3(b), 6(o).)

§ 115C-301. Allocation of teachers; class size.

(a) Request for Funds. – The State Board of Education, based upon the reports of local boards of education and such other information as the State Board may require from local boards, shall determine for each local school administrative unit the number of teachers and other instructional personnel to be included in the State budget request.

(a1) **(Effective until July 1, 2021)** Teacher Position Allotments. – Funds for classroom teachers in the State Public School Fund shall consist of the following position allotments:
(1) Classroom teachers for kindergarten through twelfth grade, which shall include funds for program enhancement teachers, self-contained exceptional children teachers, math, science, and computer teachers, and matching benefits.
(2) Program enhancement teachers for kindergarten through fifth grade.

(a1) **(Effective July 1, 2021)** Teacher Position Allotments. – Funds for classroom teachers in the State Public School Fund shall consist of the following position allotments:
(1) Classroom teachers for kindergarten through twelfth grade, which shall include funds for program enhancement teachers for sixth through twelfth grade, self-contained exceptional children teachers, math, science, and computer teachers, and matching benefits.
(2) Program enhancement teachers for kindergarten through fifth grade.

(b) Allocation of Positions. – The State Board of Education is authorized to adopt rules to allot instructional personnel and teachers, within funds appropriated.

(c) Maximum Class Size for Kindergarten Through Third Grade. – The average class size for kindergarten through third grade in a local school administrative unit shall at no time exceed the funded allotment ratio of teachers to students in kindergarten through third grade. At the end of the second school month and for the remainder of the school year, the size of an individual class in kindergarten through third grade shall not exceed the allotment ratio by more than three students. The funded class size allotment ratio for kindergarten through third grade shall be as follows:

(1) For kindergarten, one teacher per 18 students.
(2) For first grade, one teacher per 16 students.
(3) For second grade, one teacher per 17 students.
(4) For third grade, one teacher per 17 students.

In grades four through 12, local school administrative units shall have the maximum flexibility to use allotted teacher positions to maximize student achievement.

(c1) Class Size Exceptions for Kindergarten Through Third Grade. – Class size requirements for kindergarten through third grade provided in subsection (c) of this section shall not apply to the following classes:

(1) Dual language immersion classes. For the purposes of this subsection, dual language immersion classes are classes in which (i) at least one-third of the students' dominant language is English and (ii) instruction involves both English and a target foreign language with a minimum of fifty percent (50%) of core content taught in the target foreign language in order to promote dual language proficiency for all students.
(2) Program enhancement classes.

(c2) Program Enhancement Teacher Allotment for Kindergarten Through Fifth Grade. –

(1) Definitions. – For the purposes of this section, "program enhancement" refers to any of the following:
    a. Arts disciplines, including dance, music, theater, and the visual arts.
    b. Physical education and health programs.
    c. World languages.
    d. Other supplemental classes as defined by the State Board of Education.
(2) Allotment ratio calculation. – The allotment ratio for kindergarten through fifth grade program enhancement teachers shall be one teacher per 191 students.
(3) Appropriation. – Beginning with the 2019-2020 fiscal year, there is appropriated from the General Fund to the Department of Public Instruction for the allotment for program enhancement teachers for kindergarten through fifth grade an amount equal to the percentage of the total funds required to allot program enhancement teacher positions for kindergarten through fifth grade on a basis of one teacher per 191 students for each fiscal year as follows:

Fiscal Year	**Appropriation**
2019-2020	50%

2020-2021	75%
2021-2022 and each subsequent fiscal year thereafter	100%.

When developing the base budget, as defined by G.S. 143C-1-1, for each fiscal year specified in this subdivision, the Director of the Budget shall include the appropriated amount for that fiscal year.

(d), (e) Repealed by Session Laws 2013-363, s. 3.3(a), effective July 1, 2013.

(f) Biannual Reports. – At the end of October and end of February of each school year, each local board of education, through the superintendent, shall file a report, based on information provided by the principal, for each school within the local school administrative unit with the Superintendent of Public Instruction. The report shall be filed in a format prescribed by the Superintendent of Public Instruction and shall include the organization for each school in the local school administrative unit, including the following information:

(1) For each class in each grade level at each school, the following:
   a. The duties of the teacher.
   b. The source of funds used to pay for the teacher.
   c. The number of students assigned to the class, including all exceptions to individual class size maximums in kindergarten through third grade that exist at that time.
(2) For each school, the following:
   a. The number of program enhancement teachers.
   b. The source of funds used to pay each program enhancement teacher.
(3) The average class size for each grade from kindergarten through third grade in the local school administrative unit.
(4) Any other information the Superintendent of Public Instruction may require.

The Superintendent of Public Instruction shall conduct periodic audits of the information reported by the local superintendent under this subsection to confirm the accuracy of reporting at the local school administrative unit and school level of the average and individual class size for students in kindergarten through third grade. If the Superintendent of Public Instruction finds that a local board of education is exceeding class size requirements without application to the State Board for an allotment adjustment or a waiver of those class size requirements, the State Board may impose the penalty set forth in subsection (j) of this section until such time the local board of education receives a waiver or the schools in the unit meet the class size requirements for kindergarten through third grade.

(g) Waivers and Allotment Adjustments. – Local boards of education shall report exceptions to the class size requirements set out for kindergarten through third grade and significant increases in class size at other grade levels to the State Board and shall request allotment adjustments at any grade level, waivers from the requirements for kindergarten through third grade, or both. Within 45 days of receipt of reports, the State Board of Education, within funds available, may allot additional positions at any grade level. The State Board shall not grant waivers for excess class size in kindergarten through third grade, except under the following circumstances:

(1) Emergencies or acts of God that impact the availability of classroom space or facilities.
(2) An unanticipated increase in student population of an individual school in excess of two percent (2%) of the average daily membership of that school.
(3) Organizational problems in geographically isolated local school administrative units in which the average daily membership is less than one and one-half per square mile.
(4) Classes organized for a solitary curricular area.
(5) A charter school closure.

The State Board shall report on all waivers to the Joint Legislative Commission on Governmental Operations within 30 days of the grant of the waiver. The report shall include the local school administrative unit, school, and class or classes for which the waiver was granted, the statutory grounds for the waiver, and the terms of the waiver. A waiver for excess class size in kindergarten through third grade shall not become effective until the State Board submits the report to the Joint Legislative Commission on Governmental Operations.

Upon notification from the State Board that the reported exception does not qualify for an allotment adjustment or a waiver, the local board of education shall take action to correct the exception within 30 days. Within 60 days of notification by the State Board, the Superintendent of Public Instruction shall request an updated report from the local board of education on the size of each class in kindergarten through third grade for each school within the local school administrative unit. If the Superintendent of Public Instruction finds that a local board of education is continuing to exceed class size requirements, the State Board may impose the penalty set forth in subsection (j) of this section until such time the schools in the unit meet the class size requirements for kindergarten through third grade.

(g1) Notwithstanding any other provision of this section, the State Board of Education shall allot additional classroom teachers to schools containing grades kindergarten through 12 when consolidation is not feasible due to the geographic isolation of the school and the school meets at least one of the following criteria for geographic isolation:

(1) The school is located in a local school administrative unit in which the average daily membership is less than 1.5 per square mile.
(2) The school is located in a local school administrative unit for a county containing more than 150,000 acres of national forest owned by the federal government and managed by the United States Forest Service pursuant to G.S. 104-5.

The State Board shall allot teachers to geographically isolated schools pursuant to this subsection on the basis of one classroom teacher per grade level and shall allot teachers to the remainder of the local school administrative unit in accordance with the formulas for the regular classroom teacher allotment.

(h) State Board Rules. – The State Board of Education shall adopt rules necessary for the implementation of this section.

(i) Repealed by Session Laws 2013-363, s. 3.3(a), effective July 1, 2013.

(j) Penalty for Noncompliance. – A local superintendent shall complete a sworn affidavit attesting that the superintendent has complied with the requirements of subsections (c) through (g) of this section and include that affidavit with the biannual reports on individual class size required by subsection (f) of this section. If the State Board of Education determines that a local superintendent has willfully failed to comply with the requirements of this section, no State funds shall be allocated to pay the superintendent's salary for the period of time the superintendent is in noncompliance. The local board of education shall continue to be responsible for complying with the terms of the superintendent's employment contract. (1955, c. 1372, art. 6, s. 6; 1963, c. 688, s. 3; 1965, c. 584, s. 6; 1969, c. 539; 1973, c. 770, ss. 1, 2; 1975, c. 965, s. 3; 1977, c. 1088, s. 4; 1981, c. 423, s. 1; 1983 (Reg. Sess., 1984), c. 1034, ss. 12, 13; 1985, c. 479, s. 55(b)(3)b; 1987, c. 738, s. 181; 1987 (Reg. Sess., 1988), c. 1025, s. 15; c. 1086, s. 89(a); 2010-31, s. 7.22(a); 2013-363, s. 3.3(a); 2015-241, s. 8A.3(a); 2016-94, s. 8.33(a); 2017-9, s. 2(b); 2017-57, ss. 7.15(d), 7.19; 2017-157, s. 1(b); 2018-2, ss. 3(a)-(e), 5(d).)

§ 115C-301.1. Duty-free instructional planning time.

All full-time assigned classroom teachers shall be provided duty-free instructional planning time during regular student contact hours. The duty-free instructional planning time shall be provided to the maximum extent that (i) the safety and proper supervision of children may allow during regular student contact hours and (ii) insofar as funds are provided for this purpose by the General Assembly. If the safety and supervision of children does not allow duty-free instructional planning time during regular student contact hours for a given teacher, the funds provided by the General Assembly for the duty-free instructional planning time for that teacher shall revert to the general fund. Principals shall not unfairly burden a given teacher by making that teacher give up his or her duty-free instructional planning time on an ongoing, regular basis without the consent of the teacher. (1983, c. 761, s. 88; 1999-163, s. 1; 2006-153, s. 3.)

§ 115C-302: Repealed by Session Laws 1997-443, s. 8.38(d).

§ 115C-302.1. Salary.

(a) Prompt Payment. – Teachers shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All teachers employed by any local school administrative unit who are to be paid from local funds shall be paid promptly as provided by law and as State-allotted teachers are paid.

(b) Salary Payments. – State-allotted teachers shall be paid for a term of 10 months. Except for career and technical education agriculture teacher personnel positions as provided for in this subsection, State-allotted months of employment for career and technical education to local boards shall be used for the employment of teachers of career and technical education for a term of employment to be determined by the local boards of education. Beginning with the 2018-2019 school year, career and technical education agriculture teacher personnel positions serving students in grades nine through 12 shall be

for a term of employment for 12 calendar months. A local board of education may fund these positions using any combination of State funds, local funds, or any other funds available to the local board.

Each local board of education shall establish a set date on which monthly salary payments to State-allotted teachers shall be made. This set pay date may differ from the end of the month of service. The daily rate of pay for teachers shall equal midway between one twenty-first and one twenty-second of the monthly rate of pay. Except for teachers employed in a year-round school or paid in accordance with a year-round calendar, or both, the initial pay date for teachers shall be no later than August 31 and shall include a full monthly payment. Subsequent pay dates shall be spaced no more than one month apart and shall include a full monthly payment.

Teachers may be prepaid on the monthly pay date for days not yet worked. A teacher who fails to attend scheduled workdays or who has not worked the number of days for which the teacher has been paid and who resigns, is dismissed, or whose contract is not renewed shall repay to the local board any salary payments received for days not yet worked. A teacher who has been prepaid and continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal under G.S. 115C-325 or G.S. 115C-325.4 or other appropriate discipline.

Any individual teacher who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. The request shall be filed in the local school administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease the teacher's annual salary nor in any other way alter the contract made between the teacher and the local school administrative unit. Teachers employed for a period of less than 10 months shall not receive their salaries in 12 installments.

Notwithstanding this subsection, the term "daily rate of pay" for the purpose of G.S. 115C-12(8) or for any other law or policy governing pay or benefits based on the teacher salary schedule shall not exceed one twenty-second of a teacher's monthly rate of pay.

(b1) The State Board of Education shall maintain the same policies related to masters pay for teachers that were in effect for the 2008-2009 fiscal year.

(b2) Waiver of 12 Months of Employment for Career and Technical Education Agriculture Teacher Personnel. – Notwithstanding subsection (b) of this section, a local board of education may apply on an annual basis to the Department of Public Instruction and the North Carolina State University, Agricultural and Extension Education, for a waiver of the months of employment requirement for any upcoming school year when it is impracticable for the local board to provide adequate funds to support 12 months of employment for career and technical agriculture teachers.

(c) Vacation. – Included within the 10-month term shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth of the annual rate for State employees for each month of employment. Local boards shall provide at least 10 days of annual vacation leave at a time when students are not scheduled to be in regular attendance. However, instructional personnel who do not require a substitute may use

annual vacation leave on days that students are in attendance. Career and technical education teachers who are employed for 11 or 12 months may, with prior approval of the principal, work on annual vacation leave days designated in the school calendar and may use those annual vacation leave days during the eleventh or twelfth month of employment. Local boards of education may adopt policies permitting instructional personnel employed for 11 or 12 months in year-round schools to, with the approval of the principal, take vacation leave at a time when students are in attendance; local funds shall be used to cover the cost of substitute teachers.

On a day that pupils are not required to attend school due to inclement weather, but employees are required to report for a workday, a teacher may elect not to report due to hazardous travel conditions and to take an annual vacation day or to make up the day at a time agreed upon by the teacher and the teacher's immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, a teacher shall work on the scheduled makeup day.

All vacation leave taken by the teacher will be upon the authorization of the teacher's immediate supervisor and under policies established by the local board of education. Annual vacation leave shall not be used to extend the term of employment.

Notwithstanding any provisions of this subsection to the contrary, no person shall be entitled to pay for any vacation day not earned by that person.

(c1), (c2) Repealed by Session Laws 2002-126, s. 7.11(a), effective July 1, 2002, and applicable only to leave days accruing after September 30, 2002.

(c3) Teachers may accumulate annual vacation leave days without any applicable maximum until June 30 of each year. In order that only 30 days of annual vacation leave carry forward to July 1, on June 30 of each year any teacher or other personnel paid on the teacher salary schedule who has accumulated more than 30 days of annual vacation leave shall convert to sick leave the remaining excess accumulation.

Upon separation from service due to service retirement, resignation, dismissal, reduction in force, or death, an employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 30 days. In addition to the maximum of 30 days pay for accumulated annual leave, upon separation from service due to service retirement, any teacher or other personnel paid on the teacher salary schedule with more than 30 days of accumulated annual vacation leave may convert some or all of the excess accumulation to sick leave for creditable service towards retirement. Employees going onto term disability may exhaust annual leave rather than be paid in a lump sum.

(d) Personal Leave. – Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be accumulated without any applicable maximum until June 30 of each year. A teacher may carry forward to July 1 a maximum of five days of personal leave; the remainder of the teacher's personal leave shall be converted to sick leave on June 30. At the time of retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement.

Personal leave may be used only upon the authorization of the teacher's immediate supervisor. A teacher shall not take personal leave on the first day the teacher is required

to report for the school year, on a required teacher workday, on days scheduled for State testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal. On all other days, if the request is made at least five days in advance, the request shall be automatically granted subject to the availability of a substitute teacher, and the teacher cannot be required to provide a reason for the request. Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school administrative units shall not advance personal leave. Teachers using personal leave on teacher workdays shall receive full salary. Teachers using personal leave on other days shall receive full salary less the required substitute deduction. If, however, no substitute is hired for a teacher, the substitute reduction shall be refunded to that teacher.

(e) Teachers in Year-Round Schools. – Compensation for teachers employed in year-round schools shall be the same as teachers paid for a 10-month term, but those days may be scheduled over 12 calendar months. Annual leave, sick leave, workdays, holidays, salary, and longevity for teachers who are employed at year-round schools shall be equivalent to those of other teachers employed for the same number of months, respectively. Teachers paid for a term of 10 months in year-round schools shall receive their salary in 12 equal installments.

(f) Overpayment. – Each local board of education shall sustain any loss by reason of an overpayment to any teacher paid from State funds.

(g) Service in Armed Forces. – The State Board of Education, in fixing the State standard salary schedule of teachers as authorized by law, shall provide that teachers who entered the Armed Forces or auxiliary forces of the United States after September 16, 1940, and who left their positions for such service shall be allowed experience increments for the period of such service as though the same had not been interrupted thereby, in the event such persons return to the position of teachers, principals, and superintendents in the public schools of the State after having been honorably discharged from the Armed Forces or auxiliary forces of the United States.

(g1) Payment During Military Duty. – The State Board of Education shall adopt rules relating to leaves of absence, without loss of pay or time, for periods of military training and for State or federal military duty or for special emergency management service. The rules shall apply to all public school employees, including, but not limited to, school teachers, administrators, guidance counselors, speech language pathologists, nurses, and custodians employed by local boards of education or by charter schools. The rules shall provide that (i) the State pays any salary differential to all public school employees in State-funded positions, (ii) the employing local board of education pays any pay differential to all public school employees in locally funded positions, (iii) the employing charter school pays any pay differential to all public school employees in the charter school, and (iv) the employing local board of education pays the local supplement.

(h) Teachers Paid From Other Funds. – Every local board of education may adopt, as to teachers not paid out of State funds, a salary schedule similar to the State salary

schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system. If a local board of education does not adopt a local salary schedule, the State salary schedule shall apply. No teacher shall receive a salary higher than that provided in the salary schedule, unless by action of the board of education a higher salary is allowed for special fitness, special duties, or under extraordinary circumstances.

When a higher salary is allowed, the minutes of the board shall show what salary is allowed and the reason. A board of education may authorize the superintendent to supplement the salaries of all teachers from local funds, and the minutes of the board shall show what increase is allowed each teacher.

(i) Longevity Pay. – Longevity pay shall be based on the annual salary on the employee's anniversary date.

(j) Parental Leave. – A teacher may use annual leave, personal leave, or leave without pay to care for a newborn child or for a child placed with the teacher for adoption or foster care. A teacher may also use up to 30 days of sick leave to care for a child placed with the teacher for adoption. The leave may be for consecutive workdays during the first 12 months after the date of birth or placement of the child, unless the teacher and local board of education agree otherwise. (1997-443, s. 8.38(e); 1999-237, ss. 28.26(a), (b); 2002-126, s. 7.11(a); 2002-159, s. 37.5(a); 2003-301, s. 1; 2004-124, s. 7.20; 2004-180, s. 2; 2007-378, s. 1; 2008-107, s. 26.21(a); 2008-187, s. 45.5; 2008-209, ss. 1(a), 2; 2009-451, s. 7.35; 2011-183, s. 78; 2011-379, s. 5; 2012-13, s. 1; 2012-142, s. 7.14(a); 2013-240, s. 1; 2015-241, s. 8.22; 2017-57, s. 7.23H(g); 2017-157, s. 2(g).)

§ 115C-302.2: Repealed by Session Laws 2003-358, s. 1, effective January 1, 2004.

§ 115C-302.3. Salary credit for service in the Armed Forces.

(a) The State Board of Education shall establish rules for awarding credit for salary purposes to principals, assistant principals, and teachers, who (i) served in the Armed Forces of the United States; (ii) have retired or who have received an Honorable Discharge; and (iii) have not been previously employed by a public school located in North Carolina. The rules shall include the following provisions:

(1) One full year of experience credit shall be awarded for each year of full-time relevant nonteaching work experience completed (i) while on active military duty in the Armed Forces of the United States and (ii) after earning a bachelor's degree.

(2) One full year of experience credit shall be awarded for each two years of full-time relevant nonteaching work experience completed (i) while on active duty in the Armed Forces of the United States and (ii) before earning a bachelor's degree.

(3) One full year of experience credit shall be awarded for every two years of full-time instructional or leadership duties while on active military duty in the Armed Forces of the United States, regardless of academic degree held while in instruction or leadership roles.

(b) The State Board of Education shall establish specific criteria within the rules for determining the relevance of nonteaching work experience earned while on active military duty that shall be credited toward an individual's total licensure experience rating for salary purposes. The criteria shall include the following components:

(1) A clearly defined process to explore, identify, recognize, and quantify the breadth and depth of career experiences, formal professional military education, and pertinent credentials of military veterans.

(2) A transparent and timely decision-making process for awarding complete credit for pertinent experience and education.

(3) A process for reviewing and accepting military transcripts and corresponding American Council on Education (ACE) recommendations for awarding academic and experiential credit.

(c) The State Board shall have continuing authority to cap nonteaching experience credit for Junior Reserve Officer Training Corps instructors as their pay formula includes both a State and federal funding component. (2013-268, ss. 1-3; 2014-100, s. 8.12.)

§ 115C-303. Withholding of salary.

(a) No teacher shall be placed on the payroll of a local school administrative unit unless he holds a certificate as required by law, and unless a copy of the teacher's contract has been filed with the superintendent. No teacher may be paid more than he is due under the local school salary schedule in force in the local school administrative unit. Substitute and interim teachers shall be paid under rules of the State Board of Education.

(b) The board of education may withhold the salary of any teacher who delays or refuses to render such reports as are required by law, but when the reports are delivered in accordance with law, the salary shall be paid forthwith. (1955, c. 1372, art. 6, ss. 11, 13; 1975, c. 437, ss. 8, 9; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 19.)

§ 115C-303.1. Public recognition program for teachers who have taught for 40 years.

The Superintendent of Public Instruction shall develop a program to publicly recognize individuals who have engaged in at least 40 years of licensed teaching in North Carolina. Beginning with the 2017-2018 school year and annually thereafter, the program shall include public recognition of any qualifying teachers. (2017-189, s. 3(g).)

§ 115C-304: Repealed by Session Laws 2013-360, s. 9.7(h), effective July 1, 2014.

§ 115C-305: Repealed by Session Laws 2001-260, s. 2.

§ 115C-306: Repealed by Session Laws 1983, c. 770, s. 16.

§ 115C-307. Duties of teachers.

(a) To Maintain Order and Discipline. – It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, and teacher assistants when given authority over some part of the school program by the principal or supervising teacher, to

maintain good order and discipline in their respective schools. A teacher, student teacher, substitute teacher, voluntary teacher, or teacher assistant shall report to the principal acts of violence in school and students suspended or expelled from school as required to be reported in accordance with State Board policies.

(b) To Provide for General Well-Being of Students. – It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, and teacher assistants when given authority over some part of the school program by the principal or supervising teacher, to encourage temperance, morality, industry, and neatness; to promote the health of all pupils, especially of children in the first three grades, by providing frequent periods of recreation, to supervise the play activities during recess, and to encourage wholesome exercises for all children.

(c) To Provide Some Medical Care to Students. – It is within the scope of duty of teachers, including substitute teachers, teacher assistants, student teachers or any other public school employee when given such authority by the board of education or its designee to provide medical care to students as provided in G.S. 115C-375.1.

(d) To Teach the Students. – It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, and teacher assistants when given authority over some part of the school program by the principal or supervising teacher, to teach as thoroughly as they are able all branches which they are required to teach; to provide for singing in the school, and so far as possible to give instruction in the public school music.

(e) To Enter into the Superintendent's Plans for Professional Growth. – It shall be the duty of all teachers, including student teachers, substitute teachers, voluntary teachers, and teacher assistants when given authority over some part of the school program by the principal or supervising teacher, to enter actively into the plans of the superintendent for the professional growth of the teachers.

(f) To Discourage Nonattendance. – Teachers shall cooperate with the principal in ascertaining the cause of nonattendance of pupils that he may report all violators of the compulsory attendance law to the school social worker in accordance with rules promulgated by the State Board of Education.

(g) To Make Required Reports. – A teacher shall make all reports required by the local board of education. The superintendent shall not approve the voucher for a teacher's pay until the required monthly and annual reports are made.

The superintendent may require a teacher to make reports to the principal.

A teacher shall be given access to the information in the student information management system to expedite the process of preparing reports or otherwise providing information. A teacher shall not be required by the local board, the superintendent, or the principal to (i) provide information that is already available on the student information management system; (ii) provide the same written information more than once during a school year unless the information has changed during the ensuing period; or (iii) complete forms, for children with disabilities, that are not necessary to ensure compliance with the federal Individuals with Disabilities Education Act (IDEA). Notwithstanding the forgoing, a local board may require information available on its student information management

system or require the same information twice if the superintendent determines that there is (i) a compelling need and (ii) no more expeditious manner of providing the information to the local board. A school improvement team may request that the superintendent consider the elimination of a redundant reporting requirement for the teachers at its school if it identifies in its school improvement plan a more expeditious manner of providing the information to the local board. The superintendent shall recommend to the local board whether the reporting requirement should be eliminated for that school. If the superintendent does not recommend elimination of the reporting requirement, the school improvement team may request a hearing by the local board as provided in G.S. 115C-45(c).

Any teacher who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of their duties, shall be guilty of a Class 1 misdemeanor and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction.

(h) To Take Care of School Buildings. – It shall be the duty of every teacher to instruct children in proper care of property and to exercise due care in the protection of school property, in accordance with the provisions of G.S. 115C-523. (1955, c. 1372, art. 17, ss. 4, 6; 1959, cc. 1016, 1294; 1969, c. 638, ss. 2, 3; 1971, c. 434; 1981, c. 423, s. 1; 1985, c. 642; c. 686, s. 2; 1989, c. 585, s. 4; 1993, c. 539, s. 884; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 8.29(k); 2000-67, s. 8.18(a); 2005-22, s. 2(a); 2013-226, s. 11(b).)

§ 115C-308. Rules for teacher's conduct.

The conduct of teachers, the kind of reports they shall make, and their duties in the care of school property are subject to the rules and regulations of the local board, as provided in G.S. 115C-47(18). (1981, c. 423, s. 1.)

§§ 115C-309, 115C-310: Repealed by Session Laws 2017-189, s. 2(g) and (h), effective July 27, 2017, and applicable beginning with the 2017-2018 school year.

§ 115C-311. Reserved for future codification purposes.

§ 115C-312. Reserved for future codification purposes.

§ 115C-313. Reserved for future codification purposes.

§ 115C-314. Reserved for future codification purposes.

Article 21.

Other Employees.

§ 115C-315. Hiring of school personnel.

(a) Janitors and Maids. – In the city administrative units, janitors and maids shall be appointed by the board of education of such local school administrative unit upon the recommendation of the superintendent.

(b) Election by Local Boards. – School personnel shall be elected by the local board of education upon the recommendation of the superintendent, in accordance with the provisions of G.S. 115C-276(j).

It is the policy of the State of North Carolina to encourage and provide for the most efficient and cost-effective method of meeting the needs of local school administrative units for noncertified support personnel. To this end, the State Board of Education shall recommend to the General Assembly by November 1, 1984, a system using factors and formulas to determine the total number of noncertified support personnel allotted to local school administrative units. The recommended system for allotting noncertified support personnel shall include the proposed State's funding obligation for these positions and shall be developed in consultation with school-based support personnel or their representatives.

(c) Prerequisites for Employment. – All professional personnel employed in the public schools of the State or in schools receiving public funds shall be required either to hold or be qualified to hold a certificate in compliance with the provision of the law or in accordance with the regulations of the State Board of Education: Provided, that nothing herein shall prevent the employment of temporary personnel under such rules as the State Board of Education may prescribe.

(d) Certification for Professional Positions. – The State Board of Education shall have entire control of certifying all applicants for professional positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all certificates and shall determine and fix the salary for each grade and type of certificate which it authorizes: Provided, that the State Board of Education shall require each applicant for an initial certificate or graduate certificate to demonstrate his or her academic and professional preparation by achieving a prescribed minimum score at least equivalent to that required by the Board on November 30, 1972, on a standard examination appropriate and adequate for that purpose: Provided, further, that in the event the Board shall specify the National Teachers Examination for this purpose, the required minimum score shall not be lower than that which the Board required on November 30, 1972.

(d1) Certification for School Nurses. – Notwithstanding any other provision of law or rule, school nurses employed in the public schools prior to July 1, 1998, shall not be required to be nationally certified to continue employment. School nurses not certified by the American Nurses' Association or the National Association of School Nurses shall continue to be paid based on the noncertified nurse salary range as established by the State Board of Education.

(e) Repealed by Session Laws 1989, c. 385, s. 3.

(f) Employing Persons Not Holding Nor Qualified to Hold Certificate. – It shall be unlawful for any board of education to employ or keep in service any professional person who neither holds nor is qualified to hold a certificate in compliance with the provisions of the law or in accordance with the regulations of the State Board of Education. (1955, c. 1372, art. 5, s. 4; art. 18, ss. 1-4; 1965, c. 584, s. 20.1; 1973, c. 236; 1975, c. 437, s. 7; c. 686, s. 1; c. 731, ss. 1, 2; 1981, c. 423, s. 1; 1983 (Reg. Sess., 1984), c. 1103, s. 9; 1985 (Reg. Sess., 1986), c. 975, s. 16; 1989, c. 385, s. 3; 2002-126, s. 7.41(a).)

§ 115C-316. Salary and vacation.

(a) School officials and other employees shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All school officials and other employees employed by any local school administrative unit who are to be paid from local funds shall be paid promptly as provided by law and as state-allotted school officials and other employees are paid.

Public school employees paid from State funds shall be paid as follows:

(1) Employees Other than Superintendents, Supervisors and Classified Principals on an Annual Basis. – Each local board of education shall establish a set date on which monthly salary payments to employees other than superintendents, supervisors, and classified principals employed on an annual basis, shall be made. This set pay date may differ from the end of the calendar month of service. Employees may be prepaid on the monthly pay date for days not yet worked. An employee who fails to attend scheduled workdays or who has not worked the number of days for which the employee has been paid and who resigns or is dismissed shall repay to the local board any salary payments received for days not yet worked. An employee who has been prepaid and who continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal or other appropriate discipline. The daily rate of pay shall equal the number of weekdays in the pay period. Included within their term of employment shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for state employees for each calendar month of employment. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of the employee's annual vacation days or to make up the day at a time agreed upon by the employee and the employee's immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, an employee shall work on the scheduled makeup day. Included within their term of employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Human Resources Commission for State employees.

(2) School Employees Paid on an Hourly or Other Basis. – Salary payments to employees other than those covered in G.S. 115C-272(b)(1), 115C-285(a)(1) and (2), 115C-302.1(b) and 115C-316(a)(1) shall be made at a time determined by each local board of education. Expenditures for the salary of these employees from State funds shall be within allocations made by the State Board of Education and in accordance with rules and regulations approved by the State Board of Education concerning allocations of State funds: Provided, that school employees employed for a term of 10 calendar months in year-round schools shall

be paid in 12 equal installments: Provided further, that any individual school employee employed for a term of 10 calendar months who is not employed in a year-round school may be paid in 12 monthly installments if the employee so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the employee. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract between the employee and the said administrative unit. Employees may be prepaid on the set pay date for days not yet worked. An employee who fails to attend scheduled workdays or who has not worked the number of days for which the employee has been paid and who resigns or is dismissed shall repay to the local board any salary payments received for days not yet worked. An employee who has been prepaid and who continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal or other appropriate discipline. The daily rate of pay shall equal the number of weekdays in the pay period. Included within the term of employment shall be provided for full-time employees annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for State employees for each calendar month of employment, to be taken under policies determined by each local board of education. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, the employee shall work on the scheduled makeup day. Included within their term of employment, each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment as those designated by the State Human Resources Commission for State employees.

(3) Notwithstanding any provisions of this section to the contrary no person shall be entitled to pay for any vacation day not earned by that person. The first 10 days of annual leave earned by a 10- or 11-month employee during any fiscal year period shall be scheduled to be used in the school calendar adopted by the respective local boards of education. Vacation days shall not be used for extending the term of employment of individuals. Ten- or 11-month employees may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any of these employees with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that

only 30 days are carried forward to July 1 of the same year. All vacation leave taken by these employees shall be upon the authorization of their immediate supervisor and under policies established by the local board of education. The policies may permit teacher assistants who require a substitute and are employed for 11 or 12 months in year-round schools to take vacation leave at a time when students are in attendance; local funds shall be used to cover the cost of substitutes. Vacation leave for instructional personnel who do not require a substitute shall not be restricted to days that students are not in attendance. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours or 30 days when separated from service due to resignation, dismissal, reduction in force, death or service retirement. Upon separation from service due to service retirement, any annual vacation leave over 30 days will convert to sick leave and may be used for creditable service at retirement in accordance with G.S. 135-4(e). If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision.

(4) Twelve-month school employees other than superintendents, supervisors and classified principals paid on an hourly or other basis whether paid from State or from local funds may accumulate annual vacation leave days as follows: annual leave may be accumulated without any applicable maximum until June 30 of each year. On June 30 of each year, any employee with more than 30 days of accumulated leave shall have the excess accumulation converted to sick leave so that only 30 days are carried forward to July 1 of the same year. All vacation leave taken by the employee will be upon the authorization of his immediate supervisor and under policies established by the local board of education. An employee shall be paid in a lump sum for accumulated annual leave not to exceed a maximum of 240 hours or 30 days when separated from service due to resignation, dismissal, reduction in force, death, or service retirement. Upon separation from service due to service retirement, any annual vacation leave over 30 days will convert to sick leave and may be used for creditable service at retirement in accordance with G.S. 135-4(e). If the last day of terminal leave falls on the last workday in the month, payment shall be made for the remaining nonworkdays in that month. Employees retiring on disability retirement may exhaust annual leave rather than be paid in a lump sum. The provisions of this subdivision shall be accomplished without additional State and local funds being

appropriated for this purpose. The State Board of Education shall adopt rules and regulations for the administration of this subdivision.

(4a) Employees employed on a 10- or 11-month basis at year-round schools shall be employed for the same total number of days as employees employed for a period of 10 or 11 calendar months, respectively, but those days may be scheduled over 12 calendar months. Annual leave, sick leave, workdays, holidays, salary, and longevity, for employees who are employed on a 10- or 11-month basis at year-round schools, shall be equivalent to those of employees employed for 10 or 11 calendar months, respectively.

(5) All of the foregoing provisions of this section shall be subject to the requirement that at least fifty dollars ($50.00), or other minimum amount required by federal social security laws, of the compensation of each school employee covered by the Teachers' and State Employees' Retirement System or otherwise eligible for social security coverage shall be paid in each of the four quarters of the calendar year.

(6) Each local board of education shall sustain any loss by reason of an overpayment to any school official or other employee paid from State funds.

(b) Every local board of education may adopt, as to school officials other than superintendents, principals and supervisors not paid out of State funds, a salary schedule similar to the State salary schedule, but it likewise shall recognize a difference in salaries based on different duties, training, experience, professional fitness, and continued service in the same school system; but if any local board of education shall fail to adopt such a schedule, the State salary schedule shall be in force.

(b1) Every local board of education shall adopt a minimum salary schedule for occupational therapists and physical therapists employed in full-time, permanent positions. The minimum salary schedule shall apply to positions paid from State, local, or federal funds. In accordance with the noncertified salary grades and ranges adopted by the State Board of Education, the minimum salary schedule shall differentiate salaries based on years of experience, but experience-based intervals shall be no greater than five years. Local boards of education may compensate occupational therapists and physical therapists above the minimum salary schedule provided all State-funded salaries are within the noncertified salary grades and ranges adopted by the State Board of Education.

(c) Longevity pay for 10-month employees is based on their annual salary and the longevity percentage may not be reduced by prorating the longevity pay for 10-month employees over a 12-month period.

(d) Expired pursuant to Session Laws 1998-212, s. 28.24, effective October 1, 2007.

(1955, c. 1372, art. 5, s. 32; art. 18, s. 6; 1961, c. 1085; 1965, c. 584, s. 3; 1971, c. 1052; 1973, c. 647, s. 1; 1975, cc. 383, 608; c. 834, ss. 1, 2; 1979, c. 600, ss. 1-5; 1981, c. 423, s. 1; c. 639, ss. 2, 3; c. 730, s. 1; c. 946, s. 3; c. 947, s. 2; 1983, c. 872, ss. 5-7; 1985, c. 757, s. 145(g), (h); 1985 (Reg. Sess., 1986), c. 975, s. 15; 1987, c. 414, ss. 8, 9; 1989, c. 386, s. 3; 1989 (Reg. Sess., 1990), c. 1066, s. 94; 1991, c. 689, s. 39.3(b); 1993, c. 98, s. 2; c. 321,

ss. 73(d), (e); c. 475, s. 2; 1995, c. 450, s. 21; 1997-443, ss. 8.38(h), (i); 1998-212, s. 28.24(b); 1999-237, ss. 28.26(e), (f); 2002-126, s. 28.10(a); 2004-124, s. 31.18A(a); 2005-144, s. 7A.1; 2007-145, s. 7(a); 2007-326, s. 3(a); 2012-142, s. 7.14(b); 2013-382, s. 9.1(c); 2017-57, s. 8.8.)

§ 115C-316.1. Duties of school counselors.

(a) School counselors shall implement a comprehensive developmental school counseling program in their schools. Counselors shall spend at least eighty percent (80%) of their work time providing direct services to students. Direct services do not include the coordination of standardized testing. Direct services shall consist of:

(1) Delivering the school guidance curriculum through large group guidance, interdisciplinary curriculum development, group activities, and parent workshops.

(2) Guiding individual student planning through individual or small group assistance and individual or small group advisement.

(3) Providing responsive services through consultation with students, families, and staff; individual and small group counseling; crisis counseling; referrals; and peer facilitation.

(4) Performing other student services listed in the Department of Public Instruction school counselor job description that has been approved by the State Board of Education.

(b) School counseling program support activities do not include the coordination of standardized testing. During the remainder of their work time, school counselors may assist other staff with the coordination of standardized testing. (2013-360, s. 8.35(a); 2014-100, s. 8.33(a).)

§ 115C-317. Penalty for making false reports or records.

Any school employee of the public schools other than a superintendent, principal, or teacher, who knowingly and willfully makes or procures another to make any false report or records, requisitions, or payrolls, respecting daily attendance of pupils in the public schools, payroll data sheets, or other reports required to be made to any board or officer in the performance of his duties, shall be guilty of a Class 1 misdemeanor and the certificate of such person to teach in the public schools of North Carolina shall be revoked by the Superintendent of Public Instruction. (1955, c. 1372, art. 17, s. 6; 1959, c. 1294; 1981, c. 423, s. 1; 1993, c. 539, s. 885; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 115C-317.1. School social workers and transporting students.

A school social worker shall not be required to transport students without the existence of a written job description or local board policy that imposes this requirement. (2005-355, s. 1.)

§ 115C-318. Liability insurance for nonteaching public school personnel.

The State Board of Education shall provide funds for liability insurance for nonteaching public school personnel to the extent that such personnel's salaries are funded by the State. The insurance shall cover claims made for injury liability and property damage liability on account of an act done

or an omission made in the course of the employee's duties. As provided by law or the rules and policies of the State Board of Education or the local school administrative unit, the State Board of Education shall comply with the State's laws in securing the insurance and shall provide it at the earliest possible date for the 1982-83 school year. Nothing in this section shall prevent the State Board from furnishing the same liability insurance protection for nonteaching public school personnel not supported by State funds, provided that the cost of the protection shall be funded from the same source that supports the salaries of these employees. (1981 (Reg. Sess., 1982), c. 1399, s. 3; 1993, c. 522, s. 4; 1995, c. 450, s. 22.)

Article 21A.

Privacy of Employee Personnel Records.

§ 115C-319. Personnel files not subject to inspection.

Personnel files of employees of local boards of education, former employees of local boards of education, or applicants for employment with local boards of education shall not be subject to inspection and examination as authorized by G.S. 132-6. For purposes of this Article, a personnel file consists of any information gathered by the local board of education which employs an individual, previously employed an individual, or considered an individual's application for employment, and which information relates to the individual's application, selection or nonselection, promotion, demotion, transfer, leave, salary, suspension, performance evaluation, disciplinary action, or termination of employment wherever located or in whatever form.

Nothing in this section shall be construed to prevent local boards of education from disclosing the certification status and other information about employees as required by Section 1111(h)(6) of P.L. 107-110. (1987, c. 571, s. 1; 2002-126, s. 7.36.)

§ 115C-320. Certain records open to inspection.

(a) Each local board of education shall maintain a record of each of its employees, showing the following information with respect to each employee:

(1) Name.
(2) Age.
(3) Date of original employment or appointment.
(4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its possession.
(5) Current position.
(6) Title.
(7) Current salary.
(8) Date and amount of each increase or decrease in salary with that local board of education.
(9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that local board of education.
(10) Date and general description of the reasons for each promotion with that local board of education.

(11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the local board of education. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the local board education setting forth the specific acts or omissions that are the basis of the dismissal.

(12) The office or station to which the employee is currently assigned.

(b) For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to rules and regulations for the safekeeping of records adopted by the local board of education, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. The name of a participant in the Address Confidentiality Program established pursuant to Chapter 15C of the General Statutes shall not be open to inspection and shall be redacted from any record released pursuant to this section. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief. (1987, c. 571, s. 1; 2002-171, s. 4; 2007-508, s. 1; 2010-169, s. 18(b).)

§ 115C-321. Confidential information in personnel files; access to information.

(a) All information contained in a personnel file, except as otherwise provided in this Chapter, is confidential and shall not be open for inspection and examination except to any of the following persons:

(1) The employee, applicant for employment, former employee, or his properly authorized agent, who may examine his own personnel file at all reasonable times in its entirety except for letters of reference solicited prior to employment.

(2) The superintendent and other supervisory personnel.

(3) Members of the local board of education and the board's attorney.

(4) A party by authority of a subpoena or proper court order may inspect and examine a particular confidential portion of an employee's personnel file.

(5) An innovative school operator and the Superintendent of the North Carolina Innovative School District if the school where the individual is employed has been selected as an innovative school as provided in Article 7A of this Chapter.

(6) Any state or federal administrative agency that has a quasi-judicial function or any court of law, when disclosure is necessary in the discretion of the superintendent or superintendent's designee to adequately defend against a claim filed by a current or former employee against the local board of education or a school official or employee for any alleged act or omission arising during the course and scope of his or her official duties or employment. Such disclosure shall be limited to

those confidential portions of the personnel file of the employee who filed the claim and only to the extent necessary for the defense of the board of education.

(a1) Notwithstanding any other provision of this Chapter, information contained in a personnel file that is relevant to possible criminal misconduct may be made available to law enforcement and the district attorney to assist in the investigation of:

(1) A report made to law enforcement pursuant to G.S. 115C-288(g), or

(2) Any report to law enforcement regarding an arson, attempted arson, destruction of, theft from, theft of, embezzlement from, embezzlement of any personal or real property owned by the local board of education.

(a2) The employee shall be given five working days prior written notice of any disclosure under subsection (a1) of this section to permit the employee to apply to the district court for an in camera review prior to the date of disclosure to determine if the information is relevant to the possible criminal misconduct. Failure of the employee to apply for a review shall constitute a waiver by the employee of any relief under this subsection.

(a3) Statements or admissions made by the employee and produced under subsection (a1) of this section shall not be admissible in any subsequent criminal proceeding against the employee.

(b) Notwithstanding any other provision of this Chapter, any superintendent may, in his discretion, or shall at the direction of the Board of Education, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to the local board of education or whose personnel file is maintained by the board and the reasons therefor and may allow the personnel file of the person or any portion to be inspected and examined by any person or corporation provided that the board has determined that the release of the information or the inspection and examination of the file or any portion is essential to maintaining the integrity of the board or to maintaining the level or quality of services provided by the board; provided, that prior to releasing the information or making the file or any portion available as provided herein, the superintendent shall prepare a memorandum setting forth the circumstances which he and the board deem to require the disclosure and the information to be disclosed. The memorandum shall be retained in the files of the superintendent and shall be a public record.

(b1) Repealed by Session Laws 2016-108, s. 2(e), effective July 22, 2016.

(c) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as permitted by this section, is guilty of a Class 3 misdemeanor and upon conviction shall only be fined an amount not in excess of five hundred dollars ($500.00).

(d) Any person, not specifically authorized by this section to have access to a personnel file, who shall knowingly and willfully examine in its official filing place, remove, or copy any portion of a personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined not in excess of five hundred dollars ($500.00).

(1987, c. 571, s. 1; 2005-321, s. 1; 2007-192, s. 1; 2008-194, s. 11(b); 2016-108, s. 2(e); 2016-110, s. 3; 2016-116, s. 1; 2017-57, ss. 7.26E(c), (f).)

§ 115C-322. Reserved for future codification purposes.

Article 22.

General Regulations.

Part 1. Health Certificate.

§ 115C-323. Employee health certificate.

(a) Any person initially employed in a public school or reemployed in a public school after an absence of more than one school year shall provide to the superintendent a certificate certifying that the person does not have any physical or mental disease, including tuberculosis in the communicable form or other communicable disease, that would impair the person's ability to perform his or her duties effectively. A local board or a superintendent may require any school employee to take a physical examination when considered necessary.

Any public school employee who has been absent for more than 40 successive school days because of a communicable disease shall, before returning to work, provide to the superintendent a certificate certifying that the individual is free from any communicable disease.

(b) One of the following individuals shall prepare any certificate required under this section:

(1) A physician licensed to practice in North Carolina.
(2) A nurse practitioner approved under G.S. 90-18(14).
(3) A physician's assistant licensed to practice in North Carolina.

(c) Notwithstanding subsection (b) of this section, in the case of a person initially employed in a public school, any of the following who holds a current unrestricted license or registration in another state may prepare the certificate so long as evidence of that license or registration is on the certificate:

(1) A physician.
(2) A nurse practitioner.
(3) A physician's assistant.

(d) The certificate shall be prepared on a form supplied by the Superintendent of Public Instruction. The certificate shall be issued only after a physical examination has been conducted, at the time of the certification, in accordance with rules adopted by the Superintendent of Public Instruction, with approval of the Secretary of Health and Human Services. These rules may require an X-ray chest examination for all new employees of the public school system.

(e) It shall be the duty of the superintendent of the school in which the person is employed to enforce the provisions of this section. Any person violating any of the provisions of this section shall be guilty of a Class 1 misdemeanor. (1955, c. 1372, art. 17, s. 1; 1957, c. 1357, ss. 2, 14; 1973, c. 476, s. 128; 1975, c. 72; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 20; 1991, c. 342, s. 4; 1993, c. 539, s. 886; 1994, Ex. Sess., c. 24, s. 14(c); 1997-443, s. 11A.50; 2001-118, s. 1.)

Part 2. Payment of Wages After Death of Employee.

§ 115C-324. Disposition of payment due employees at time of death.

In the event of the death of any superintendent, teacher, principal, or other school employee to whom payment is due for or in connection with services rendered by such person or to whom has been issued any uncashed voucher for or in connection with services rendered, when there is no administration upon the estate of such person, such voucher may be cashed by the clerk of the superior court of the county in which such deceased person resided, or a voucher due for such services may be made payable to such clerk, who will treat such sums as a debt owed to the intestate under the provisions of G.S. 28A-25-6. (1955, c. 1372, art. 18, s. 8; 1965, c. 395; 1981, c. 423, s. 1; 2009-570, s. 38.)

Part 3. Principal and Teacher Employment Contracts.

§ 115C-325. System of employment for public school teachers.

(a) Definition of Terms. – Notwithstanding G.S. 115C-325.1, as used in this section, the following definitions apply, unless the context requires otherwise:

(1) Repealed by Session Laws 1997-221, s. 13(a).

(1a) "Career employee" as used in this section means an employee who was awarded career status with that local board as a teacher prior to August 1, 2013.

(1b), (1c) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(1d) Repealed by Session Laws 2011-348, s. 1, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(2) Repealed by Session Laws 1997, c. 221, s. 13(a).

(3) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(4) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher. The word "demote" does not include: (i) a suspension without pay pursuant to G.S. 115C-325(f)(1); (ii) the elimination or reduction of bonus payments, including merit-based supplements, or a systemwide modification in the amount of any applicable local supplement; or (iii) any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director.

(4a) "Disciplinary suspension" means a final decision to suspend a career employee without pay for no more than 60 days under G.S. 115C-325(f)(2).

(4b) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(4c) "Hearing officer" means a person selected under G.S. 115C-325(h)(7).

(5) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(5a) [Expired.]

(5b) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(6) "Teacher" means a person who holds at least a current, not provisional or expired, Class A license or a regular, not provisional or expired, vocational license issued by the State Board of Education; whose major responsibility is to teach or directly supervises teaching or who is

classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel; and who is employed to fill a full-time, permanent position.

(7) Redesignated.

(8) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(a1) This section shall apply only to career employees. No person who is employed as a teacher who did not acquire career status as a teacher by August 1, 2013, shall have career status.

(b) Personnel Files. – The superintendent shall maintain in his or her office a personnel file for each career employee that contains any complaint, commendation, or suggestion for correction or improvement about the career employee's professional conduct, except that the superintendent may elect not to place in a career employee's file (i) a letter of complaint that contains invalid, irrelevant, outdated, or false information or (ii) a letter of complaint when there is no documentation of an attempt to resolve the issue. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the career employee's file only after five days' notice to the employee. Any denial or explanation relating to such complaint, commendation, or suggestion that the career employee desires to make shall be placed in the file. Any career employee may petition the local board of education to remove any information from his or her personnel file that he or she deems invalid, irrelevant, or outdated. The board may order the superintendent to remove said information if it finds the information is invalid, irrelevant, or outdated.

The personnel file shall be open for the career employee's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any preemployment data or other information obtained about a career employee before his or her employment by the board may be kept in a file separate from his or her personnel file and need not be made available to him or her. No data placed in the preemployment file may be introduced as evidence at a hearing on the dismissal or demotion of a career employee, except the data may be used to substantiate G.S. 115C-325(e)(1)g. or G.S. 115C-325(e)(1)o. as grounds for dismissal or demotion.

(c) (1) through (3) Repealed.

(4) Leave of Absence. – A career employee who has been granted a leave of absence by a board shall maintain his or her career status if he or she returns to his or her teaching position at the end of the authorized leave.

(5), (6) Repealed.

(d) Career Employees.

(1) A career employee shall not be subjected to the requirement of annual appointment nor shall he or she be dismissed, demoted, or employed on a part-time basis without his or her consent except as provided in subsection (e) of this section.

(2) a. Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

b. Repealed by Session Laws 1997, c. 221, s. 13(a).

c. Subject to G.S. 115C-287.1, when a teacher has performed the duties of supervisor or principal for three consecutive years, the board, near the end of the third year, shall vote upon his or her employment for the next school year. The board shall give him or her written notice of that decision by June 1 of his or her third year of employment as a supervisor or principal. If a majority of the board votes to reemploy the teacher as a principal or supervisor, and it has notified him or her of that decision, it may not rescind that action but must proceed under the provisions of this section. If a majority of the board votes not to reemploy the teacher as a principal or supervisor, he or she shall retain career status as a teacher if that status was attained prior to assuming the duties of supervisor or principal. A supervisor or principal who has not held that position for three years and whose contract will not be renewed for the next school year shall be notified by June 1 and shall retain career status as a teacher if that status was attained prior to assuming the duties of supervisor or principal.

A year, for purposes of computing time as a probationary principal or supervisor, shall not be less than 145 workdays performed as a full-time, permanent principal or supervisor in a contract year.

(e) Grounds for Dismissal or Demotion of a Career Employee.

(1) Grounds. – No career employee shall be dismissed or demoted or employed on a part-time basis except for one or more of the following:

a. Inadequate performance.
b. Immorality.
c. Insubordination.
d. Neglect of duty.
e. Physical or mental incapacity.
f. Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.
g. Conviction of a felony or a crime involving moral turpitude.
h. Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.
i. Failure to fulfill the duties and responsibilities imposed upon teachers by the General Statutes of this State.
j. Failure to comply with such reasonable requirements as the board may prescribe.
k. Any cause which constitutes grounds for the revocation of the career employee's teaching license.
l. A justifiable decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding, provided that there is compliance with subdivision (2) of this subsection.
m. Failure to maintain his or her license in a current status.
n. Failure to repay money owed to the State in accordance with the provisions of Article 60, Chapter 143 of the General Statutes.
o. Providing false information or knowingly omitting a material fact on an application for employment or in response to a preemployment inquiry.

(2) Reduction in Force. –

a. A local board of education shall adopt a policy for implementing a reduction in force pursuant to sub-subdivision (e)(1)*l*. of this section that includes the following criteria:

1. In determining which positions shall be subject to a reduction, a local board of education shall consider the following:

I. Structural considerations, such as identifying positions, departments, courses, programs, operations, and other areas where there are (i) less essential, duplicative, or excess personnel; (ii) job responsibility and position inefficiencies; (iii) opportunities for combined work functions; and (iv) decreased student or other demands for curriculum, programs, operations, or other services.

II. Organizational considerations, such as anticipated organizational needs of the local school administrative unit and program or school enrollment.

2. In identifying which career employees in similar positions shall be subject to a dismissal, demotion, or reduction to employment on a part-time basis under the policy, a local school administrative unit shall consider work performance and evaluations.

b. Before recommending to a board the dismissal or demotion of the career employee pursuant to G.S. 115C-325(e)(1)*l*., the superintendent shall give written notice to the career employee by certified mail or personal delivery of his or her intention to make such recommendation and shall set forth as part of his or her recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The notice shall include a statement to the effect that if the career employee within 15 days after receipt of the notice requests a review, he or she shall be entitled to have the proposed recommendations of the superintendent reviewed by the board. Within the 15-day period after receipt of the notice, the career employee may file with the superintendent a written request for a hearing before the board within 10 days. If the career employee requests a hearing before the board, the hearing procedures provided in G.S. 115C-325(j3) shall be followed. If no request is made within the 15-day period, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if there is one, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such dismissal. Provisions of this section which permit a hearing by a hearing officer shall not apply to a dismissal or demotion recommended pursuant to G.S. 115C-325(e)(1)*l*.

When a career employee is dismissed pursuant to G.S. 115C-325(e)(1)*l.*, above, his or her name shall be placed on a list of available career employees to be maintained by the board.

(3) Inadequate Performance. – In determining whether the professional performance of a career employee is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Failure to notify a career employee of an inadequacy or deficiency in performance shall be conclusive evidence of satisfactory performance. Inadequate performance for a career employee shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard. For a career employee, a performance rating below proficient shall constitute inadequate performance unless the principal noted on the instrument that the career employee is making adequate progress toward proficiency given the circumstances.

(4) Three-Year Limitation on Basis of Dismissal or Demotion. – Dismissal or demotion under subdivision (1) above, except paragraphs g. and o. thereof, shall not be based on conduct or actions which occurred more than three years before the written notice of the superintendent's intention to recommend dismissal or demotion is mailed to the career employee. The three-year limitation shall not apply to dismissals or demotions pursuant to subdivision (1)b. above when the charge of immorality is based upon a career employee's sexual misconduct toward or sexual harassment of students or staff.

(f) (1) Suspension without Pay. – If a superintendent believes that cause exists for dismissing a career employee for any reason specified in G.S. 115C-325(e)(1) and that immediate suspension of the career employee is necessary, the superintendent may suspend the career employee without pay. Before suspending a career employee without pay, the superintendent shall meet with the career employee and give him or her written notice of the charges against him or her, an explanation of the bases for the charges, and an opportunity to respond. However, if the career employee is incarcerated or is in the custody of a local, State, private, or federal correctional facility, the superintendent shall not be required to meet with the career employee before suspending that employee without pay but may instead provide written notice of the charges against the employee, provide a written explanation of the basis for the charges, and provide an opportunity for the employee to respond in writing. Within five days after a suspension under this paragraph, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally

determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the career employee shall be reinstated immediately, shall be paid for the period of suspension, and all records of the suspension shall be removed from the career employee's personnel file.

(2) Disciplinary Suspension Without Pay. – A career employee recommended for disciplinary suspension without pay may request a hearing before the board. If no request is made within 15 days, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension.

a. Board hearing for disciplinary suspensions for more than 10 days or for certain types of intentional misconduct. – The procedures for a board hearing under G.S. 115C-325(j3) shall apply if any of the following circumstances exist:

1. The recommended disciplinary suspension without pay is for more than 10 days; or
2. The disciplinary suspension is for intentional misconduct, such as inappropriate sexual or physical conduct, immorality, insubordination, habitual or excessive alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes, any cause that constitutes grounds for the revocation of the career employee's license, or providing false information.

b. Board hearing for disciplinary suspensions of no more than 10 days. – The procedures for a board hearing under G.S. 115C-325(j2) shall apply to all disciplinary suspensions of no more than 10 days that are not for intentional misconduct as specified in sub-sub-subdivision a.2. of this subdivision.

(f1) Suspension with Pay. – If a superintendent believes that cause may exist for dismissing or demoting a career employee for any reasons specified in G.S. 115C-325(e)(1), but that additional investigation of the facts is necessary and circumstances are such that the career employee should be removed immediately from his or her duties, the superintendent may suspend the career employee with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall notify the board of education within two days of his or her action and shall notify the career employee within two days of the action and the reasons for it. If the superintendent has not initiated dismissal or demotion proceedings against the career employee within the 90-day period, the career employee shall be reinstated to his or her duties immediately and all records of the suspension with pay shall be removed from the career employee's personnel file at his or her request. However, if the superintendent and the employee agree to extend the 90-day

period, the superintendent may initiate dismissal or demotion proceedings against the career employee at any time during the period of the extension.

(f2) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(g) Repealed by Session Laws 1997, c. 221, s. 13(a).

(h) Procedure for Dismissal or Demotion of Career Employee.

(1) A career employee may not be dismissed, demoted, or reduced to part-time employment except upon the superintendent's recommendation.

(2) Before recommending to a board the dismissal or demotion of the career employee, the superintendent shall give written notice to the career employee by certified mail or personal delivery of his or her intention to make such recommendation and shall set forth as part of his or her recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The superintendent also shall meet with the career employee and provide written notice of the charges against the career employee, an explanation of the basis for the charges, and an opportunity to respond if the career employee has not done so under G.S. 115C-325(f)(1). The notice shall include a statement to the effect that if the career employee within 14 days after the date of receipt of the notice requests a review, he or she may request to have the grounds for the proposed recommendations of the superintendent reviewed by an impartial hearing officer appointed by the Superintendent of Public Instruction as provided for in G.S. 115C-325(h)(7). A copy of G.S. 115C-325 shall also be sent to the career employee. If the career employee does not request a hearing before a hearing officer within the 14 days provided, the superintendent may submit his or her recommendation to the board.

(3) Within the 14-day period after receipt of the notice, the career employee may file with the superintendent a written request for either (i) a hearing on the grounds for the superintendent's proposed recommendation by a hearing officer or (ii) a hearing within 10 days before the board on the superintendent's recommendation. If the career employee requests an immediate hearing before the board, he or she forfeits his or her right to a hearing by a hearing officer. If no request is made within that period, the superintendent may file his or her recommendation with the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the career employee without pay. If a request for review is made, the superintendent shall not file the recommendation for dismissal with the board until a report of the hearing officer is filed with the superintendent. Failure of the hearing officer to submit the report as required by G.S. 115C-325(i1)(1) shall entitle the career employee to a hearing before the board under the same procedures as provided in G.S.115C-325(j).

(4) Repealed by Session Laws 1997, c. 221, s. 13(a).

(5) Repealed by Session Laws 2011-348, s. 1, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(6) If a career employee requests a review by a hearing officer, the superintendent shall notify the Superintendent of Public Instruction within five days of his or her receipt of the request.

(7) Within five days of being notified of the request for a hearing before a hearing officer, the Superintendent of Public Instruction shall submit to both parties a list of hearing officers trained and approved by the State Board of Education. Within five days of receiving the list, the parties may jointly select a hearing officer from that list, or, if the parties cannot agree to a hearing officer, each party may strike up to one-third of the names on the list and submit its strikeout list to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall then appoint a hearing officer from those individuals remaining on the list. Further, the parties may jointly agree on another hearing officer not on the State Board of Education's list, provided that individual is available to proceed in a timely manner and is willing to accept the terms of appointment required by the State Board of Education. No person eliminated by the career employee or superintendent shall be designated as the hearing officer for that case.

(8) The superintendent and career employee shall serve a copy to the other party of all documents submitted to the Superintendent of Public Instruction and to the designated hearing officer and include a signed certificate of service similar to that required in court pleadings.

(h1) Hearing Officers; Qualifications; Training; Compensation. –

(1) The State Board of Education shall select and maintain a master list of no more than 15 qualified hearing officers. The State Board shall, except for good cause shown, remove a hearing officer from the list who has failed to conduct a hearing or prepare a report within the time specified in G.S. 115C-325(i1) or who has failed to submit a supplemental report in accordance with G.S. 115C-325(i1)(4) or (j1)(2). A hearing officer shall, except for good cause shown, also be removed from the list for failure to meet the terms and conditions of engagement established by the State Board. Additionally, if a hearing officer is not appointed to a case within a two-year period due to repeated strikes from the list by either party as provided in G.S. 115C-325(h)(7), the State Board may remove the hearing officer from the master list.

(2) Persons selected by the State Board as hearing officers shall be members in good standing of the North Carolina State Bar who have demonstrated experience and expertise in the areas of education law, due process, administrative law, or employment law within the last five years. The

State Board shall give special consideration in its selection to persons jointly endorsed by the largest by membership of each statewide organization representing teachers, school administrators, and local boards of education. Following State Board selection, hearing officers must complete a special training course approved by the State Board of Education that includes training on the teacher evaluation instrument and performance standards before they are qualified to hear teacher dismissal or demotion cases.

(3) The State Board of Education shall determine the compensation for a hearing officer. The State Board shall pay the hearing officer's compensation and authorized expenses.

(i) Repealed by Session Laws 1997, c. 221, s. 13(a).

(i1) Report of Hearing Officer; Superintendent's Recommendation. –

(1) The hearing officer shall complete the hearing held in accordance with G.S. 115C-325(j) and prepare the report within 90 days from the time of the designation. This time period may be extended only for extraordinary cause and upon written agreement by both parties. The State Board of Education shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely report to the superintendent within the maximum 90-day period set forth in this subdivision, except upon a showing of good cause by the hearing officer.

(2) The hearing officer shall make all necessary findings of fact, based upon the preponderance of the evidence, on all issues related to each and every ground for dismissal and on all relevant matters related to the question of whether the superintendent's recommendation is justified. The hearing officer shall not make a recommendation as to conclusions of law or the disposition of the case. The hearing officer shall deliver copies of the report to the superintendent and the career employee.

(3) Within five days after receiving the hearing officer's report, the superintendent shall decide whether to submit a written recommendation to the local board for dismissal, demotion, or disciplinary suspension without pay to the board or to drop the charges against the career employee. The superintendent shall notify the career employee, in writing, of the decision.

(4) If the superintendent contends that the hearing officer's report fails to address a critical factual issue, the superintendent shall within five days' receipt of the hearing officer's report, request in writing with a copy to the career employee that the hearing officer prepare a supplement to the report. The superintendent shall specify what critical factual issue the superintendent contends the hearing officer failed to address. If the hearing officer determines that the report failed to address a critical factual issue, the hearing officer shall prepare a supplement to the report to address the issue and deliver the supplement to both parties before the

board hearing. In no event shall the hearing officer take more than 30 days to provide a supplemental report. If the hearing officer fails to submit a timely supplemental report, the superintendent shall report the hearing officer to the State Board. The State Board shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely supplemental report to both parties, except upon a showing of good cause by the hearing officer. The failure of the hearing officer to prepare a supplemental report or to address a critical factual issue shall not constitute a basis for appeal.

(j) Hearing by a Hearing Officer. – The following provisions shall apply to a hearing conducted by the hearing officer.

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules and regulations adopted by the State Board of Education to govern such hearings.

(3) At the hearing the career employee and the superintendent or the superintendent's designee shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any competent testimony relevant to the issue of whether grounds for dismissal or demotion exist or whether the procedures set forth in G.S. 115C-325 have been followed.

(4) Rules of evidence shall not apply to a hearing conducted by a hearing officer. The hearing officer may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least five days before the hearing, the superintendent shall provide to the career employee a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence the superintendent intends to present. At least three days before the hearing, the career employee shall provide to the superintendent a list of witnesses the career employee intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence the career employee intends to present. Additional witnesses or documentary evidence may not be presented except upon a finding by the hearing officer that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence according to the schedule provided in this subdivision.

(5a) The hearing shall be completed within three days after commencement, unless extended by the hearing officer on a showing of extraordinary cause. Neither party shall have more than eight hours to present its case in chief, which does not include cross-examination of witnesses, rebuttal evidence, or arguments of counsel.

(6) The hearing officer may issue subpoenas, at his or her discretion or upon written application by either party, and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for dismissal.

(7) The hearing officer shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.

(8) The superintendent shall provide for making a transcript of the hearing. If the career employee contemplates a hearing before the board or to appeal the board's decision to a court of law, the career employee may request and shall receive at no charge a transcript of the proceedings before the hearing officer.

(j1) Board Determination. –

(1) Within five days after receiving the superintendent's notice of intent to recommend the career employee's dismissal to the board, the career employee shall decide whether to request a hearing before the board and shall notify the superintendent, in writing, of the decision. If the career employee can show that the request for a hearing was postmarked within the time provided, the career employee shall not forfeit the right to a board hearing. Within five days after receiving the career employee's request for a board hearing, the superintendent shall request that a transcript of the hearing be made. Within five days of receiving a copy of the transcript, the superintendent shall submit to the board the written recommendation and shall provide a copy of the recommendation to the career employee. The superintendent's recommendation shall state the grounds for the recommendation and shall be accompanied by a copy of the hearing officer's report and a copy of the transcript of the hearing.

(2) If the career employee contends that the hearing officer's report fails to address a critical factual issue the career employee shall, at the same time he or she notifies the superintendent of a request for a board hearing pursuant to G.S. 115C-325(j1)(1), request in writing with a copy to the superintendent that the hearing officer prepare a supplement to the hearing officer's report. The career employee shall specify the critical factual issue he or she contends the hearing officer failed to address. If the hearing officer determines that the report failed to address a critical factual issue, the hearing officer shall prepare a supplement to the report to address the issue and shall deliver the supplement to both parties before the board hearing. In no event shall the hearing officer take more than 30 days to provide a supplemental report. If the hearing officer fails to submit a timely supplemental report, the superintendent shall report the hearing officer to the State Board. The State Board shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely supplemental report to both parties, except upon a showing of good cause by the hearing officer. The failure of the hearing

officer to prepare a supplemental report or to address a critical factual issue shall not constitute a basis for appeal.

(3) Within five days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and shall notify the career employee by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than 10 nor more than 30 days after the board has notified the career employee, unless both parties agree to an extension. If the career employee did not request a hearing, the board may, by resolution, reject the superintendent's decision, or accept or modify the decision and dismiss, demote, reinstate, or suspend the career employee without pay.

(4) If the career employee requests a board hearing, it shall be conducted in accordance with G.S. 115C-325(j2).

(5) The board shall make a determination and may (i) reject the superintendent's recommendation or (ii) accept or modify the recommendation and dismiss, demote, reinstate, or suspend the employee without pay.

(6) Within two days following the hearing, the board shall send a written copy of its findings and determination to the career employee and the superintendent.

(j2) Board Hearing. – The following procedures shall apply to a hearing conducted by the board:

(1) The hearing shall be private.

(2) If the career employee requested a hearing by a hearing officer, the board shall receive the following:

a. The whole record from the hearing held by the hearing officer, including a transcript of the hearing, as well as any other records, exhibits, and documentary evidence submitted to the case manager at the hearing.

b. The hearing officer's findings of fact, including any supplemental findings prepared by the hearing officer under G.S. 115C-325 (i1)(4) or G.S. 115C-325(j1)(2).

c. Repealed by Session Laws 2011-348, s. 1, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

d. The superintendent's recommendation and the grounds for the recommendation.

(3) If the career employee did not request a hearing by a hearing officer, the board shall receive the following:

a. Any documentary evidence the superintendent intends to use to support the recommendation. The superintendent shall provide the documentary evidence to the career employee seven days before the hearing.

b. Any documentary evidence the career employee intends to use to rebut the superintendent's recommendation. The career employee shall

provide the superintendent with the documentary evidence three days before the hearing.

c. The superintendent's recommendation and the grounds for the recommendation.

(4) The superintendent and career employee may submit a written statement not less than three days before the hearing.

(5) The superintendent and career employee shall be permitted to make oral arguments to the board based on the record before the board.

(6) No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence at the hearing before the hearing officer.

(7) The board shall accept the hearing officer's findings of fact unless a majority of the board determines that the findings of fact are not supported by substantial evidence when reviewing the record as a whole. In such an event, the board shall make alternative findings of fact. If a majority of the board determines that the hearing officer did not address a critical factual issue, the board may remand the findings of fact to the hearing officer to complete the report to the board. If the hearing officer does not submit the report within seven days receipt of the board's request, the board may determine its own findings of fact regarding the critical factual issues not addressed by the hearing officer. The board's determination shall be based upon a preponderance of the evidence.

(8) The board is not required to provide a transcript of the hearing to the career employee. If the board elects to make a transcript and if the career employee contemplates an appeal to a court of law, the career employee may request and shall receive at no charge a transcript of the proceedings. A career employee may have the hearing transcribed by a court reporter at the career employee's expense.

(j3) Board Hearing for Certain Disciplinary Suspensions and for Reductions in Force. – The following procedures shall apply for a board hearing under G.S. 115C-325(e)(2) and G.S. 115C-325(f)(2)a:

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules adopted by the State Board of Education to govern such hearings.

(3) At the hearing, the career employee and the superintendent shall have the right to be present and to be heard, to be represented by counsel, and to present through witnesses any competent testimony relevant to the issue of whether grounds exist for a disciplinary suspension without pay under G.S. 115C-325(f)(2)a. or whether the grounds for a dismissal or demotion due to a reduction in force is justified.

(4) Rules of evidence shall not apply to a hearing under this subsection and the board may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least eight days before the hearing, the superintendent shall provide to the career employee a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the superintendent intends to present.

(6) At least six days before the hearing, the career employee shall provide the superintendent a list of witnesses the career employee intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the career employee intends to present.

(7) No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence according to the schedule provided in this subsection.

(8) The board may subpoena and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for suspension without pay.

(9) The board shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.

(10) The superintendent shall provide for making a transcript of the hearing. If the career employee contemplates an appeal of the board's decision to a court of law, the career employee may request and shall receive at no charge a transcript of the proceedings.

(k), (*l*) Repealed by Session Laws 1997, c. 221, s. 13(a).

(m) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(n) Appeal. – Any career employee who has been dismissed or demoted under G.S. 115C-325(e)(2), or under G.S. 115C-325(j2), or who has been suspended without pay under G.S. 115C-325(f)(2) shall have the right to appeal from the decision of the board to the superior court for the superior court district or set of districts as defined in G.S. 7A-41.1 in which the career employee is employed on one or more of the following grounds that the decision:

(1) Is in violation of constitutional provisions.

(2) Is in excess of the statutory authority or jurisdiction of the board.

(3) Was made upon unlawful procedure.

(4) Is affected by other error of law.

(5) Is unsupported by substantial evidence in view of the entire record as submitted.

(6) Is arbitrary or capricious.

This appeal shall be filed within a period of 30 days after notification of the decision of the board. The cost of preparing the transcript shall be determined under G.S. 115C-325(j2)(8) or G.S. 115C-325(j3)(10). A career employee who has been demoted or dismissed who has not requested a hearing before the board of education pursuant to this section shall not be entitled to judicial review of the board's action.

(o) Resignation. –

(1) If a career employee has been recommended for dismissal under G.S. 115C-325(e)(1) and the employee chooses to resign without the written agreement of the superintendent, then:

a. The superintendent shall report the matter to the State Board of Education.

b. The career employee shall be deemed to have consented to (i) the placement in the employee's personnel file of the written notice of the superintendent's intention to recommend dismissal and (ii) the release of the fact that the superintendent has reported this employee to the State Board of Education to prospective employers, upon request. The provisions of G.S. 115C-321 shall not apply to the release of this particular information.

c. The career employee shall be deemed to have voluntarily surrendered his or her license pending an investigation by the State Board of Education in a determination whether or not to seek action against the employee's license. This license surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the license surrender shall not prevent the State Board of Education from taking any further action it deems appropriate. The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the career employee's license within 45 days from the date of resignation.

(2) A career employee who is not recommended for dismissal should not resign without the consent of the superintendent unless he or she has given at least 30 days' notice. If a career employee who is not recommended for dismissal does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the career employee's license for the remainder of that school year. A copy of the request shall be placed in the career employee's personnel file. If a career employee's criminal history is relevant to the employee's resignation, regardless of whether the employee has given at least 30 days' notice, the board shall report to the State Board of Education the reason for an employee's resignation.

(p) Section Applicable to Certain Institutions. – Notwithstanding any law or regulation to the contrary, this section shall apply to all career employees employed in teaching and related educational classes in the schools and institutions of the Departments

of Health and Human Services, Public Instruction, and Public Safety regardless of the age of the students.

(p1) Procedure for Dismissal of Career Employees Employed in Low-Performing Residential Schools. –

(1) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the dismissal by the Secretary of Health and Human Services of career employees assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Part 3A of Article 3 of Chapter 143B of the General Statutes. The Secretary shall dismiss a career employee when the Secretary receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the career employee.

The Secretary may dismiss a career employee when:

a. The Secretary determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under Part 3A of Article 3 of Chapter 143B of the General Statutes; and

b. That assistance team makes the recommendation to dismiss the career employee for one or more grounds established in G.S. 115C-325(e)(1) for dismissal or demotion of a career employee.

Within 30 days of any dismissal under this subdivision, a career employee may request a hearing before a panel of three members designated by the Secretary. The Secretary shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subdivision. Decisions of the panel may be appealed on the record to the Secretary, with further right of judicial review under Chapter 150B of the General Statutes.

(2) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the dismissal by the Secretary of Health and Human Services of licensed career employees who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed career employee.

Within 30 days of any dismissal under this subdivision, a licensed career employee may request a hearing before a panel of three members designated by the Secretary of Health and Human Services. The Secretary shall adopt procedures to ensure that due process rights are afforded to licensed career employees recommended for dismissal under this

subdivision. Decisions of the panel may be appealed on the record to the Secretary, with further right of judicial review under Chapter 150B of the General Statutes.

(3) Nothing in this subsection shall prevent the Secretary from refusing to renew the contract of any person employed in a school identified as low-performing under Part 3A of Article 3 of Chapter 143B of the General Statutes.

(4) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(5) The Secretary of Health and Human Services shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this subsection.

(q) Procedure for Dismissal of Career Employees Employed in Low-Performing Schools. –

(1) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(2) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the State Board's dismissal of career employees assigned to schools that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a career employee when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the career employee.

The State Board may dismiss a career employee when:

a. The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under G.S. 115C-105.38; and

b. That assistance team makes the recommendation to dismiss the career employee for one or more grounds established in G.S. 115C-325(e)(1) for dismissal or demotion of a career employee.

A career employee may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this subdivision. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subdivision. Decisions of the panel may be appealed on the record to the State Board, with further right of judicial review under Chapter 150B of the General Statutes.

(2a) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the State Board's dismissal of licensed career employees who have engaged in a remediation plan under G.S. 115C-105.38A(a) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the

general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed career employee.

A licensed career employee may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this subdivision. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed career employees recommended for dismissal under this subdivision. Decisions of the panel may be appealed on the record to the State Board, with further right of judicial review under Chapter 150B of the General Statutes.

(3), (4) Repealed by Session Laws 2017-157, s. 2(b), effective July 21, 2017.

(5) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this subsection. (1955, c. 664; 1967, c. 223, s. 1; 1971, c. 883; c. 1188, s. 2; 1973, c. 315, s. 1; c. 782, ss. 1-30; 1979, c. 864, s. 2; 1981, c. 423, s. 1; c. 538, ss. 1-3; c. 731, s. 1; c. 1127, ss. 39, 40; 1981 (Reg. Sess., 1982), c. 1282, s. 30; 1983, c. 770, ss. 1-15; 1983 (Reg. Sess., 1984), c. 1034, s. 34; 1985, c. 791, s. 5(a), (b); 1985 (Reg. Sess., 1986), c. 1014, s. 60(a); 1987, c. 395, s. 2; c. 540, c. 571, s. 3; 1987 (Reg. Sess., 1988), c. 1037, s. 109; 1991 (Reg. Sess., 1992), c. 942, s. 1; c. 1038, s. 14; 1993, c. 169, s. 1; c. 210, ss. 1-3; 1993 (Reg. Sess., 1994), c. 677, ss. 10, 16(a); 1995, c. 369, s. 2; 1995 (Reg. Sess., 1996), c. 716, s. 8; 1997-221, ss. 11(a), 13(a); 1997-443, s. 11A.118(a); 1998-5, s. 2; 1998-59, s. 3; 1998-131, s. 6; 1998-202, s. 4(o); 1998-212, s. 28.24(c); 1998-217, s. 67.1(a); 1999-96, ss. 1-5; 1999-456, s. 34; 2000-67, s. 8.24(b); 2000-137, s. 4(r); 2000-140, ss. 23, 24; 2001-376, s. 2; 2001-424, ss. 28.11(g), 32.25(b); 2001-487, s. 74(c); 2002-110, ss. 2, 3; 2002-126, ss. 7.38, 28.10(a), (c), (d); 2003-302, s. 1; 2004-81, s. 2; 2004-124, ss. 31.18A(a), (c), (d); 2004-199, s. 57(b); 2005-144, ss. 7A.1, 7A.3, 7A.4; 2005-276, ss. 29.28(b), 29.28(d); 2007-145, ss. 7(a), (c)-(e); 2007-326, ss. 2, 3(a), (c)-(e); 2007-484, s. 43.7E; 2009-326, s. 1; 2010-31, s. 7.14(a); 2010-163, s. 1; 2011-145, ss. 7.23(b), 7.25(e); 2011-348, ss. 1, 8.5(a), (b); 2012-83, s. 40; 2012-194, ss. 21(a), (b); 2013-360, ss. 9.6(a), (f); 2014-115, s. 9; 2015-241, s. 8.38(b); 2017-157, ss. 2(a), (b), (p); 2017-186, s. 2(eeeee); 2017-189, ss. 4(c), (d), 6(j), (k).)

§ 115C-325.1. (See Editor's note for applicability) Definitions.

Except as otherwise provided in G.S. 115C-325, as used in this Part, the following definitions apply:

(1) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.

(2) "Demote" means to reduce the salary of a person who is classified or paid by the State Board of Education as a classroom teacher or as a school

administrator during the time of the contract. The word "demote" does not include the following:

a. A suspension without pay pursuant to G.S. 115C-325.5(a).

b. The elimination or reduction of bonus payments, including merit-based supplements or a systemwide modification in the amount of any applicable local supplement.

c. Any reduction in salary that results from the elimination of a special duty, such as the duty of an athletic coach or a choral director.

d. Any reduction of pay as compared to a prior term of contract.

e. Any reduction in a principal's salary resulting from a reduction in State funds due to (i) school growth scores, as provided in the Principal Salary Schedule, or (ii) a decline in the average daily membership of the principal's school.

(3) "Disciplinary suspension" means a final decision to suspend a teacher or school administrator without pay for no more than 60 days under G.S. 115C-325.5(b).

(4) "Residential school" means a school operated by the Department of Health and Human Services that provides residential services to students pursuant to Part 3A of Article 3 of Chapter 143B of the General Statutes or a school operated pursuant to Article 9C of Chapter 115C of the General Statutes.

(5) "School administrator" means a principal, assistant principal, supervisor, or director whose major function includes the direct or indirect supervision of teaching or any other part of the instructional program, as provided in G.S. 115C-287.1(a)(3).

(6) "Teacher" means a person meeting each of the following requirements:

a. Who holds a current professional educator's license.

b. Whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel.

c. Who is employed to fill a full-time, permanent position.

(7) "Year" means a calendar year beginning July 1 and ending June 30. (2013-360, s. 9.6(b); 2017-157, s. 2(h); 2017-189, s. 6(c); 2018-5, s. 8.2(f).)

§ 115C-325.2. (See Editor's note for applicability) Personnel files.

(a) Maintenance of Personnel File. – The superintendent shall maintain in his or her office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher's professional conduct, except that the superintendent may elect not to place in a teacher's file (i) a letter of complaint that contains invalid, irrelevant, outdated, or false information or (ii) a letter of complaint when there is no documentation of an attempt to resolve the issue. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five days' notice to the teacher. Any denial or explanation relating to such

complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file. Any teacher may petition the local board of education to remove any information from the teacher's personnel file that the teacher deems invalid, irrelevant, or outdated. The board may order the superintendent to remove said information if it finds the information is invalid, irrelevant, or outdated.

(b) Inspection of Personnel Files. – The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any preemployment data or other information obtained about a teacher before the teacher's employment by the board may be kept in a file separate from the teacher's personnel file and need not be made available to the teacher. No data placed in the preemployment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher, except the data may be used to substantiate G.S. 115C-325.4(a)(7) or G.S. 115C-325.4(a)(14) as grounds for dismissal or demotion. (2013-360, s. 9.6(b).)

§ 115C-325.3. (See Editor's note for applicability) Teacher contracts.

(a) Length of Contract. – A contract between the local board of education and a teacher who has been employed by the local board of education for less than three years shall be for a term of one school year. A contract or renewal of contract between the local board of education and a teacher who has been employed by the local board of education for three years or more shall be for a term of one, two, or four school years.

(b) Superintendent Recommendation to Local Board. – Local boards of education shall employ teachers upon the recommendation of the superintendent. If a superintendent intends to recommend to the local board of education that a teacher be offered a new or renewed contract, the superintendent shall submit the recommendation to the local board for action and shall include in the recommendation the length of the term of contract. A superintendent shall only recommend a teacher for a contract of a term longer than one school year if the teacher has shown effectiveness as demonstrated by proficiency on the evaluation instrument. The local board may approve the superintendent's recommendation, may decide not to offer the teacher a new or renewed contract, or may decide to offer the teacher a renewed contract for a different term than recommended by the superintendent.

(c) Dismissal During Term of Contract. – A teacher shall not be dismissed or demoted during the term of the contract except for the grounds and by the procedure set forth in G.S. 115C-325.4.

(d) Recommendation on Nonrenewal. – If a superintendent decides not to recommend that the local board of education offer a renewed contract to a teacher, the superintendent shall give the teacher written notice of the decision no later than June 1.

(e) Right to Petition for Hearing. – A teacher shall have the right to petition the local board of education for a hearing no later than 10 days after receiving written notice. The local board may, in its discretion, grant a hearing regarding the superintendent's recommendation for nonrenewal. The local board of education shall notify the teacher making the petition of its decision whether to grant a hearing. If the request for a hearing is granted, the local board shall conduct a hearing pursuant to the provisions of G.S.

115C-45(c) and make a final decision on whether to offer the teacher a renewed contract. The board shall notify a teacher whose contract will not be renewed for the next school year of its decision by June 15; provided, however, if a teacher submits a request for a hearing, the board shall provide the nonrenewal notification within 10 days of the hearing or such later date upon the written consent of the superintendent and teacher. A decision not to offer a teacher a renewed contract shall not be arbitrary, capricious, discriminatory, for personal or political reasons, or on any basis prohibited by State or federal law.

(f) Failure to Offer Contract or Notify on Nonrenewal of Contract. – If a teacher fails to receive a contract offer but does not receive written notification from the superintendent of a recommendation of nonrenewal, and the teacher continues to teach in the local school administrative unit without entering into a contract with the local board, upon discovery of the absence of contract, the board by majority vote shall do one of the following:

(1) Offer the teacher a one-year contract expiring no later than June 30 of the current school year.

(2) Dismiss the teacher and provide the teacher with the equivalent of one additional month's pay. A teacher dismissed as provided in this section shall be considered an at-will employee and shall not be entitled to a hearing or appeal of the dismissal.

(g) Local boards of education and teachers employed by the local board may mutually modify the terms of the contract to permit part-time employment. An individual that mutually modifies a full-time contract to permit part-time employment or enters into a part-time contract is not a teacher as defined in G.S. 115C-325.1(6). (2013-360, s. 9.6(b).)

§ 115C-325.4. (See Editor's note for applicability) Dismissal or demotion for cause.

(a) Grounds. – No teacher shall be dismissed, demoted, or reduced to employment on a part-time basis for disciplinary reasons during the term of the contract except for one or more of the following:

(1) Inadequate performance. In determining whether the professional performance of a teacher is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Inadequate performance for a teacher shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard.

(2) Immorality.

(3) Insubordination.

(4) Neglect of duty.

(5) Physical or mental incapacity.

(6) Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes.

(7) Conviction of a felony or a crime involving moral turpitude.
(8) Advocating the overthrow of the government of the United States or of the State of North Carolina by force, violence, or other unlawful means.
(9) Failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes of this State.
(10) Failure to comply with such reasonable requirements as the board may prescribe.
(11) Any cause which constitutes grounds for the revocation of the professional educator's license.
(12) Failure to maintain his or her license in a current status.
(13) Failure to repay money owed to the State in accordance with the provisions of Article 60 of Chapter 143 of the General Statutes.
(14) Providing false information or knowingly omitting a material fact on an application for employment or in response to a preemployment inquiry.
(15) A justifiable decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding.

(b) Dismissal Procedure. – The procedures provided in G.S. 115C-325.6 shall be followed for dismissals, demotions, or reductions to part-time employment for disciplinary reasons for any reason specified in subsection (a) of this section.

(c) Local boards of education shall adopt a policy for implementing a reduction in force pursuant to subdivision (a)(15) of this section that includes the following criteria:

(1) In determining which positions shall be subject to a reduction, a local board of education shall consider the following:
a. Structural considerations, such as identifying positions, departments, courses, programs, operations, and other areas where there are (i) less essential, duplicative, or excess personnel; (ii) job responsibility and position inefficiencies; (iii) opportunities for combined work functions; and (iv) decreased student or other demands for curriculum, programs, operations, or other services.
b. Organizational considerations, such as anticipated organizational needs of the local school administrative unit and program or school enrollment.
(2) In identifying which teachers in similar positions shall be subject to a dismissal, demotion, or reduction to employment on a part-time basis under the policy, a local school administrative unit shall consider work performance and teacher evaluations. (2013-360, s. 9.6(b); 2015-241, s. 8.38(a); 2017-189, s. 6(d).)

§ 115C-325.5. (See Editor's note for applicability) Teacher suspension.

(a) Immediate Suspension Without Pay. – If a superintendent believes that cause exists for dismissing a teacher for any reason specified in G.S. 115C-325.4 and that immediate suspension of the teacher is necessary, the superintendent may suspend the teacher without pay. Before suspending a teacher without pay, the superintendent shall meet with the teacher and give him or her written notice of the charges against the teacher,

an explanation of the basis for the charges, and an opportunity to respond. However, if the teacher is incarcerated or is in the custody of a local, State, private, or federal correctional facility, the superintendent shall not be required to meet with the teacher before suspending that teacher without pay but may instead provide written notice of the charges against the teacher, provide a written explanation of the basis for the charges, and provide an opportunity for the teacher to respond in writing. Within five days after a suspension under this subsection, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the teacher shall be reinstated immediately, shall be paid for the period of suspension, and all records of the suspension shall be removed from the teacher's personnel file.

(b) Disciplinary Suspension Without Pay. – A teacher recommended for disciplinary suspension without pay may request a hearing before the board. The hearing shall be conducted as provided in G.S. 115C-325.7. If no request is made within 15 days, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension.

(c) Suspension With Pay. – If a superintendent believes that cause may exist for dismissing or demoting a teacher for any reasons specified in G.S. 115C-325.4 but that additional investigation of the facts is necessary and circumstances are such that the teacher should be removed immediately from the teacher's duties, the superintendent may suspend the teacher with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall notify the board of education within two days of the superintendent's action and shall notify the teacher within two days of the action and the reasons for it. If the superintendent has not initiated dismissal or demotion proceedings against the teacher within the 90-day period, the teacher shall be reinstated to the teacher's duties immediately, and all records of the suspension with pay shall be removed from the teacher's personnel file at the teacher's request. However, if the superintendent and the teacher agree to extend the 90-day period, the superintendent may initiate dismissal or demotion proceedings against the teacher at any time during the period of the extension. (2013-360, s. 9.6(b); 2017-189, s. 4(e).)

§ 115C-325.6. (See Editor's note for applicability) Procedure for dismissal or demotion of a teacher for cause.

(a) Recommendation of Dismissal or Demotion. – A teacher may not be dismissed, demoted, or reduced to part-time employment for disciplinary reasons during the term of the contract except upon the superintendent's recommendation based on one or more of the grounds in G.S. 115C-325.4.

(b) Notice of Recommendation. – Before recommending to a board the dismissal or demotion of a teacher, the superintendent shall give written notice to the teacher by certified mail or personal delivery of the superintendent's intention to make such

recommendation and shall set forth as part of the superintendent's recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The superintendent also shall meet with the teacher and provide written notice of the charges against the teacher, an explanation of the basis for the charges, and an opportunity to respond if the teacher has not done so under G.S. 115C-325.5(a). The notice shall include a statement to the effect that the teacher, within 14 days after the date of receipt of the notice, may request a hearing before the board on the superintendent's recommendation. A copy of Part 3 of Article 22 of Chapter 115C of the General Statutes shall also be sent to the teacher.

(c) Request for Hearing. – Within 14 days after receipt of the notice of recommendation, the teacher may file with the superintendent a written request for a hearing before the board on the superintendent's recommendation. The superintendent shall submit his or her recommendation to the board. Within five days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and shall notify the teacher by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than 10 nor more than 30 days after the board has notified the teacher, unless both parties agree to an extension. The hearing shall be conducted as provided in G.S. 115C-325.7.

(d) No Request for Hearing. – If the teacher does not request a hearing before the board within the 14 days provided, the superintendent may submit his or her recommendation to the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the teacher without pay. (2013-360, s. 9.6(b).)

§ 115C-325.7. (See Editor's note for applicability) Hearing before board.

The following procedures shall apply for a board hearing for dismissal, demotion, reduction to part-time employment for disciplinary reasons, or disciplinary suspension without pay:

(1) The hearing shall be private.

(2) The hearing shall be conducted in accordance with reasonable rules adopted by the State Board of Education to govern such hearings.

(3) At the hearing, the teacher and the superintendent shall have the right to be present and to be heard, to be represented by counsel, and to present through witnesses any competent testimony relevant to the issue of whether grounds exist for a dismissal, demotion, reduction to part-time employment for disciplinary reasons, or disciplinary suspension without pay.

(4) Rules of evidence shall not apply to a hearing under this subsection, and the board may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.

(5) At least five days before the hearing, the superintendent shall provide to the teacher a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the superintendent intends to present.

(6) At least three days before the hearing, the teacher shall provide the superintendent a list of witnesses the teacher intends to present, a brief statement of the nature of the testimony of each witness, and a copy of any documentary evidence the teacher intends to present.

(7) No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence according to the schedule provided in this section.

(8) The board may subpoena and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for dismissal, demotion, reduction to part-time employment for disciplinary reasons, or disciplinary suspension without pay.

(9) The board shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.

(10) The superintendent shall provide for making a transcript of the hearing. The teacher may request and shall receive at no charge a transcript of the proceedings. (2013-360, s. 9.6(b).)

§ 115C-325.8. (See Editor's note for applicability) Right of appeal.

(a) A teacher who (i) has been dismissed, demoted, or reduced to employment on a part-time basis for disciplinary reasons during the term of the contract as provided in G.S. 115C-325.4, or has received a disciplinary suspension without pay as provided in G.S. 115C-325.5, and (ii) requested and participated in a hearing before the local board of education, shall have a further right of appeal from the final decision of the local board of education to the superior court of the State on one or more of the following grounds that the decision:

(1) Is in violation of constitutional provisions.

(2) Is in excess of the statutory authority or jurisdiction of the board.

(3) Was made upon unlawful procedure.

(4) Is affected by other error of law.

(5) Is unsupported by substantial evidence in view of the entire record as submitted.

(6) Is arbitrary or capricious.

(b) An appeal pursuant to this section must be filed within 30 days of notification of the final decision of the local board of education and shall be decided on the administrative record. The superior court shall have authority to affirm or reverse the local board's decision or remand the matter to the local board of education. The superior court shall not

have authority to award monetary damages or to direct the local board of education to enter into an employment contract of more than one year, ending June 30. (2013-360, s. 9.6(b).)

§ 115C-325.9. (See Editor's note for applicability) Teacher resignation.

(a) Teacher Resignation Following Recommendation for Dismissal. – If a teacher has been recommended for dismissal under G.S. 115C-325.4 and the teacher chooses to resign without the written agreement of the superintendent, then:

(1) The superintendent shall report the matter to the State Board of Education.

(2) The teacher shall be deemed to have consented to (i) the placement in the teacher's personnel file of the written notice of the superintendent's intention to recommend dismissal and (ii) the release of the fact that the superintendent has reported this teacher to the State Board of Education to prospective employers, upon request. The provisions of G.S. 115C-321 shall not apply to the release of this particular information.

(3) The teacher shall be deemed to have voluntarily surrendered his or her license pending an investigation by the State Board of Education in a determination whether or not to seek action against the teacher's license. This license surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the license surrender shall not prevent the State Board of Education from taking any further action it deems appropriate. The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the teacher's license within 45 days from the date of resignation.

(b) Thirty Days' Notice Resignation Requirement. – A teacher who is not recommended for dismissal should not resign during the term of the contract without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign during the term of the contract without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's license for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file. If a teacher's criminal history is relevant to the teacher's resignation, regardless of whether the teacher has given at least 30 days' notice, the board shall report to the State Board of Education the reason for an employee's resignation. (2013-360, s. 9.6(b); 2017-189, s. 4(f).)

§ 115C-325.10. (See Editor's note for applicability) Application to certain institutions.

Notwithstanding any law or regulation to the contrary, this Part shall apply to all persons employed in teaching and related educational classes in the schools and institutions of the Departments of Health and Human Services and Public Instruction and the Division of Adult Correction and Juvenile Justice of the Department of Public Safety, regardless of the age of the students. (2013-360, s. 9.6(b); 2017-186, s. 2(fffff).)

§ 115C-325.11. (See Editor's note for applicability) Dismissal of school administrators and teachers employed in low-performing residential schools.

(a) Notwithstanding any other provision of this section or any other law, this section shall govern the dismissal by the State Board of Education of teachers, principals, assistant principals, directors, supervisors, and other licensed personnel assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team. The State Board shall dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

(b) The State Board may dismiss a teacher, principal, assistant principal, director, supervisor, or other licensed personnel when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school.

(2) That assistance team makes the recommendation to dismiss the teacher, principal, assistant principal, director, supervisor, or other licensed personnel for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

Within 30 days of any dismissal under this subsection, a teacher, principal, assistant principal, director, supervisor, or other licensed personnel may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this section or any other law, this subsection shall govern the dismissal by the State Board of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

Within 30 days of any dismissal under this subsection, a licensed staff member may request a hearing before a panel of three members designated by the State Board. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this subsection. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board or the superintendent of a residential school may terminate the contract of a school administrator dismissed under this section. Nothing in this section shall prevent the State Board from refusing to renew the contract of any person employed in a school identified as low-performing.

(e) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section. (2013-360, s. 9.6(b).)

§ 115C-325.12. (See Editor's note for applicability) Procedure for dismissal of principals employed in low-performing schools.

(a) Dismissal of Principals Assigned to Low-Performing Schools With Assistance Teams. – Notwithstanding any other provision of this Part or any other law, this section governs the State Board's dismissal of principals assigned to low-performing schools to which the State Board has assigned an assistance team.

(b) Authority of State Board to Dismiss Principal. – The State Board through its designee may, at any time, recommend the dismissal of any principal who is assigned to a low-performing school to which an assistance team has been assigned. The State Board through its designee shall recommend the dismissal of any principal when the State Board receives from the assistance team assigned to that principal's school two consecutive evaluations that include written findings and recommendations regarding the principal's inadequate performance.

(c) Procedures for Dismissal of Principal. –

(1) If the State Board through its designee recommends the dismissal of a principal under this section, the principal shall be suspended with pay pending a hearing before a panel of three members of the State Board. The purpose of this hearing, which shall be held within 60 days after the principal is suspended, is to determine whether the principal shall be dismissed.

(2) The panel shall order the dismissal of the principal if it determines from available information, including the findings of the assistance team, that the low performance of the school is due to the principal's inadequate performance.

(3) The panel may order the dismissal of the principal if (i) it determines that the school has not made satisfactory improvement after the State Board assigned an assistance team to that school and (ii) the assistance team makes the recommendation to dismiss the principal for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion of a teacher.

(4) If the State Board or its designee recommends the dismissal of a principal before the assistance team assigned to the principal's school has evaluated that principal, the panel may order the dismissal of the principal if the panel determines from other available information that the low performance of the school is due to the principal's inadequate performance.

(5) In all hearings under this section, the burden of proof is on the principal to establish that the factors leading to the school's low performance were

not due to the principal's inadequate performance. In all hearings under this section, the burden of proof is on the State Board to establish that the school failed to make satisfactory improvement after an assistance team was assigned to the school and to establish one or more of the grounds established for dismissal or demotion of a teacher under G.S. 115C-325.4.

(6) In all hearings under this section, two consecutive evaluations that include written findings and recommendations regarding that principal's inadequate performance from the assistance team are substantial evidence of the inadequate performance of the principal.

(7) The State Board shall adopt procedures to ensure that due process rights are afforded to principals under this section. Decisions of the panel may be appealed on the record to the State Board.

(d) The State Board of Education or a local board may terminate the contract of a principal dismissed under this section.

(e) Neither party to a school administrator contract is entitled to damages under this section.

(f) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section. (2013-360, s. 9.6(b).)

§ 115C-325.13. (See Editor's note for applicability) Procedure for dismissal of teachers employed in low-performing schools.

(a) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of teachers, assistant principals, directors, and supervisors assigned to schools that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Article 8B of this Chapter. The State Board shall dismiss a teacher, assistant principal, director, or supervisor when the State Board receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher, assistant principal, director, or supervisor.

(b) The State Board may dismiss a teacher, assistant principal, director, or supervisor when:

(1) The State Board determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance team to that school under G.S. 115C-105.38; and

(2) That assistance team makes the recommendation to dismiss the teacher, assistant principal, director, or supervisor for one or more grounds established in G.S. 115C-325.4 for dismissal or demotion for cause.

A teacher, assistant principal, director, or supervisor may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(c) Notwithstanding any other provision of this Part or any other law, this section shall govern the State Board's dismissal of licensed staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the licensed staff member.

(d) A licensed staff member may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this section. The State Board shall adopt procedures to ensure that due process rights are afforded to licensed staff members recommended for dismissal under this section. Decisions of the panel may be appealed on the record to the State Board.

(e) The State Board of Education or a local board may terminate the contract of a teacher, assistant principal, director, or supervisor dismissed under this section.

(f) Neither party to a school administrator or teacher contract is entitled to damages under this section.

(g) The State Board shall have the right to subpoena witnesses and documents on behalf of any party to the proceedings under this section. (2013-360, s. 9.6(b).)

§ 115C-326: Repealed by Session Laws 1998-5, s. 3.

§ 115C-326.1: Repealed by Session Laws 1985, c. 479, s. 52.

Part 3A. Job Sharing by School Employees.

§ 115C-326.5. Job sharing by school employees.

(a) The General Assembly finds that there is a shortage of qualified public school employees available in certain geographical areas of the State. The elimination of administrative and fiscal limitations on job-sharing arrangements would make employment in a public school an attractive option for well-qualified persons who do not wish to work full time.

(b) A "school employee in a job-sharing position" is a person who is employed by a local board of education as a public school employee for at least fifty percent (50%) of the applicable workweek, as defined by that local board of education.

(c) The State Board of Education shall adopt rules to facilitate job sharing by public school employees. These rules shall provide that an employee in a job-sharing position shall receive paid legal holidays, annual vacation leave, sick leave, and personal leave on a pro rata basis. Such an employee shall also receive service credit under the Teachers' and State Employees' Retirement System as provided in G.S. 135-4(b) and insurance benefits as provided in Article 3 of Chapter 135 of the General Statutes. (2003-358, s. 2.)

Part 4. Personnel Administration Commission for Public School Employees.

§§ 115C-327 through 115C-329: Repealed by Session Laws 1997-18, s. 10.

Part 5. Employment of Handicapped.

§ 115C-330. Employment of handicapped.

The Board and each local educational agency shall make positive efforts to employ and advance in employment qualified handicapped individuals. (1977, c. 927, s. 1; 1981, c. 423, s. 1.)

§ 115C-331. Reserved for future codification purposes.

Part 6. Criminal History Checks.

§ 115C-332. School personnel criminal history 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 the employee (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 public school personnel. Such 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 Officers; Article 6, Homicide; Article 7B, Rape and Kindred 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, Civil Disorders, and Emergencies; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. Such 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 subparagraph, such crimes also include similar crimes under federal law or under the laws of other states.

(2) "School personnel" means any:

a. Employee of a local board of education whether full-time or part-time, or

b. Independent contractor or employee of an independent contractor of a local board of education, 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. School personnel includes substitute teachers, driver training teachers, bus drivers, clerical staff, and custodians.

(b) Each local board of education shall adopt a policy on whether and under what circumstances an applicant for a school personnel position shall be required to be checked for a criminal history before the applicant is offered an unconditional job. Each local board of education shall apply its policy uniformly in requiring applicants for school personnel positions to be checked for a criminal history. A local board of education that requires a criminal history check for an applicant may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check.

A local board of education shall not require an applicant to pay for the criminal history check authorized under this subsection.

(c) The Department of Public Safety shall provide to the local board of education the criminal history from the State and National Repositories of Criminal Histories of any applicant for a school personnel position in the local school administrative unit for which a local board of education requires a criminal history check. The local board of education shall require the person to be checked by the Department of Public Safety to (i) be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the local board, or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) 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 local board of education shall consider refusal to consent when making employment decisions and decisions with regard to independent contractors.

The local board of education shall not require an applicant to pay for being fingerprinted.

(d) The local board of education shall review the criminal history it receives on a person. The local board shall determine whether the results of the review indicate that the applicant or employee (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 public school personnel and shall use the information when making employment decisions and decisions with regard to independent contractors. The local board shall make written findings with regard to how it used the information when making employment decisions and decisions with regard to independent contractors. The local board may delegate any of the duties in this subsection to the superintendent.

(e) The local board of education, or the superintendent if designated by the local board of education, 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 local board of education 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 local board of education or the State Board of Education. The local board of education 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 a local board of education, 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 Chapter 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 local board of education may adopt a policy providing for periodic checks of criminal history of employees. Local boards of education shall not require employees to pay for the criminal history check authorized under this subsection. A local board of education 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 an employee's criminal history was relevant to the employee's resignation or dismissal. (1995, c. 373, s. 1; 2001-376, s. 1; 2012-12, s. 2(rr); 2014-100, s. 17.1(o); 2015-181, s. 47; 2016-126, 4th Ex. Sess., s. 20; 2017-189, s. 4(g).)

§ 115C-332.1. Sex offender registries checks for certain contractual personnel.

(a) For purposes of this section, the term "contractual personnel" includes any individual or entity under contract with the local board of education whose contractual job involves direct interaction with students as part of the job. For purposes of this section, the term "contractual personnel" does not include any person covered under G.S. 115C-332.

(b) Each local board of education shall require, as a term of any contract the local board of education enters, that employers of a person who is contractual personnel conduct an annual check of that person on the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry. As a term of any contract, a local board of education shall prohibit any contractual personnel listed on the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry from having direct interaction with students. (2008-117, s. 21.)

Part 7. Personnel Evaluations.

§ 115C-333. Evaluation of licensed employees including certain superintendents; mandatory improvement plans; State board notification upon dismissal of employees.

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all licensed employees assigned to a school that has been identified as low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher with career status as defined under G.S. 115C-325(a)(6), or a teacher as defined under G.S. 115C-325.1(6), either the principal, the assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

All teachers in low-performing schools who have been employed for less than three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. For high schools with at least 1,500 students, the annual evaluation may be conducted by an assistant principal, provided that at least one evaluation in such a teacher's first three years of employment is conducted by a principal. All teachers in low-performing schools who have been licensed as a teacher for less than two years shall be observed at least three times annually by the principal or the principal's designee, at least once annually by a teacher, and at least once annually by a principal, and at least two of those observations shall be conducted in the first semester of the school year, and if practicable, at least one of those observations shall be conducted within the first grading period of the school year. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans. –

(1) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(1a) A mandatory improvement plan is an instrument designed to improve a teacher's performance or the performance of any licensed employee in a low-performing school by providing the individual with notice of specific performance areas that have substantial deficiencies and a set of strategies, including the specific support to be provided to the individual, so that the individual, within a reasonable period of time, should satisfactorily resolve such deficiencies.

(2) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the employee's performance, (ii) the superintendent recommend to the local board that if the employee is a career status teacher the employee be dismissed or demoted and if the employee is a teacher on contract the teacher's contract not be recommended for renewal, or (iii) if the employee engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. If the individual or team that conducted the evaluation elects not to make any of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.

(3) If at any time a licensed employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan.

(4) Mandatory improvement plans shall be developed by the person who evaluated the licensed employee or the employee's supervisor unless the evaluation was conducted by an assistance team. If the evaluation was conducted by an assistance team, that team shall develop the mandatory improvement plan in collaboration with the employee's supervisor. Mandatory improvement plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist local boards in evaluating licensed employees and developing effective mandatory improvement plans within the time allotted under this section. Local boards may adopt policies for the development and implementation of mandatory improvement plans and policies for the implementation of monitored and directed growth plans.

(c) Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that if the employee is a teacher with career status the teacher be dismissed or demoted under G.S. 115C-325, or if the employee is a teacher on contract the employee's contract not be renewed or if the employee has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be immediately dismissed or demoted under G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee of a low-performing school who is a teacher with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)*l*., or dismisses an employee who is a teacher on contract for cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-270.35. If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is a teacher with career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in force, or the employee is a teacher on contract subsequently dismissed under G.S. 115C-325.4.

(e) Civil Immunity. – There shall be no liability for negligence on the part of the State Board of Education, the Superintendent of Public Instruction, or a local board of education, or their members or employees, individually or collectively, arising from any action 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.

(f) Local Board Evaluation of Certain Superintendents. – Each year the local board of education shall evaluate the superintendent employed by the local school administrative unit and report to the State Board the results of that evaluation if during that year the State Board designated as low-performing:

(1) One or more schools in a local school administrative unit that has no more than 10 schools.

(2) Two or more schools in a local school administrative unit that has no more than 20 schools.

(3) Three or more schools in a local school administrative unit that has more than 20 schools. (1998-5, s. 4; 1998-220, ss. 14, 15; 2011-348, s. 2; 2013-360, s. 9.7(i), (s); 2016-94, s. 8.32(h); 2016-126, 4th Ex., Sess., s. 21; 2017-157, ss. 2(n), 3(a); 2017-189, s. 6(e).)

§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not been employed for at least three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. For high schools with at least 1,500 students, the annual evaluation may be conducted by an assistant principal, provided that at least one evaluation in such a teacher's first three years of employment is conducted by a principal. All teachers who are assigned to schools that are not designated as low-performing and who have been licensed as a teacher for less than two years shall be observed at least three times annually by the principal or the principal's designee, at least once annually by a teacher, and at least once annually by a principal, and at least two of those observations shall be conducted in the first semester of the school year, and if practicable, at least one of those observations shall be conducted within the first grading period of the school year. All teachers with career status or on a four-year contract who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers with career status or on a four-year contract to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans for Teachers. – If, in an observation report or year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents unsatisfactory or below standard performance on any standard that the teacher was expected to demonstrate, the principal may place the teacher on a mandatory improvement plan as defined in G.S. 115C-333(b)(1a). The mandatory improvement plan shall be utilized only if the superintendent or superintendent's designee determines that an individual, monitored, or directed growth plan will not satisfactorily address the deficiencies.

If at any time a teacher engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan. The mandatory improvement plan shall be developed by the principal in consultation with the teacher. The teacher shall have five instructional days from receipt of the proposed mandatory improvement plan to request a modification of such plan before it is implemented, and the principal shall consider such suggested modifications before finalizing the plan. The teacher shall have at least 60 instructional days to complete the mandatory improvement plan. The State Board shall develop guidelines that include strategies to assist local boards in evaluating teachers and developing effective mandatory improvement plans. Local boards may adopt policies for the implementation of mandatory improvement plans under this section.

(c) Observation by a Qualified Observer. –

(1) The term "qualified observer" as used in this section is any administrator or teacher who is licensed by the State Board of Education and working in North Carolina; any employee of the North Carolina Department of Public Instruction who is trained in evaluating licensed employees; or any instructor or professor who teaches in an accredited North Carolina school of education and holds an educator's license.

(2) The local board of education shall create a list of qualified observers who are employed by that board and available to do observations of employees on mandatory improvement plans. This list shall be limited to names of administrators and teachers selected by the local board of education. The local board of education shall strive to select administrators and teachers with excellent reputations for competence and fairness.

(3) Any teacher, other than a teacher assigned to a school designated as low-performing, who has been placed on a mandatory improvement plan shall have a right to be observed by a qualified observer in the area or areas of concern identified in the mandatory improvement plan. The affected teacher and the principal shall jointly choose the qualified observer within 20 instructional days after the commencement of the mandatory improvement plan. If the teacher and the principal cannot agree on a qualified observer within this time period, they each shall

designate a person from the list of qualified observers created pursuant to subdivision (2) of this subsection, and these two designated persons shall choose a qualified observer within five instructional days of their designation. The qualified observer shall draft a written report assessing the teacher in the areas of concern identified in the mandatory improvement plan. The report shall be submitted to the principal before the end of the mandatory improvement plan period. If a teacher or administrator from the same local school administrative unit is selected to serve as the qualified observer, the administration of the local school administrative unit shall provide such qualified observer with the time necessary to conduct the observation and prepare a report. If someone who is not employed by the same local school administrative unit is selected to serve as the qualified observer, the teacher who is the subject of the mandatory improvement plan will be responsible for any expenses related to the observations and reports prepared by the qualified observer. The qualified observer shall not unduly disrupt the classroom when conducting an observation.

(4) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because of the employee's service or completion of a report as an objective observer pursuant to this subsection, unless the employee's report contained material information that the employee knew was false.

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that a teacher with career status be dismissed or demoted under G.S. 115C-325, or if the teacher is on contract that the teacher's contract not be renewed or if the teacher has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the teacher be immediately dismissed or demoted under G.S. 115C-325.4. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a

superintendent from initiating a dismissal proceeding against a teacher under the provisions of G.S. 115C-325 or G.S. 115C-325.4. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)*l*., or dismisses a teacher on contract for cause or elects to not renew a teacher's contract as a result of a superintendent's recommendation under subsection (d) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-270.35. If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing, and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher has career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in force or is a teacher on contract who is subsequently dismissed under G.S. 115C-325.4. If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, the teacher shall have one more year to bring the rating to proficient if the local board elects to renew the teacher's contract. If by the end of this second year the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-270.35.

(g) Civil Immunity. – There shall be no liability for negligence on the part of the State Board of Education, the Superintendent of Public Instruction, or a local board of education, or their members or employees, individually or collectively, arising from any action 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. (2011-348, ss. 3, 8.6; 2013-360, s. 9.7(j), (t); 2016-94, s. 8.32(i); 2016-126, 4th Ex. Sess., s. 22; 2017-157, ss. 2(n), 3(b); 2017-189, s. 6(f).)

§ 115C-333.2. Teacher evaluation reports.

Each local school administrative unit shall ensure that individual teachers are provided access to school-level value-added data, the teacher's own value-added data, when applicable, and the teacher's evaluation dashboard through the Education Value-Added Assessment System (EVAAS). The principal of each school shall notify teachers at least annually when EVAAS data has been updated to reflect teacher performance from the previous school year. (2015-241, s. 8.42(a).)

§ 115C-334. Assessment teams.

The State Board shall develop guidelines for local boards to use to create assessment teams. A local board shall assign an assessment team to every low-performing school in the local school administrative unit that has not received an assistance team. Local boards shall ensure that assessment team members are trained in the proper administration of the employee evaluation used by the local school administrative unit. If service on an assessment team is an additional duty for an employee of a local board, the board may pay the employee for that additional work.

Assessment teams shall have the following duties:

(1) Conduct evaluations of licensed employees in low-performing schools;
(2) Provide technical assistance and training to principals, assistant principals, superintendents, and superintendents' designees who conduct evaluations of licensed employees;
(3) Develop mandatory improvement plans for licensed employees; and
(4) Assist principals, assistant principals, superintendents, and superintendents' designees in the development and implementation of mandatory improvement plans. (1998-5, s. 4; 2011-348, s. 7.)

§ 115C-335. Development of performance standards and criteria for licensed employees; training and remediation programs.

(a) Development of Performance Standards. – The State Board, in consultation with local boards of education, shall revise and develop uniform performance standards and criteria to be used in evaluating certified public school employees, including school administrators. These standards and criteria shall include improving student achievement, employee skills, and employee knowledge. The standards and criteria for school administrators also shall include building-level gains in student learning and effectiveness in providing for school safety and enforcing student discipline. The State Board shall develop rules regarding the use of these standards and criteria. The State Board also shall develop guidelines for evaluating superintendents. The guidelines shall include criteria for evaluating a superintendent's effectiveness in providing safe schools and enforcing student discipline.

(b) Training. – The State Board, in collaboration with the Board of Governors of The University of North Carolina, shall develop programs designed to train principals and superintendents in the proper administration of the employee evaluations developed by the

State Board. The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available to all principals and superintendents at locations that are geographically convenient to local school administrative units. The programs shall include methods to determine whether an employee's performance has improved student learning, the development and implementation of appropriate professional growth and mandatory improvement plans, the process for contract nonrenewal, and the dismissal process under Part 3 of Article 22 of this Chapter. The Board of Governors shall ensure that the subject matter of the training programs is incorporated into the masters in school administration programs offered by the constituent institutions. The State Board, in collaboration with the Board of Governors, also shall develop in-service programs for licensed public school employees that may be included in a mandatory improvement plan created under G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available at locations that are geographically convenient to local school administrative units. (1998-5, s. 4; 2011-348, s. 8; 2013-360, s. 9.7(k).)

§§ 115C-335.1 through 115C-335.4. Reserved for future codification purposes.

Part 8. Sexual Harassment Policies.

§ 115C-335.5. Policies addressing harassment of school employees; protection against retaliation for reporting harassment.

(a) Each local board of education may adopt a policy addressing the sexual harassment of local board employees by students, other local board employees, or school board members. The policy may, at a minimum, set out (i) the consequences of sexually harassing school employees and (ii) a procedure for reporting incidents of sexual harassment.

(b) No local board of education or employee of a local board shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee files a written complaint alleging sexual harassment by students, other local board employees, or school board members, unless the employee reporting the harassment knew or should have known the report was false. (1999-352, s. 1; 2001-173, s. 1.)

Part 9. Equal Access Act.

§ 115C-335.9. Equal access for all education employee associations.

(a) As used in this section, the following definitions apply:

(1) "Education employee association" includes teacher associations, teacher organizations, and classified education employees' associations.

(2) "School" means a charter school or a school operated by a local school administrative unit, the State Board of Education, or a State agency.

(b) It is the intent of the General Assembly that all education employee associations have equal access to employees at schools and that schools not favor nor endorse an

education employee association; therefore, neither a local school administrative unit nor a school shall do any of the following:

(1) Grant access to employees' physical or electronic mailboxes to an education employee association unless it gives such access to all education employee associations operating in the local school administrative unit.

(2) Permit an education employee association to attend new teacher or employee orientations to recruit members unless it permits all education employee associations operating in the local school administrative unit to attend.

(3) Give an education employee association preferential treatment through procedures, policies, or any other means. This subdivision does not authorize any payroll deduction for any association unless authorized by law for that association.

(4) Endorse one education employee association over another.

(5) Refer to days or breaks in a school calendar by the name of an employee education association.

(c) A school shall not discourage or prohibit an employee from joining an organization or showing preferences toward any educational association. (2012-179, s. 1(b).)

Article 23.

Employment Benefits.

§ 115C-336. Sick leave.

(a) All public school employees shall be permitted a minimum of five days per school term of sick leave, pursuant to rules and regulations promulgated by the State Board of Education as provided in G.S. 115C-12(8).

(b) The State Board of Education shall adopt rules and regulations for the establishment of voluntary sick leave banks by local boards of education, from which an employee, upon exhaustion of accumulated sick leave and annual leave, when allowable, may withdraw sick leave days in the event of emergency or catastrophic illness. These rules may include, but not be limited to, (i) requirements of minimum service and minimum balance of sick leave before an employee may join the sick leave bank, (ii) enrollment periods for present employees and new hires, (iii) time limits for rejoining the sick leave bank, (iv) limitation on number of days which can be withdrawn by any employee, (v) waiting period before being eligible to withdraw sick leave, (vi) exclusion of illness or injury covered by Workers' Compensation Benefits, (vii) certification by physician attesting to member's illness or accident, (viii) administration of each sick leave bank by a Sick Leave Bank Committee to be made up of representatives of different classifications of employees, and (ix) other requirements to prevent any adverse selection by employees. The rules concerning the establishment of sick leave banks shall include provisions for notifying employees who donate sick leave to and employees who withdraw sick leave from the sick leave bank, of the State retirement credit consequences as to the donated sick leave.

(c) The State Board of Education shall also adopt rules and regulations to authorize an employee who requires a substitute to use annual leave on days that students are in attendance if the employee has exhausted all of the employee's sick leave and if the employee's absence is due to the catastrophic illness of the employee. The employee shall not be required to pay the substitute.

(d) The State Board of Education shall adopt rules relating to the reinstatement of unused sick leave when an employee who was employed on a 10-month contract at the time of separation returns to employment on a 10-month contract. Under these rules, the maximum period of separation after which unused sick leave is reinstated shall be three calendar months longer for school personnel employed on a 10-month contract than for school personnel employed on a 12-month contract. (1981, c. 423, s. 1; 1993, c. 321, s. 72(a); 1995, c. 324, s. 17.4; 2009-144, s. 1.)

§ 115C-336.1. Parental leave.

A school employee may use annual leave or leave without pay to care for a newborn child or for a child placed with the employee for adoption or foster care. A school employee may also use up to 30 days of sick leave to care for a child placed with the employee for adoption. The leave may be for consecutive workdays during the first 12 months after the date of birth or placement of the child, unless the school employee and the local board of education agree otherwise. (2002-159, s. 37.5(b).)

§ 115C-337. Workers' compensation for school employees.

(a) Workers' Compensation Act Applicable to School Employees. – The provisions of the Workers' Compensation Act shall be applicable to all school employees, and the State Board of Education shall make arrangements necessary to carry out the provisions of the Workers' Compensation Act applicable to these employees paid from State school funds. Liability of the State for compensation shall be confined to school employees paid by the State from State school funds for injuries or death caused by accident arising out of and in the course of their employment in connection with the state-operated school term. The State shall be liable for this compensation on the basis of the average weekly wage of the employees as defined in the Workers' Compensation Act, to the extent of the proportionate part of each employee's salary that is paid from State funds. The State shall also be liable for workers' compensation for all school employees employed in connection with the teaching of vocational agriculture, home economics, trades and industries, and other vocational subjects, supported in part by State and federal funds, which liability shall cover the entire period of service of these employees, to the extent of the proportionate part of each employee's salary that is paid from State funds. The local school administrative units shall be liable for workers' compensation for school employees, including lunchroom employees, whose salaries or wages are paid by the local units from local or special funds. The local units may provide insurance to cover this compensation liability and to include the cost of this insurance in their annual budgets.

The provisions of this subsection shall not apply to any person, firm, or corporation making voluntary contributions to schools for any purpose, and the person, firm, or corporation shall not be liable for the payment of any sum of money under this Chapter.

(b) Payment of Awards to School Bus Drivers Pursuant to the Workers' Compensation Act. – In the event that the Industrial Commission shall make an award pursuant to the Workers' Compensation Act against any local board of education on account of injuries to or the death of a school bus driver arising out of and in the course of his employment as such driver, the local board

of education shall draw a requisition upon the State Board of Education for the amount required to pay such award. The State Board of Education shall honor such requisition to the extent that it shall have in its hands, or subject to its control, available funds which have been or shall thereafter be appropriated by the General Assembly for the support of the school term. It shall be the duty of the local board of education to apply all funds received by it from the State Board of Education pursuant to such requisition to the payment of such award. Neither the State nor the State Board of Education shall be deemed the employer of such school bus driver, nor shall the State or the State Board of Education be liable to any school bus driver or any other person for the payment of any claim, award, or judgment under the provisions of the Workers' Compensation Act or of any other law of this State for any injury or death arising out of or in the course of the operation by such driver of a public school bus. Neither the local board of education, the local school administrative unit, nor the tax levying authorities for the local school administrative unit shall be liable for the payment of any award made pursuant to the provisions of this subsection in excess of the amount paid upon such requisition by the State Board of Education, nor shall the local school board of education, the local school administrative unit, nor the said tax levying authorities be required to provide or carry workers' compensation insurance for such purpose. (1955, c. 1292; c. 1372, art. 18, s. 9; 1979, c. 714, s. 2; 1981, c. 423, s. 1; 1995, c. 324, s. 17(b).)

§ 115C-338. Salaries for employees injured during an episode of violence.

(a) For the purpose of this section, "employee" shall mean any teacher, helping teacher, librarian, principal, supervisor, superintendent of public schools or any full-time employee, city or county, superintendent of public instruction, or any full-time employee of Department of Public Instruction, president, dean or teacher, or any full-time employee in any educational institution supported by and under the control of the State: Provided, that the term "teacher" shall not include any part-time, temporary, or substitute teacher or employee, and shall not include those participating in an optional retirement program provided for in G.S. 135-5.1. In all cases of doubt, the Board of Trustees, as defined in G.S. 135-1(7), shall determine whether any person is a teacher as herein defined.

(b) Any employee who while engaged in the course of his employment or in any activities incidental thereto, suffers any injury or disability resulting from or arising out of any episode of violence by one or more persons shall be entitled to receive his full salary during the shortest of these periods: one year, the continuation of his disability, or the time during which he is unable to engage in his employment because of injury. An episode of violence shall be defined to mean but shall not be limited to any acts of violence directed toward any school building or facility, or to any employee or any student by any person including but not limited to another student. These benefits shall be in lieu of all other income or disability benefits payable under workers' compensation to such employee only during the period prescribed herein. Thereafter, such teacher shall be paid such income or disability payments to which he might be entitled under workers' compensation. If the employment of a substitute is necessitated by the disability of the injured employee the salary of such substitute shall be paid from the same source of funds from which the employee is paid. This section shall in no way limit the right of the injured employee to receive the benefits of medical, hospital, drug and related expense payments from any source, including workers' compensation: Provided, further, that this section shall not apply to any employee who is injured while he participates in or provokes such episode of violence except as is incident to the maintenance or restoration of order or classroom discipline or to defend himself: Provided, further,

that this section shall be given liberal construction and interpretation as to any and all definitions, conditions, and factual circumstances set forth herein.

(c) Any employee claiming the benefits of this section shall file claim with the board of education employing such employee within one year after the occurrence giving rise to his alleged injury. That board of education shall, within 30 days after receipt of such claim, decide whether and to what extent that employee is entitled to the benefits of this section and shall forthwith transmit its decision in writing to such employee. That employee shall, however, have the right to appeal the decision of that board of education to the North Carolina Industrial Commission by serving that board of education and the North Carolina Industrial Commission with written notice thereof within 30 days after receipt of the board's written decision. In determining all appeals under this section the North Carolina Industrial Commission shall constitute a court for the purpose of hearing de novo and passing upon all claims thereby presented in accordance with procedures utilized by the Commission in determining claims under the Workers' Compensation Act. The decision of the Industrial Commission in each instance shall be subject to appeal to the North Carolina Court of Appeals as provided in G.S. 143-293 and 143-294. (1971, c. 640, ss. 1, 2; 1973, c. 753; 1979, c. 714, s. 2; 1981, c. 423, s. 1.)

§ 115C-339. Retirement plan.

Provisions for retirement plans for public school employees may be found in Chapter 135 of the General Statutes. (1981, c. 423, s. 1.)

§ 115C-340. Health insurance.

(a) The State Board of Education may authorize and empower any local board of education, the board of trustees of any community college, or other governing authority, within the State, to establish a voluntary payroll deduction plan for premiums for any type of group insurance, including health insurance, established and authorized by the laws of this State.

(b) Any employee of any local board of education, any community college, or of any educational association, may enter into a written agreement with his employer for the purpose of carrying out the provisions of this section. The State Board of Education is authorized and empowered to make and promulgate rules and regulations to carry out the purposes of this section. (1969, c. 591; 1981, c. 423, s. 1; 1987, c. 564, ss. 12, 16.)

§ 115C-341. Annuity contracts from local boards of education.

Notwithstanding the provisions of this Chapter for the adoption of State and local salary schedules for the pay of teachers, principals, superintendents, and other school employees, local boards of education may enter into annual contracts with any employee of such board which provide for a reduction in salary below the total established compensation or salary schedule for a term of one year. The local board of education shall use the funds derived from the reduction in the salary of the employee to purchase a nonforfeitable annuity contract for the benefit of said employee. An employee who has agreed to a salary reduction for this purpose shall not have the right to receive the amount of the salary reduction in cash or in any other way except the annuity contract. Funds used by the local boards of education for the purchase of an annuity contract shall not be in lieu of any amount earned by the employee before his election for a salary reduction has become effective.

The agreement for salary reductions referred to herein shall be effected under any necessary regulations and procedures adopted by the State Board of Education and on forms prepared by the State Board of Education.

Notwithstanding any other provisions of this section, the amount by which the salary of any employee is reduced pursuant to this section shall be included in computing and making payroll deductions for social security and retirement system purposes, and in computing and providing matching funds for retirement system purposes.

In lieu of the annuity contracts provided for under this section, interests in custodial accounts pursuant to Section 401(f), Section 403(b)(7), and related sections of the Internal Revenue Code of 1986 as amended may be purchased by local boards of education for the benefit of qualified employees under this section with the funds derived from the reduction in the salaries of such employees. (1963, c. 582; 1981, c. 423, s. 1; 1989, c. 526, s. 1; 2011-310, s. 1.)

§ 115C-341.1. Flexible Compensation Plan.

Notwithstanding any other provisions of law relating to the salaries of employees of local boards of education, the State Board of Education is authorized to provide a plan of flexible compensation to eligible employees of local school administrative units for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This plan shall not include those benefits provided to employees under Articles 1, 3B, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the State Board may authorize local school administrative units to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the State Board decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process. (1989 (Reg. Sess., 1990), c. 1059, s. 1; 1991 (Reg. Sess., 1992), c. 1044, s. 14(f); 1993, c. 561, s. 42; 1993 (Reg. Sess., 1994), c. 769, s. 7.28A; 1997-443, s. 33.20(a); 1999-237, s. 28.27(a); 2013-292, s. 1.)

§ 115C-341.2. Department of State Treasurer sponsored 403(b) option.

(a) In addition to the opportunities for local boards of education to offer section 403(b) of the Internal Revenue Code of 1986 retirement annuities and/or mutual funds to their employees under G.S. 115C-341, the Department of State Treasurer may establish an approved third-party vendor of retirement offerings as described in section 403(b) of the Internal Revenue Code of 1986, as now and hereafter amended, pursuant to which employees of local school boards may enter into nonforfeitable 403(b) plan options by way

of salary reduction through the auspices of the Department of State Treasurer. This statewide plan of 403(b) offerings shall be known as the "North Carolina Public School Teachers' and Professional Educators' Investment Plan." The vendor authorized under this section shall be selected by use of Supplemental Retirement Board of Trustees procurement procedures under Article 5 of Chapter 135 of the General Statutes, with the goal of attaining lower administrative fees and enhanced services for participants and employer compliance with applicable law and regulations. Eligible employees of local school boards shall all be allowed to use this vendor for the tax-deferred 403(b) option of their choice.

(b) The criteria in this subsection apply to the Department of State Treasurer's 403(b) offerings to employees of local school boards under this section.

(1) Annuity contracts, trust accounts, and/or custodial accounts shall be administered by a qualified third-party administrator that shall, under written agreement with the Department of State Treasurer, provide custodial, record-keeping, and administrative services. The third-party administrator may also be the selected vendor for the North Carolina Public School Teachers' and Professional Educators' Investment Plan.

For employers choosing to participate in the North Carolina Public School Teachers' and Professional Educators' Investment Plan, the third-party administrator shall, at a minimum, provide the following:

a. Maintain a written plan document.

b. Review hardship withdrawal requests, loan requests, and other disbursements permitted under section 403(b) of the Internal Revenue Code of 1986.

c. Maintain specimen salary reduction agreements for the employer and employees of that employer to initiate payroll deferrals.

d. Monitor maximum contributions.

e. Coordinate responses to the Internal Revenue Service in any case of an IRS audit.

f. Generate educational communication materials to employees concerning the enrollment process, program eligibility, and investment options.

g. Maintain internal reports to ensure compliance with Section 403(b) of the Internal Revenue Code and Title 26 of the Code of Federal Regulations.

h. Provide compliance monitoring/oversight for all 403(b) plans established under G.S. 115C-341 within each participating local board of education plan by creating and establishing the necessary connections and processes with existing and future vendors.

i. Keep an updated schedule of vendor fees and commissions as to the Department's statewide plan of 403(b) offerings.

(2) Governance and oversight of the North Carolina Public School Teachers' and Professional Educators' Investment Plan will be performed under Article 5 of Chapter 135 of the General Statutes by the Department of State Treasurer and the Supplemental Retirement Board of Trustees

established pursuant to G.S. 135-96. Because of the administrative and record-keeping duties enumerated in subdivision (1) of this subsection, any existing vendor of a 403(b) with a participating employer must either agree to share data with the State's 403(b) vendor under this provision (so as to permit oversight over contribution limits, loans, and hardship withdrawals) or be directed by the participating employer to cease accepting new contributions, loans, and hardship withdrawals.

(3) Investment options shall be solely determined by the Department of State Treasurer and the Supplemental Retirement Board of Trustees consistent with section 403(b) of the Internal Revenue Code of 1986, as amended.

(4) Investment staff of the Department of State Treasurer may make recommendations to the State Treasurer and the Supplemental Retirement Board of Trustees as to appropriate investment options. Pursuant to G.S. 135-96, the State Treasurer and Board of Trustees shall have sole responsibility for the selection of the vendor, third-party administrator, providers of investment options, and any other service provider for the North Carolina Public School Teachers' and Professional Educators' Investment Plan.

(5) All contributions made in accordance with the provisions of section 403(b) of the Internal Revenue Code of 1986, as amended, and this section shall be remitted directly to the administrator and held by the administrator in a custodial account on behalf of each participating employee. Any investment gains or losses shall be credited to those accounts. The forms of payment and disbursement procedures shall be consistent with those generally offered by similar annuity contracts, trust accounts, and custodial accounts and applicable federal and State statutes governing those contracts and accounts.

(6) Any local board of education may elect to make contributions to the employee's account on behalf of the employee. The employer shall take whatever action is necessary to implement this section.

(7) The design and administration of annuity contracts, trust accounts, and custodial accounts under this provision shall comply with all applicable provisions of the Internal Revenue Code of 1986, as amended.

(c) The administrative costs of the North Carolina Public School Teachers' and Professional Educators' Investment Plan may be charged to members or deducted from members' accounts in accordance with nondiscriminatory procedures established by the Department of State Treasurer and Board of Trustees. (2011-310, s. 2; 2016-108, s. 7(a); 2018-84, s. 5(b).)

§ 115C-342. Group insurance and credit unions.

(a) The State Board of Education may authorize and empower any local board of education, the board of trustees of any community college, or other governing authority, within the State, to establish a voluntary payroll deduction plan for:

(1) Premiums for any type of group insurance established and authorized by the laws of this State.
(2) Amounts authorized by members of the State Employees' Credit Union or any local teachers' credit unions to be deposited with such organizations.
(3) Loans made to teachers by credit unions.

(b) Any employee of any local board of education, any community college, or of any educational association, may enter into a written agreement with his employer for the purpose of carrying out the provisions of this section. The State Board of Education is authorized and empowered to make and promulgate rules and regulations to carry out the purposes of this section.

(c) Any public school teacher who is a member of a credit union organized and established under Chapter 54 of the General Statutes may, by executing a written consent to the local school administrative unit by whom employed, authorize periodical payment or obligation to such credit union to be deducted from their salaries or wages, and such deductions shall be made and paid to said credit union as and when said salaries and wages are payable. (1969, c. 591; 1981, c. 423, s. 1; 1987, c. 564, ss 12, 16.)

§ 115C-343: Repealed by Session Laws 2011-210, s. 2, effective June 23, 2011.

§ 115C-344. Employment benefits for exchange teachers.

An exchange teacher is a nonimmigrant alien teacher participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62 or by the United States Department of Homeland Security pursuant to 8 C.F.R. Part 214.2(q). For purposes of determining eligibility to receive employment benefits under this Chapter, including personal leave, annual vacation leave, and sick leave, an exchange teacher shall be considered a permanent teacher if employed with the expectation of at least six full consecutive monthly pay periods of employment and if employed at least 20 hours per week. An exchange teacher is not a teacher for purposes of the Teachers' and State Employees' Retirement System of North Carolina as provided in G.S. 135-1(25). (2013-360, s. 9.7(u).)

§ 115C-345. Reserved for future codification purposes.

§ 115C-346. Reserved for future codification purposes.

§ 115C-347. Reserved for future codification purposes.

§ 115C-348. Reserved for future codification purposes.

Article 24.

Interstate Agreement on Qualifications of Educational Personnel.

§ 115C-349. Purpose, findings, and policy.

(a) The states party to this agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

(b) The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states of origin, can increase the available educational resources. Participation in this Compact can increase the availability of educational manpower. (1969, c. 631, s. 1; 1981, c. 423, s. 1.)

§ 115C-350. Definitions.

As used in this agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

(1) "Accept" or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

(2) "Designated state official" means the educational official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this agreement.

(3) "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

(4) "Originating state" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools, is acceptable in accordance with the terms of a contract made pursuant to G.S. 115C-351.

(5) "Receiving state" means a state (and the subdivisions thereof) which accepts educational personnel in accordance with the terms of a contract made pursuant to G.S. 115C-351.

(6) "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico. (1969, c. 631, s. 1; 1981, c. 423, s. 1.)

§ 115C-351. Interstate educational personnel contracts.

(a) The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational

personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this agreement. A designated state official may enter into a contract pursuant to this section only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

(b) Any such contract shall provide for:

(1) Its duration.

(2) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(3) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(4) Any other necessary matters.

(c) No contract made pursuant to this agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

(d) Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

(e) The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

(f) A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states. (1969, c. 631, s. 1; 1981, c. 423, s. 1.)

§ 115C-352. Approved and accepted programs.

(a) Nothing in this agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

(b) To the extent that contracts made pursuant to this agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract. (1969, c. 631, s. 1; 1981, c. 423, s. 1.)

§ 115C-353. Interstate cooperation.

The party states agree that:

(1) They will, so far as practicable, prefer the making of multilateral contracts pursuant to G.S. 115C-351 of this agreement.

(2) They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification. (1969, c. 631, s. 1; 1981, c. 423, s. 1.)

§ 115C-354. Agreement evaluation.

The designated state officials of any party state(s) may meet from time to time as a group to evaluate progress under the agreement, and to formulate recommendations for changes. (1969, c. 631, s. 1; 1981, c. 423, s. 1.)

§ 115C-355. Other arrangements.

Nothing in this agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel. (1969, c. 631, s. 1; 1981, c. 423, s. 1.)

§ 115C-356. Effect and withdrawal.

(a) This agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this agreement.

(b) Any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

(c) No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms. (1969, c. 631, s. 1; 1981, c. 423, s. 1.)

§ 115C-357. Construction and severability.

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters. (1969, c. 631, s. 1; 1981, c. 423, s. 1.)

§ 115C-358. Designated state official.

For the purposes of the agreement set forth in this Article the "designated state official" for this State shall be the Superintendent of Public Instruction. He shall enter into contracts pursuant to G.S. 115C-351 only with the approval of the specific text thereof by the State Board of Education. (1969, c. 631, s. 2; 1981, c. 423, s. 1.)

§§ 115C-359 through 115C-361. Reserved for future codification purposes.

Article 24A.

Certified Personnel Evaluation Pilot Program.

§ 115C-362: Repealed by Session Laws 1989, c. 500, s. 12.

Article 24B.

Career Development Pilot Program.

§§ 115C-363 through 115C-363.14: Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s. 75.1(j).

Article 24C.

Teacher Enhancement Program

Part 1. Office of Teacher Recruitment

§§ 115C-363.15 through 115C-363.21: Repealed by Session Laws 1993, c. 321, s. 128.

Part 2. North Carolina Teaching Fellows Commission.

§ 115C-363.22: Repealed by Session Laws 2011-266, s. 1.38(a), effective March 1, 2015.

§ 115C-363.23: Repealed by Session Laws 2011-266, s. 1.38(a), effective March 1, 2015.

§ 115C-363.23A: Repealed by Session Laws 2011-266, s. 1.38(a), effective March 1, 2015.

§ 115C-363.24. Repealed by Session Laws 1989, c. 500, s. 15.

§§ 115C-363.25 through 115C-363.27. Reserved for future codification purposes.

Article 24D.

Lead Teacher Pilot Program.

§ 115C-363.28: Repealed by Session Laws 1991 (Regular Session, 1992), c. 900, s. 75.1(k).

SUBCHAPTER VI. STUDENTS.

Article 25.

Admission and Assignment of Students.

§ 115C-364. Admission requirements.

(a) A child who is presented for enrollment at any time during the first 120 days of a school year is entitled to initial entry into the public schools if:

(1) The child reaches or reached the age of 5 on or before August 31 of that school year; or

(2) The child did not reach the age of 5 on or before August 31 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(3) The child did not reach the age of five on or before August 31 of that school year, but would be eligible to attend school during that school year in another state in accordance with the laws or rules of that state, if all of the following apply:

a. The child's parent is a legal resident of North Carolina who is an active member of the uniformed services assigned to a permanent duty station in another state.

b. The child's parent is the sole legal custodian of the child.

c. The child's parent is deployed for duty away from the permanent duty station.

d. The child resides with an adult who is a domiciliary of a local school administrative unit in North Carolina as a result of the parent's deployment away from the permanent duty station.

(b) A local board may allow a child who is presented for enrollment at any time after the first 120 days of a school year to be eligible for initial entry into the public schools if:

(1) The child reached the age of 5 on or before August 31 of that school year; or

(2) The child did not reach the age of 5 on or before August 31 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before the child moved to and became a resident of North Carolina.

(c) The initial point of entry into the public school system shall be at the kindergarten level. If the principal of a school finds as fact subsequent to initial entry that a child, by reason of maturity can be more appropriately served in the first grade rather than in kindergarten, the principal may act under G.S. 115C-288 to implement this educational decision without regard to chronological age. The principal of any public school shall require the parent or guardian of any child presented for admission for the first time to that school to furnish (i) a certified copy of the child's birth certificate, which shall be furnished by the register of deeds of the county having on file the record of the birth of the child, or other satisfactory evidence of date of birth, as provided in Article 4 of Chapter 130A of the General Statutes and (ii) a certificate of immunization as required by G.S. 130A-155.

(d) A child who has passed the fourth anniversary of the child's birth on or before April 16 may enter kindergarten if the child is presented for enrollment no later than the end of the first month of the school year and if the principal of the school finds, based on information submitted by the child's parent or guardian, that the child is gifted and that the child has the maturity to justify admission to the school. The State Board of Education shall establish guidelines for the principal to use in making this finding. (1955, c. 1372, art. 19,

s. 2; 1969, c. 1213, s. 4; 1973, c. 603, s. 3; 1981, c. 423, s. 1; 1983, c. 656, s. 1; 1997-204, s. 1; 1997-269, s. 1; 2007-173, s. 1; 2010-111, s. 2; 2011-388, s. 2.)

§ 115C-365: Repealed by Session Laws 1991, c. 719, s. 1.

§ 115C-366. Assignment of student to a particular school.

(a) All students under the age of 21 years who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are assigned by the local boards of education. The assignment of students living in one local school administrative unit or district to a school located in another local school administrative unit or district, shall have no effect upon the right of the local school administrative unit or district to which the students are assigned to levy and collect any supplemental tax heretofore or hereafter voted in that local school administrative unit or district.

(a1) Children living in and cared for and supported by an institution established, operated, or incorporated for the purpose of rearing and caring for children who do not live with their parents are considered legal residents of the local school administrative unit in which the institution is located. These children are eligible for admission to the public schools of the local school administrative unit as provided in this section.

(a2) It is the policy of the State that every child of a homeless individual and every homeless child and youth has access to a free, appropriate public education. The State Board of Education and every local board of education shall ensure compliance with the federal McKinney-Vento Homeless Education Assistance Improvements Act of 2001. A local board of education shall not charge a homeless child or youth tuition for enrollment. An unaccompanied youth or a homeless child's or youth's parent, guardian, or legal custodian may apply to the State Board of Education for a determination of whether a particular local board of education shall enroll the homeless child or youth, and this determination shall be binding on the local board of education, subject to judicial review.

(a3) A student who is not a domiciliary of a local school administrative unit may attend, without the payment of tuition, the public schools of that unit if all of the following apply:

(1) The student resides with an adult, who is a domiciliary of that unit, as a result of any one of the following:

a. The death, serious illness, or incarceration of a parent or legal guardian.

b. The abandonment by a parent or legal guardian of the complete control of the student as evidenced by the failure to provide substantial financial support and parental guidance.

c. Abuse or neglect by the parent or legal guardian.

d. The physical or mental condition of the parent or legal guardian is such that he or she cannot provide adequate care and supervision of the student.

e. The relinquishment of physical custody and control of the student by the student's parent or legal guardian upon the recommendation of the department of social services or the Division of Mental Health.

f. The loss or uninhabitability of the student's home as the result of a natural disaster.

g. The parent or legal guardian is one of the following:

1. On active military duty and is deployed out of the local school administrative unit in which the student resides. For purposes of this sub-sub-subdivision, the term "active duty" does not include periods of active duty for training for less than 30 days.

2. A member or veteran of the uniformed services who is severely injured and medically discharged or retired, but only for a period of one year after the medical discharge or retirement of the parent or guardian.

3. A member of the uniformed services who dies on active duty or as a result of injuries sustained on active duty, but only for a period of one year after death. For purposes of this sub-sub-subdivision, the term "active duty" is as defined in G.S. 115C-407.5

Assignment under this sub-subdivision is only available if some evidence of the deployment, medical discharge, retirement, or death is tendered with the affidavits required under subdivision (3) of this subsection.

(2) The student is:

a. Not currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit, or

b. Currently under a term of suspension or expulsion from a school for conduct that could have led to a suspension or an expulsion from the local school administrative unit and is identified as eligible for special education and related services under the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq., (2004). Assignment under this sub-subdivision is available only if evidence of current eligibility is tendered with the affidavit required under subdivision (3) of this subsection.

(3) The caregiver adult and the student's parent, guardian, or legal custodian have each completed and signed separate affidavits that do all of the following:

a. Confirm the qualifications set out in this subsection establishing the student's residency.

b. Attest that the student's claim of residency in the unit is not primarily related to attendance at a particular school within the unit.

c. Attest that the caregiver adult has been given and accepts responsibility for educational decisions for the student.

If the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign the affidavit, then the caregiver adult shall attest to that fact in the

affidavit. If the student is a minor, the caregiver adult must make educational decisions concerning the student and has the same legal authority and responsibility regarding the student as a parent or legal custodian would have even if the parent, guardian, or legal custodian does not sign the affidavit. The minor student's parent, legal guardian, or legal custodian retains liability for the student's acts.

Upon receipt of both affidavits or an affidavit from the caregiver adult that includes an attestation that the student's parent, guardian, or legal custodian is unable, refuses, or is otherwise unavailable to sign an affidavit, the local board shall admit and assign as soon as practicable the student to an appropriate school, as determined under the local board's school assignment policy, pending the results of any further procedures for verifying eligibility for attendance and assignment within the local school administrative unit.

If it is found that the information contained in either or both affidavits is false, then the local board may, unless the student is otherwise eligible for school attendance under other laws or local board policy, remove the student from school. If a student is removed from school, the board shall provide an opportunity to appeal the removal under the appropriate policy of the local board and shall notify any person who signed the affidavit of this opportunity. If it is found that a person willfully and knowingly provided false information in the affidavit, the maker of the affidavit shall be guilty of a Class 1 misdemeanor and shall pay to the local board an amount equal to the cost of educating the student during the period of enrollment. Repayment shall not include State funds.

Affidavits shall include, in large print, the penalty, including repayment of the cost of educating the student, for providing false information in an affidavit.

(a4) When a student transfers into the public schools of a local school administrative unit, that local board shall require the student's parent, guardian, or legal custodian to provide a statement made under oath or affirmation before a qualified official indicating whether the student is, at the time, under suspension or expulsion from attendance at a private or public school in this or any other state or has been convicted of a felony in this or any other state. This subsection does not apply to the enrollment of a student who has never been enrolled in or attended a private or public school in this or any other state.

(a5) Notwithstanding any other law, a local board may deny admission to or place reasonable conditions on the admission of a student who has been suspended from a school under G.S. 115C-390.5 through G.S. 115C-390.10 or who has been suspended from a school for conduct that could have led to a suspension from a school within the local school administrative unit where the student is seeking admission until the period of suspension has expired. Also, a local board may deny admission to or place reasonable conditions on the admission of a student who has been expelled from a school under G.S. 115C-390.11 or who has been expelled from a school for behavior that indicated the student's continued presence in school constituted a clear threat to the safety of other students or staff as found by clear and convincing evidence, or who has been convicted of a felony in this or any other state. If the local board denies admission to a student who has been expelled or convicted of a felony, the student may request the local board to reconsider that decision in accordance with G.S. 115C-390.12. When a student who has been identified as eligible to receive special education and related services under the Individuals with Disabilities

Education Act, 20 U.S.C. § 1400, et seq., is denied admission under this subsection, the local board shall provide educational services to the student to the same extent it would if the student were enrolled in the local school administrative unit at the time of the suspension or expulsion, as required by G.S. 115C-107.1(a)(3).

(a6) A child who is placed in or assigned to a licensed facility is eligible for admission, without the payment of tuition, to the public schools of the local school administrative unit in which the licensed facility is located. If an agency or person, other than the student's parent or guardian, is the student's legal custodian and if that person or agency placed or assigned the student to a licensed facility under this subsection, then that agency or person must provide in writing to the school the name, address, and phone number of the individual who has authority and the responsibility to make educational decisions for the student. This individual shall reside or be employed within the local school administrative unit and shall provide in writing to the school a signed statement that the individual understands and accepts this authority and responsibility to make educational decisions for the student. If the student's parent or legal guardian retains legal custody of a child who is placed in or assigned to a licensed facility under this subsection, then the requirements of subsection (a3) of this section must be met.

(a7) A student who is a resident of a local school administrative unit because the student resides with a parent, guardian, or legal custodian who is a (i) student, employee, or faculty member of a college or university or (ii) visiting scholar at the National Humanities Center is considered domiciled in that unit for purposes of this section.

(a8) A student is considered domiciled in a local school administrative unit for purposes of this section if the student resides (i) with a legal custodian who is not the student's parent or guardian and the legal custodian is domiciled in the local school administrative unit, or (ii) in a preadoptive home following placement by a county department of social services or a licensed child-placing agency.

(a9) A student who is not a domiciliary of a local school administrative unit shall be permitted to register to enroll in the public schools of that unit by remote means, including electronic means, prior to commencement of the student's residency in the local school administrative unit if all of the following apply:

(1) A parent or legal guardian is on active military duty and is transferred or pending transfer pursuant to an official military order to a military installation or reservation in the State.

(2) Upon request by the local school administrative unit where the student seeks to register to enroll, a parent or legal guardian provides a copy of the official military order transferring to a military installation or reservation located in the State.

(3) A parent or legal guardian completes and submits the local school administrative unit's required enrollment forms and documentation, except that proof of residency and documentation related to disciplinary actions pursuant to G.S. 115C-366(a4) shall not be required until the student transfers into the local school administrative unit, at which time they shall be required prior to commencing attendance.

A local school administrative unit shall make available to a student who registers to enroll pursuant to this subsection the same opportunities available to a student enrolled contemporaneously with domicilia, such as requesting or applying for school assignment, registering for courses, and applying for any other programs that require additional request or application. A student enrolled pursuant to this subsection may not attend school in the local school administrative unit until proof of residency is provided in accordance with the requirements of the local school administrative unit. Nothing in this subsection shall be construed to curtail a local school administrative unit's authority pursuant to G.S. 115C-366(a5).

(b) Each local board of education shall assign to a public school each student qualified for assignment under this section. Except as otherwise provided by law, the authority of each board of education in the matter of assignment of children to the public schools shall be full and complete, and its decision as to the assignment of any child to any school shall be final.

(c) Any child who is qualified under the laws of this State for admission to a public school and who has a place of residence in a local school administrative unit incident to the child's parent's or guardian's service in the General Assembly, other than the local school administrative unit in which the child is domiciled, is entitled to attend school in the local school administrative unit of that residence as if the child were domiciled there, subject to the payment of applicable out-of-county fees in effect at the time.

(d) A student domiciled in one local school administrative unit may be assigned either with or without the payment of tuition to a public school in another local school administrative unit upon the terms and conditions agreed to in writing between the local boards of education involved and entered in the official records of the boards. The assignment shall be effective only for the current school year, but may be renewed annually in the discretion of the boards involved.

(e) The boards of education of adjacent local school administrative units may operate schools in adjacent units upon written agreements between the respective boards of education and approval by the county commissioners and the State Board of Education.

(f) This section shall not be construed to allow students to transfer from one local school administrative unit to another for athletic participation purposes in violation of eligibility requirements established by the State Board of Education and the North Carolina High School Athletic Association.

(g) Any local school administrative unit may use the actual address of a program participant for any purpose related to admission or assignment under this Article as long as the address is kept confidential from the public under Chapter 15C of the General Statutes. The substitute address designated by the Attorney General under the Address Confidentiality Program shall not be used as an address for admission or assignment purposes.

(h) The following definitions apply in this section:

(1) Abused or neglected. – A student is considered abused or neglected if there has been an adjudication of that issue. The State Board may adopt

an additional definition of abuse and neglect, and that definition also shall apply to this section.

(2) Caregiver adult. – The adult with whom the child resides. For children placed or assigned in a licensed facility, a caregiver adult also may be the child's caretaker, foster parent, or other clearly identifiable adult who resides in the county where the licensed facility is located.

(3) Educational decisions. – Decisions or actions recommended or required by the school concerning the student's academic course of study, extracurricular activities, and conduct. These decisions or actions include enrolling the student, receiving and responding to notices of discipline under G.S. 115C-390.5 through G.S. 115C-390.12, attending conferences with school personnel, granting permission for school-related activities, granting permission for emergency medical care, receiving and taking appropriate action in connection with student records, and any other decisions or actions recommended or required by the school in connection to that student.

(4) Facility. – A group home, a family foster home as defined in G.S. 131D-10.2(8), or a therapeutic foster home as defined in G.S. 131D-10.2(14).

(5) Homeless. – Individuals who lack a fixed, regular, and adequate nighttime residence or are included in the definition of homeless children and youths in the McKinney-Vento Homeless Education Assistance Improvements Act of 2001. The term does not include persons who are imprisoned or otherwise detained pursuant to federal or State law.

(6) Legal custodian. – The person or agency that has been awarded legal custody of the student by a court.

(7) Licensed facility. – A facility licensed under Article 2 of Chapter 122C of the General Statutes or under Article 1A of Chapter 131D of the General Statutes.

(8) McKinney-Vento Homeless Education Assistance Improvements Act of 2001. – 20 U.S.C. § 11431, et seq., as amended, and federal regulations adopted under this act.

(9) Program participant. – An individual accepted into the Address Confidentiality Program under Chapter 15C of the General Statutes.

(10) Unaccompanied youth. – Youths who are not in the physical custody of a parent or guardian as defined in the McKinney-Vento Homeless Education Assistance Improvements Act of 2001. (1955, c. 366, s. 1; c. 1372, art. 19, s. 3; 1956, Ex. Sess., c. 7, s. 1; 1971, c. 153; 1981, c. 423, s. 1; c. 567, s. 1; 1991, c. 407, s. 1; c. 719, s. 2; 1997-271, s. 1; 1997-443, s. 8.29(d); 2002-171, s. 5; 2006-65, s. 1; 2007-283, s. 1; 2008-185, s. 2; 2008-187, s. 19; 2009-331, ss. 1, 2; 2011-282, s. 12; 2013-410, s. 21; 2018-5, s. 7.18(b).)

§ 115C-366.1. Local boards of education; tuition charges.

(a) Local boards of education may charge tuition to the following persons:

(1) Persons of school age who are not domiciliaries of the State.

(2) Persons of school age who are domiciliaries of the State but who do not reside within the school administrative unit.

(3) Persons of school age who reside on a military installation or reservation located within the State and who are not domiciliaries of the State. Provided, however, that no person of school age residing on a military installation or reservation located within the State and who attends the public schools within the State may be charged tuition if federal funds designed to compensate for the impact on public schools of military dependent persons of school age are funded by the federal government at not less than fifty percent (50%) of the total per capita cost of education in the State, exclusive of capital outlay and debt service, for elementary or secondary pupils, as the case may be, of such school administrative unit.

(4) Persons who are 21 years of age or older before the beginning of the school year in which they wish to enroll.

(b) The tuition charge for a student shall not exceed the amount of per pupil local funding.

(c) The tuition required in this section shall be determined by local boards of education each August 1 prior to the beginning of a new school year. (1981, c. 567, ss. 2-4; 1982, Ex. Sess., c. 2, ss. 1, 2; 1983 (Reg. Sess., 1984), c. 1034, s. 22; 1985, c. 780, s. 2; 2018-5, s. 7.18(c).)

§ 115C-366.2: Repealed by Session Laws 2006-65, s. 2, effective July 1, 2006.

§ 115C-366.3. Classroom placement of multiple birth siblings.

(a) As used in this section, the term "multiple birth siblings" means twins, triplets, quadruplets, or other siblings resulting from a multiple birth.

(b) The parent of multiple birth siblings who are assigned to the same grade level and school may request a consultative meeting with the school principal to consider that the initial school placement of the siblings be in the same classroom or in separate classrooms. The request must be made no later than five days before the first day of each school year or five days after the first day of attendance of students during the school year if the students are enrolled in the school after the school year commences. The school may recommend to the parent the appropriate classroom placement for multiple birth siblings and may provide professional educational advice to assist the parent with the decision regarding appropriate classroom placement.

(c) Except as provided in subsection (d), (e), or (f) of this section, a school shall provide the multiple birth siblings with the classroom placement requested by the parent.

(d) A school is not required to place multiple birth siblings in separate classrooms if the request would require the school district to add an additional class to the grade level of the multiple birth siblings.

(e) At the end of the first grading period following the multiple birth siblings' enrollment in the school, if the principal of the school, in consultation with the teacher of each classroom in which the multiple birth siblings are placed, determines that the requested classroom placement is disruptive to the school, the principal may determine the appropriate classroom placement for the siblings.

(f) This section does not affect the right of a school administrative unit, principal, or teacher to remove a student from a classroom pursuant to the student discipline policies of that school administrative unit. (2011-354, s. 1.)

§ 115C-366.4. Assignment of students convicted of cyber-bullying.

A student who is convicted under G.S. 14-458.2 of cyber-bullying a school employee shall be transferred to another school within the local school administrative unit. If there is no other appropriate school within the local school administrative unit, the student shall be transferred to a different class or assigned to a teacher who was not involved as a victim of the cyber-bullying. Notwithstanding the provisions in this section, the superintendent may modify, in writing, the required transfer of an individual student on a case-by-case basis. (2012-149, s. 9.)

§ 115C-367. Assignment on certain bases prohibited.

No person shall be refused admission to or be excluded from any public school in this State on account of race, creed, color or national origin. No school attendance district or zone shall be drawn for the purpose of segregating persons of various races, creeds, colors or national origins from the community.

Where local school administrative units have divided the geographic area into attendance districts or zones, pupils shall be assigned to schools within such attendance districts: Provided, however, that the board of education of a local school administrative unit may assign any pupil to a school outside of such attendance district or zone in order that such pupil may attend a school of a specialized kind including but not limited to a vocational school or school operated for, or operating programs for, pupils mentally or physically handicapped, or for any other reason which the board of education in its sole discretion deems sufficient.

The provisions of Part 1D of Article 9 of this Chapter, G.S. 115C-366(b), and G.S. 115C-367 to G.S. 115C-370 shall not apply to a temporary assignment due to the unsuitability of a school for its intended purpose nor to any assignment or transfer necessitated by overcrowded conditions or other circumstances which, in the sole discretion of the school board, require assignment or reassignment.

The provisions of Part 1D of Article 9 of this Chapter, G.S. 115C-366(b), and G.S. 115C-367 to G.S. 115C-370 shall not apply to an application for the assignment or reassignment by the parent, guardian or person standing in loco parentis of any pupil or to any assignment made pursuant to a choice made by any pupil who is eligible to make such

choice pursuant to the provisions of a freedom of choice plan voluntarily adopted by the board of education of a local school administrative unit. (1969, c. 1274; 1981, c. 423, s. 1; 2006-69, s. 3(j).)

§ 115C-368. Notice of assignment.

In exercising the authority conferred by G.S. 115C-366(b), each local board of education may, in making assignments of pupils, give individual written notice of assignment, on each pupil's report card or by written notice by any other feasible means, to the parent or guardian of each child or the person standing in loco parentis to the child, or may give notice of assignment of groups or categories of pupils by publication at least two times in some newspaper having general circulation in the local administrative unit. (1955, c. 366, s. 2; 1956, Ex. Sess., c. 7, s. 2; 1981, c. 423, s. 1.)

§ 115C-369. Application for reassignment; notice of disapproval; hearing before board.

(a) The parent or guardian of any child, or the person standing in loco parentis to any child, who is dissatisfied with the assignment made by a local board of education may, within 10 days after notification of the assignment, or the last publication thereof, apply in writing to the local board of education for the reassignment of the child to a different public school. Application for reassignment shall be made on forms prescribed by the local board of education pursuant to rules and regulations adopted by the board of education. If the application for reassignment is disapproved, the local board of education shall give notice to the applicant by registered or certified mail, and the applicant may within five days after receipt of such notice apply to the local board for a hearing. The applicant shall be entitled to a prompt and fair hearing on the question of reassignment of such child to a different school.

(b) The local board of education shall make a final determination on the question of reassignment. The board of education may establish initial hearings prior to the final determination. If the board of education establishes initial hearings, the board of education shall designate hearing panels composed of not less than two members of the board to hear such appeals in the name of the board of education, and may designate a hearing officer to hear such appeals for fact-finding and a recommended decision, or may designate both. If both are designated, an applicant must select the entity to hold the hearing. The hearing panel's recommendations or the hearing officer's recommended findings of fact and recommended decision shall be submitted to the board of education for final determination.

(c) At the hearing the local board of education shall consider the best interest of the child, the orderly and efficient administration of the public schools, the proper administration of the school to which reassignment is requested and the instruction, health, and safety of the pupils there enrolled, and shall assign said child in accordance with such factors. The local board shall render prompt decision upon the hearing, and notice of the decision shall be given to the applicant by mail, telephone, telefax, e-mail, or any other method reasonably designed to achieve notice. (1955, c. 366, s. 3; 1956, Ex. Sess., c. 7, s. 3; 1981, c. 423, s. 1; 1987, cc. 406, 791; 2007-501, s. 1.)

§ 115C-370. Judicial review of board's decision.

A decision of a local board under G.S. 115C-369 is final and, except as provided in this section, is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision. (1955, c. 366, s. 4; 1969, c. 44, s. 73; 1981, c. 423, s. 1; 1987, c. 827, s. 51.)

§ 115C-371. Assignment to special education programs.

Assignment of students to special education programs is subject to Article 9 of this Chapter. (1981, c. 423, s. 1; 2006-69, s. 3(k).)

§ 115C-372. Assignment to school bus.

Assignment of students to school buses is subject to the provisions of G.S. 115C-244. (1981, c. 423, s. 1.)

§ 115C-373: Reserved for future codification purposes.

§ 115C-374: Reserved for future codification purposes.

§ 115C-375: Reserved for future codification purposes.

Article 25A.

Special Medical Needs of Students.

§ 115C-375.1. To provide some medical care to students.

It is within the scope of duty of teachers, including substitute teachers, teacher assistants, student teachers, or any other public school employee when authorized by the board of education or its designee, (i) to administer any drugs or medication prescribed by a doctor upon written request of the parents, (ii) to give emergency health care when reasonably apparent circumstances indicate that any delay would seriously worsen the physical condition or endanger the life of the pupil, and (iii) to perform any other first aid or lifesaving techniques in which the employee has been trained in a program approved by the State Board of Education. No employee, however, shall be required to administer drugs or medication or attend lifesaving techniques programs.

Any public school employee, authorized by the board of education or its designee to act under (i), (ii), or (iii) above, shall not be liable in civil damages for any authorized act or for any omission relating to that act unless the act or omission amounts to gross negligence, wanton conduct, or intentional wrongdoing. Any person, serving in a voluntary position at the request of or with the permission or consent of the board of education or its designee, who has been given the authority by the board of education or its designee to act under (ii) above shall not be liable in civil damages for any authorized act or for any omission relating to the act unless the act amounts to gross negligence, wanton conduct, or intentional wrongdoing.

At the commencement of each school year, but before the beginning of classes, and thereafter as circumstances require, the principal of each school shall determine which persons will participate in the medical care program. (2005-22, s. 2(b); 2006-264, ss. 57(a), (c).)

§ 115C-375.2. Possession and self-administration of asthma medication by students with asthma or students subject to anaphylactic reactions, or both.

(a) Local boards of education shall adopt a policy authorizing a student with asthma or a student subject to anaphylactic reactions, or both, to possess and self-administer asthma medication on school property during the school day, at school-sponsored activities, or while in transit to or from school or school-sponsored events. As used in this section, "asthma medication" means a medicine prescribed for the treatment of asthma or anaphylactic reactions and includes a prescribed asthma inhaler or epinephrine auto-injector. The policy shall include a requirement that the student's parent or guardian provide to the school:

(1) Written authorization from the student's parent or guardian for the student to possess and self-administer asthma medication.

(2) A written statement from the student's health care practitioner verifying that the student has asthma or an allergy that could result in an anaphylactic reaction, or both, and that the health care practitioner prescribed medication for use on school property during the school day, at school-sponsored activities, or while in transit to or from school or school-sponsored events.

(3) A written statement from the student's health care practitioner who prescribed the asthma medication that the student understands, has been instructed in self-administration of the asthma medication, and has demonstrated the skill level necessary to use the asthma medication and any device that is necessary to administer the asthma medication.

(4) A written treatment plan and written emergency protocol formulated by the health care practitioner who prescribed the medicine for managing the student's asthma or anaphylaxis episodes and for medication use by the student.

(5) A statement provided by the school and signed by the student's parent or guardian acknowledging that the local school administrative unit and its employees and agents are not liable for an injury arising from a student's possession and self-administration of asthma medication.

(6) Other requirements necessary to comply with State and federal laws.

(b) The student must demonstrate to the school nurse, or the nurse's designee, the skill level necessary to use the asthma medication and any device that is necessary to administer the medication.

(c) The student's parent or guardian shall provide to the school backup asthma medication that shall be kept at the student's school in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

(d) Information provided to the school by the student's parent or guardian shall be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

(e) If a student uses asthma medication prescribed for the student in a manner other than as prescribed, a school may impose on the student disciplinary action according to the school's disciplinary policy. A school may not impose disciplinary action that limits or restricts the student's immediate access to the asthma medication.

(f) The requirement that permission granted for a student to possess and self-administer asthma medication shall be effective only for the same school and for 365 calendar days and must be renewed annually.

(g) No local board of education, nor its members, employees, designees, agents, or volunteers, shall be liable in civil damages to any party for any act authorized by this section, or for any omission relating to that act, unless that act or omission amounts to gross negligence, wanton conduct, or intentional wrongdoing. (2005-22, s. 1; 2006-264, s. 57(b).)

§ 115C-375.2A. School supply of epinephrine auto-injectors.

(a) A local board of education shall provide for a supply of emergency epinephrine auto-injectors on school property for use by trained school personnel to provide emergency medical aid to persons suffering from an anaphylactic reaction during the school day and at school-sponsored events on school property. Each school shall store in a secure but unlocked and easily accessible location a minimum of two epinephrine auto-injectors. For purposes of this section, "school property" does not include transportation to or from school.

(b) For the purposes of this section and G.S. 115C-375.2, "epinephrine auto-injector" means a disposable drug delivery system with a spring-activated, concealed needle that is designed for emergency administration of epinephrine to provide rapid, convenient first aid for persons suffering a potentially fatal reaction to anaphylaxis.

(c) The principal shall designate one or more school personnel, as part of the medical care program under G.S. 115C-375.1, to receive initial training and annual retraining from a school nurse or qualified representative of the local health department regarding the storage and emergency use of an epinephrine auto-injector. Notwithstanding any other provision of law to the contrary, the school nurse or other designated school personnel who has received training under this subsection shall obtain a non-patient specific prescription for epinephrine auto-injectors from a physician, physician assistant, or nurse practitioner of the local health department serving the area in which the local school administrative unit is located.

(d) The principal shall collaborate with appropriate school personnel to develop an emergency action plan for the use of epinephrine auto-injectors in an emergency. The plan shall include at least the following components:

(1) Standards and procedures for the storage and emergency use of epinephrine auto-injectors by trained school personnel.
(2) Training of school personnel in recognizing symptoms of anaphylaxis.
(3) Emergency follow-up procedures, including calling emergency services and contacting a student's parent and physician.
(4) Instruction and certification in cardiopulmonary resuscitation.

(e) A supply of emergency epinephrine auto-injectors provided in accordance with this section shall not be used as the sole medication supply for students known to have a medical condition requiring the availability or use of an epinephrine auto-injector. Those students may be authorized to possess and self-administer their medication on school property under G.S. 115C-375.2.

(f) A local board of education, its members, employees, designees, agents, or volunteers, and a physician, physician assistant, or nurse practitioner of the local health department shall not be liable in civil damages to any party for any act authorized by this section or for any omission relating to that act unless that act or omission amounts to gross negligence, wanton conduct, or intentional wrongdoing. (2014-100, s. 8.23(a).)

§ 115C-375.3. Guidelines to support and assist students with diabetes.

Local boards of education and boards of directors of charter schools shall ensure that the guidelines adopted by the State Board of Education under G.S. 115C-12(31) are implemented in schools in which students with diabetes are enrolled. In particular, the boards shall require the implementation of the procedures set forth in those guidelines for the development and implementation of individual diabetes care plans. The boards also shall make available necessary information and staff development to teachers and school personnel in order to appropriately support and assist students with diabetes in accordance with their individual diabetes care plans. (2005-22, s. 3(a), (b); 2009-563, s. 1; 2015-241, s. 8.25(e).)

§ 115C-375.4. Meningococcal Meningitis and Influenza and Their Vaccines.

Local boards of education shall ensure that schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. 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. (2005-22, s. 4(a), (b).)

§ 115C-375.5. Education for pregnant and parenting students.

(a) Pregnant and parenting students shall receive the same educational instruction or its equivalent as other students. A local school administrative unit may provide programs to meet the special scheduling and curriculum needs of pregnant and parenting students. However, student participation in these programs shall be voluntary, and the instruction and curriculum must be comparable to that provided other students.

(b) Local boards of education shall adopt a policy to ensure that pregnant and parenting students are not discriminated against or excluded from school or any program, class, or extracurricular activity because they are pregnant or parenting students and to provide assistance and support to encourage pregnant and parenting students to remain enrolled in school and graduate. The policy shall include, at a minimum, all of the following:

(1) Local school administrative units shall use, as needed, supplemental funds from the At-Risk Student Services allotment to support programs for pregnant and parenting students.

(2) Notwithstanding Part 1 of Article 26 of this Chapter, pregnant and parenting students shall be given excused absences from school for pregnancy and related conditions for the length of time the student's physician finds medically necessary. This includes absences due to the illness or medical appointment during school hours of a child of whom the student is the custodial parent.

(3) Homework and make-up work shall be made available to pregnant and parenting students to ensure that they have the opportunity to keep current with

assignments and avoid losing course credit because of their absence from school and, to the extent necessary, a homebound teacher shall be assigned. (2006-69, s. 4(a); 2009-330, s. 3.)

§ 115C-376: Reserved for future codification purposes.

§ 115C-377: Reserved for future codification purposes.

Article 26.

Attendance.

Part 1. Compulsory Attendance.

§ 115C-378. Children required to attend.

(a) Every parent, guardian or custodian in this State having charge or control of a child between the ages of seven and 16 years shall cause the child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session. Every parent, guardian, or custodian in this State having charge or control of a child under age seven who is enrolled in a public school in grades kindergarten through two shall also cause the child to attend school continuously for a period equal to the time which the public school to which the child is assigned shall be in session unless the child has withdrawn from school.

(b) No person shall encourage, entice or counsel any child of compulsory school age to be unlawfully absent from school. The parent, guardian, or custodian of a child shall notify the school of the reason for each known absence of the child, in accordance with local school board policy.

(c) The principal, superintendent, or a designee of the principal or superintendent shall have the right to excuse a child temporarily from attendance on account of sickness or other unavoidable cause that does not constitute unlawful absence as defined by the State Board of Education. The term "school" as used in this section includes all public schools and any nonpublic schools which have teachers and curricula that are approved by the State Board of Education.

(d) All nonpublic schools receiving and instructing children of compulsory school age shall be required to make, maintain, and render attendance records of those children and maintain the minimum curriculum standards required of public schools. If a nonpublic school refuses or neglects to make, maintain, and render required attendance records, attendance at that school shall not be accepted in lieu of attendance at the public school of the district to which the child shall be assigned. Instruction in a nonpublic school shall not be regarded as meeting the requirements of the law unless the courses of instruction run concurrently with the term of the public school in the district and extend for at least as long a term.

(e) The principal or the principal's designee shall notify the parent, guardian, or custodian of his or her child's excessive absences after the child has accumulated three unexcused absences in a school year. After not more than six unexcused absences, the principal or the principal's designee shall notify the parent, guardian, or custodian by mail that he or she may be in violation of the Compulsory Attendance Law and may be prosecuted if the absences cannot be justified under the established attendance policies of the State and local boards of education. Once the parents are notified, the school attendance counselor shall work with the child and the child's family to analyze the causes of the absences and determine steps, including adjustment of the school program or obtaining supplemental services, to eliminate the problem. The attendance

counselor may request that a law enforcement officer accompany him or her if the attendance counselor believes that a home visit is necessary.

(f) After 10 accumulated unexcused absences in a school year, the principal or the principal's designee shall review any report or investigation prepared under G.S. 115C-381 and shall confer with the student and the student's parent, guardian, or custodian, if possible, to determine whether the parent, guardian, or custodian has received notification pursuant to this section and made a good faith effort to comply with the law. If the principal or the principal's designee determines that the parent, guardian, or custodian has not made a good faith effort to comply with the law, the principal shall notify the district attorney and the director of social services of the county where the child resides. If the principal or the principal's designee determines that the parent, guardian, or custodian has made a good faith effort to comply with the law, the principal may file a complaint with the juvenile court counselor pursuant to Chapter 7B of the General Statutes that the child is habitually absent from school without a valid excuse. Upon receiving notification by the principal or the principal's designee, the director of social services shall determine whether to undertake an investigation under G.S. 7B-302.

(g) Documentation that demonstrates that the parents, guardian, or custodian were notified and that the child has accumulated 10 absences which cannot be justified under the established attendance policies of the local board shall constitute prima facie evidence that the child's parent, guardian, or custodian is responsible for the absences. (1955, c. 1372, art. 20, s. 1; 1956, Ex. Sess., c. 5; 1963, c. 1223, s. 6; 1969, c. 339; c. 799, s. 1; 1971, c. 846; 1975, c. 678, s. 2; c. 731, s. 3; 1979, c. 847; 1981, c. 423, s. 1; 1985, c. 297; 1991 (Reg. Sess., 1992), c. 769, s. 2; 1998-202, s. 13(aa); 2001-490, s. 2.38; 2003-304, s. 3; 2009-404, s. 1.)

§ 115C-379. Method of enforcement.

It shall be the duty of the State Board of Education to formulate the rules that may be necessary for the proper enforcement of the provisions of this Part. The Board shall prescribe (i) what shall constitute unlawful absence, (ii) what causes may constitute legitimate excuses for temporary nonattendance due to a student's physical or mental inability to attend or a student's participation in a valid educational opportunity such as service as a legislative page or a Governor's page, and (iii) under what circumstances teachers, principals, or superintendents may excuse pupils for nonattendance due to immediate demands of the farm or the home in certain seasons of the year in the several sections of the State.

The rules shall require school principals to authorize a minimum of two excused absences each academic year for religious observances required by the faith of a student or the student's parents. The rules may require that the student's parents give the principal written notice of the request for an excused absence a reasonable time prior to the religious observance. The student shall be given the opportunity to make up any tests or other work missed due to an excused absence for a religious observance.

It shall be the duty of all school officials to carry out such instructions from the State Board of Education, and any school official failing to carry out such instructions shall be guilty of a Class 3 misdemeanor: Provided, that the compulsory attendance law herein prescribed shall not be in force in any local school administrative unit that has a higher compulsory attendance feature than that provided herein. (1955, c. 1372, art. 20, s. 2; 1963,

c. 1223, s. 7; 1981, c. 423, s. 1; 1993, c. 539, s. 887; 1994, Ex. Sess., c. 24, s. 14(c); 2007-186, s. 1; 2010-112, s. 1.)

§ 115C-380. Penalty for violation.

Except as otherwise provided in G.S. 115C-379, any parent, guardian or other person violating the provisions of this Part shall be guilty of a Class 1 misdemeanor. (1955, c. 1372, art. 20, s. 4; 1969, c. 799, s. 2; 1981, c. 423, s. 1; 1993, c. 539, s. 888; 1994, Ex. Sess., c. 24, s. 14(c); 2005-318, s. 1.)

§ 115C-381. School social workers; reports; prosecutions.

The Superintendent of Public Instruction shall prepare such rules and procedures and furnish such blanks for teachers and other school officials as may be necessary for reporting such case of unlawful absence or lack of attendance to the school social worker of the respective local school administrative units. Such rules shall provide, among other things, for a notification in writing, to the person responsible for the nonattendance of any child, that the case is to be reported to the school social worker of the local school administrative unit unless the law is complied with immediately. Upon recommendation of the superintendent, local boards of education may employ school social workers and such school social workers shall have authority to report and verify on oath the necessary criminal warrants or other documents for the prosecutions of violations of this Part: Provided, that local school administrative units shall provide in their local operating budgets for travel and necessary office expense for such school social workers as may be employed through State or local funds, or both. The State Board of Education shall determine the process for allocating school social workers to the various local school administrative units, establish their qualifications, and develop a salary schedule which shall be applicable to such personnel: Provided, that persons now employed by local boards of education as attendance counselors shall be deemed qualified as school social workers under the terms of this Part subject to the approval of said local boards of education.

The school social worker shall investigate all violators of the provisions of this Part. The reports of unlawful absence required to be made by teachers and principals to the school social worker shall, in his hands, in case of any prosecution, constitute prima facie evidence of the violation of this Part and the burden of proof shall be upon the defendant to show the lawful attendance of the child or children upon an authorized school. (1955, c. 1372, art. 20, ss. 3, 5; 1957, c. 600; 1961, c. 186; 1963, c. 1223, ss. 8, 9; 1981, c. 423, s. 1; 1985, c. 686, s. 3.)

§ 115C-382. Investigation of indigency.

If affidavit shall be made by the parent of a child or by any other person that any child who is required to attend school under G.S. 115C-378 is not able to attend school by reason of necessity to work or labor for the support of himself or the support of the family, then the school social worker shall diligently inquire into the matter and bring it to the attention of some court allowed by law to act as a juvenile court, and said court shall proceed to find whether as a matter of fact such parents, or persons standing in loco parentis, are unable to send said child to school for the term of compulsory attendance for the reasons given. If the court shall find, after careful investigation, that the parents have made or are making bona fide effort to comply with the compulsory attendance law, and by reason of illness, lack of earning capacity, or any other cause which the court may deem valid and sufficient, are unable to send said child to school, then the court shall find and state what help is needed for the family to enable compliance with the

attendance law. The court shall transmit its findings to the director of social services of the county or city in which the case may arise for such social services officer's consideration and action. (1955, c. 1372, art. 20, s. 6; 1961, c. 186; 1963, c. 1223, s. 10; 1969, c. 982; 1981, c. 423, s. 1; 1985, c. 686, s. 4; 1991 (Reg. Sess., 1992), c. 769, s. 3.)

§ 115C-382.1: Reserved for future codification purposes.

§ 115C-382.2: Reserved for future codification purposes.

§ 115C-382.3: Reserved for future codification purposes.

§ 115C-382.4: Reserved for future codification purposes.

§ 115C-382.5. Student attendance recognition programs.

Local boards of education are encouraged to adopt a student attendance recognition program within the local school administrative unit to promote student attendance in school and participation in class as an integral part of academic achievement and the learning process. If the local board of education adopts a student attendance recognition program, a student with an absence resulting from service as a legislative page or a Governor's page shall be eligible for participation in the program and the student's absence shall not be included as part of the student's record of attendance for the purposes of the program. (2018-37, s. 1(a).)

§ 115C-383: Repealed by Session Laws 2013-247, s. 1(a), effective July 3, 2013.

Part 2. Student Records and Fees.

§ 115C-384. Student records and fees.

(a) In General. – The local board of education has the power to regulate fees, charges and solicitations subject to the provisions of G.S. 115C-47(6).

(b) Refund of Fees upon Transfer of Pupils.

(1) As used in this subsection:

a. "Month" shall mean 20 school days.

b. "First semester" shall mean the first 90 teaching days of the 180 days of the school year.

c. "Second semester" shall mean the last 90 teaching days of the 180 days of the school year.

d. "Term" shall have the same meaning as that of first semester or second semester.

(2) In all cases where pupils of a local school administrative unit of the public school system transfer to some other public school in another local school administrative unit or such pupils are compelled to leave the school in which they are enrolled because of some serious or permanent illness, or for any other good and valid reason, then such pupils or their parents shall be entitled to a refund of the fees and charges paid by them as follows:

a. If the transfer or departure of the pupils from the school in which they are enrolled takes place within one month after enrollment, then all such fees and charges shall be refunded in full.

b. If the transfer or leaving the school on the part of said pupils takes place after the first month and before the middle of the first semester, then one half of the fees for the first semester shall be refunded, and all fees and charges for the second semester shall be refunded.

c. If the pupils transfer or leave the school after the middle of the first semester, then no first semester fees or charges shall be refunded.

d. If the fees and charges on the part of such pupils have been paid for a year and such pupils transfer or leave the school at the end of the first semester or within the first month of the second semester, then all second semester fees and charges shall be refunded in full.

e. If the fees and charges herein described and set forth have been paid for one year, and the pupils transfer or leave the school before the middle of the second semester, then one half of the second semester fees shall be refunded.

f. The words "fees" and "charges" as used in this subsection shall not include any fees or charges paid for insurance or fees charged for expendable materials.

g. If the pupils transfer or leave the school after the middle of the second semester, then no fees shall be refunded.

h. If the amount of total refund as determined by this subsection shall be less than one dollar ($1.00), no refund shall be paid.

(3) The principal shall be responsible for refunding fees and charges at the place of the collection of the fees and charges by check made payable to the parent or guardian of pupils leaving the school as noted in subdivision (2) above.

(c) Rental Fees for Textbooks Prohibited; Damage Fees Authorized. – No rental fees are permitted for the use of textbooks, but damage fees may be collected pursuant to the provisions of G.S. 115C-100. (1969, c. 756; 1981, c. 423, s. 1.)

§§ 115C-385 through 115C-389. Reserved for future codification purposes.

Article 27.

Discipline.

§ 115C-390: Repealed by Session Laws 2011-282, s. 1, effective June 23, 2011, and applicable beginning with the 2011-2012 school year.

§ 115C-390.1. State policy and definitions.

(a) In order to create and maintain a safe and orderly school environment conducive to learning, school officials and teachers need adequate tools to maintain good discipline in schools. However, the General Assembly also recognizes that removal of students from school, while sometimes necessary, can exacerbate behavioral problems, diminish academic achievement, and hasten school dropout. School discipline must balance these

interests to provide a safe and productive learning environment, to continually teach students to respect themselves, others, and property, and to conduct themselves in a manner that fosters their own learning and the learning of those around them.

(b) The following definitions apply in this Article:

(1) Alternative education services. – Part or full-time programs, wherever situated, providing direct or computer-based instruction that allow a student to progress in one or more core academic courses. Alternative education services include programs established by the local board of education in conformity with G.S. 115C-105.47A and local board of education policies.

(2) Corporal punishment. – The intentional infliction of physical pain upon the body of a student as a disciplinary measure.

(3) Destructive device. – An explosive, incendiary, or poison gas:

a. Bomb.

b. Grenade.

c. Rocket having a propellant charge of more than four ounces.

d. Missile having an explosive or incendiary charge of more than one-quarter ounce.

e. Mine.

f. Device similar to any of the devices listed in this subdivision.

(4) Educational property. – Any school building or bus, school campus, grounds, recreational area, athletic field, or other property under the control of any local board of education or charter school.

(5) Expulsion. – The indefinite exclusion of a student from school enrollment for disciplinary purposes.

(6) Firearm. – Any of the following:

a. A weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive.

b. The frame or receiver of any such weapon.

c. Any firearm muffler or firearm silencer.

The term shall not include an inoperable antique firearm, a BB gun, stun gun, air rifle, or air pistol.

(7) Long-term suspension. – The exclusion for more than 10 school days of a student from school attendance for disciplinary purposes from the school to which the student was assigned at the time of the disciplinary action. If the offense leading to the long-term suspension occurs before the final quarter of the school year, the exclusion shall be no longer than the remainder of the school year in which the offense was committed. If the offense leading to the long-term suspension occurs during the final quarter of the school year, the exclusion may include a period up to the remainder of the school year in which the offense was committed and the first semester of the following school year.

(8) Parent. – Includes a parent, legal guardian, legal custodian, or other caregiver adult who is acting in the place of a parent and is entitled to enroll the student in school under Article 25 of this Chapter.

(9) Principal. – Includes the principal and the principal's designee.

(10) School official. – A superintendent or any other central office administrator to whom the superintendent has delegated duties under this Article and any principal or assistant principal.

(11) School personnel. – Any of the following:

a. An employee of a local board of education.

b. Any person working on school grounds or at a school function under a contract or written agreement with the public school system to provide educational or related services to students.

c. Any person working on school grounds or at a school function for another agency providing educational or related services to students.

(12) Short-term suspension. – The exclusion of a student from school attendance for disciplinary purposes for up to 10 school days from the school to which the student was assigned at the time of the disciplinary action.

(13) Substantial evidence. – Such relevant evidence as a reasonable person might accept as adequate to support a conclusion; it is more than a scintilla or permissible inference.

(14) Superintendent. – Includes the superintendent and the superintendent's designee.

(c) Notwithstanding the provisions of this Article, the policies and procedures for the discipline of students shall be consistent with the requirements of the Gun Free Schools Act, 20 U.S.C. § 7151, the Individuals with Disabilities Education Act (IDEA), 29 U.S.C. § 1400, et seq., section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq., and with other federal laws and regulations. (2011-270, s. 1; 2011-282, s. 16; 2011-282, s. 2.)

§ 115C-390.2. Discipline policies.

(a) Local boards of education shall adopt policies to govern the conduct of students and establish procedures to be followed by school officials in disciplining students. These policies must be consistent with the provisions of this Article and the constitutions, statutes, and regulations of the United States and the State of North Carolina.

(b) Board policies shall include or provide for the development of a Code of Student Conduct that notifies students of the standards of behavior expected of them, conduct that may subject them to discipline, and the range of disciplinary measures that may be used by school officials.

(c) Board policies may authorize suspension for conduct not occurring on educational property, but only if the student's conduct otherwise violates the Code of Student Conduct and the conduct has or is reasonably expected to have a direct and immediate impact on the orderly and efficient operation of the schools or the safety of individuals in the school environment.

(d) Board policies shall not allow students to be long-term suspended or expelled from school solely for truancy or tardiness offenses and shall not allow short-term suspension of more than two days for such offenses.

(e) Board policies shall not impose mandatory long-term suspensions or expulsions for specific violations unless otherwise provided in State or federal law.

(f) Board policies shall minimize the use of long-term suspension and expulsion by restricting the availability of long-term suspension or expulsion to those violations deemed to be serious violations of the board's Code of Student Conduct that either threaten the safety of students, staff, or school visitors or threaten to substantially disrupt the educational environment. Examples of conduct that would not be deemed to be a serious violation include the use of inappropriate or disrespectful language, noncompliance with a staff directive, dress code violations, and minor physical altercations that do not involve weapons or injury. The principal may, however, in his or her discretion, determine that aggravating circumstances justify treating a minor violation as a serious violation.

(g) Board policies shall not prohibit the superintendent and principals from considering the student's intent, disciplinary and academic history, the potential benefits to the student of alternatives to suspension, and other mitigating or aggravating factors when deciding whether to recommend or impose long-term suspension.

(h) Board policies shall include the procedures to be followed by school officials in suspending, expelling, or administering corporal punishment to any student, which shall be consistent with this Article.

(i) Each local board shall publish all policies, administrative procedures, or school rules mandated by this section and make them available to each student and his or her parent at the beginning of each school year and upon request.

(j) Local boards of education are encouraged to include in their safe schools plans, adopted pursuant to G.S. 115C-105.47, research-based behavior management programs that take positive approaches to improving student behaviors.

(k) School officials are encouraged to use a full range of responses to violations of disciplinary rules, such as conferences, counseling, peer mediation, behavior contracts, instruction in conflict resolution and anger management, detention, academic interventions, community service, and other similar tools that do not remove a student from the classroom or school building.

(l) **(Applicable to children enrolling in the public schools for the first time beginning with the 2016-2017 school year)** Board policies shall state that absences under G.S. 130A-440 shall not be suspensions. A student subject to an absence under G.S. 130A-440 shall be provided the following:

(1) The opportunity to take textbooks and school-furnished digital devices home for the duration of the absence.

(2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.

(3) The opportunity to take any quarterly, semester, or grading period examinations missed during the absence period. (2011-282, s. 2; 2015-222, s. 4.5.)

§ 115C-390.3. Reasonable force.

(a) School personnel may use physical restraint only in accordance with G.S. 115C-391.1.

(b) School personnel may use reasonable force to control behavior or to remove a person from the scene in those situations when necessary for any of the following reasons:

(1) To correct students.
(2) To quell a disturbance threatening injury to others.
(3) To obtain possession of weapons or other dangerous objects on the person, or within the control, of a student.
(4) For self-defense.
(5) For the protection of persons or property.
(6) To maintain order on educational property, in the classroom, or at a school-related activity on or off educational property.

(c) Notwithstanding any other law, no officer, member, or employee of the State Board of Education, the Superintendent of Public Instruction, or of a local board of education, individually or collectively, shall be civilly liable for using reasonable force in conformity with State law, State or local rules, or State or local policies regarding the control, discipline, suspension, and expulsion of students. Furthermore, the burden of proof is on the claimant to show that the amount of force used was not reasonable.

(d) No school employee shall be reprimanded or dismissed for acting or failing to act to stop or intervene in an altercation between students if the employee's actions are consistent with local board policies. Local boards of education shall adopt policies, pursuant to their authority under G.S. 115C-47(18), which provide guidelines for an employee's response if the employee has personal knowledge or actual notice of an altercation between students. (2011-282, s. 2; 2012-149, s. 10; 2016-126, 4th Ex. Sess., s. 23.)

§ 115C-390.4. Corporal punishment.

(a) Each local board of education shall determine whether corporal punishment will be permitted in its school administrative unit. Notwithstanding a local board of education's prohibition on the use of corporal punishment, school personnel may use physical restraint in accordance with federal law and G.S. 115C-391.1 and reasonable force pursuant to G.S. 115C-390.3.

(b) To the extent that corporal punishment is permitted, the policies adopted for the administration of corporal punishment shall include at a minimum the following:

(1) Corporal punishment shall not be administered in a classroom with other students present.
(2) Only a teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant

principal, or teacher who shall be informed beforehand and in the student's presence of the reason for the punishment.

(3) A school person shall provide the student's parent with notification that corporal punishment has been administered, and the person who administered the corporal punishment shall provide the student's parent a written explanation of the reasons and the name of the second person who was present.

(4) The school shall maintain records of each administration of corporal punishment and the reasons for its administration.

(5) In no event shall excessive force be used in the administration of corporal punishment. Excessive force includes force that results in injury to the child that requires medical attention beyond simple first aid.

(6) Corporal punishment shall not be administered on a student whose parent or guardian has stated in writing that corporal punishment shall not be administered to that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. The form shall advise the parent or guardian that the student may be subject to suspension, among other possible punishments, for offenses that would otherwise not require suspension if corporal punishment were available. If the parent or guardian does not return the form, corporal punishment may be administered on the student.

(c) Each local board of education shall report annually to the State Board of Education, in a manner prescribed by the State Board of Education, on the number of times that corporal punishment was administered. The report shall be in compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and shall include the following:

(1) The number of students who received corporal punishment.

(2) The number of students who received corporal punishment who were also students with disabilities and were eligible to receive special education and related services under the federal Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq.

(3) The grade level of the students who received corporal punishment.

(4) The race, gender, and ethnicity of the students who received corporal punishment.

(5) The reason for the administration of the corporal punishment for each student who received corporal punishment. (2011-282, s. 2.)

§ 115C-390.5. Short-term suspension.

(a) The principal shall have authority to impose short-term suspension on a student who willfully engages in conduct that violates a provision of the Code of Student Conduct authorizing short-term suspension.

(b) If a student's short-term suspensions accumulate to more than 10 days in a semester, to the extent the principal has not already done so, he or she shall invoke the mechanisms provided for in the applicable safe schools plan adopted pursuant to G.S. 115C-105.47(b)(5) and (b)(6).

(c) A student subject to short-term suspension shall be provided the following:

(1) The opportunity to take textbooks home for the duration of the suspension.

(2) Upon request, the right to receive all missed assignments and, to the extent practicable, the materials distributed to students in connection with the assignment.

(3) The opportunity to take any quarterly, semester, or grading period examinations missed during the suspension period. (2011-282, s. 2.)

§ 115C-390.6. Short-term suspension procedures.

(a) Except as authorized in this section, no short-term suspension shall be imposed upon a student without first providing the student an opportunity for an informal hearing with the principal. The notice to the student of the charges may be oral or written, and the hearing may be held immediately after the notice is given. The student has the right to be present, to be informed of the charges and the basis for the accusations, and to make statements in defense or mitigation of the charges.

(b) The principal may impose a short-term suspension without providing the student an opportunity for a hearing if the presence of the student creates a direct and immediate threat to the safety of other students or staff, or substantially disrupts or interferes with the education of other students or the maintenance of discipline at the school. In such cases, the notice of the charges and informal hearing described in subsection (a) of this section shall occur as soon as practicable.

(c) The principal shall provide notice to the student's parent of any short-term suspension, including the reason for the suspension and a description of the alleged student conduct upon which the suspension is based. The notice shall be given by the end of the workday during which the suspension is imposed when reasonably possible, but in no event more than two days after the suspension is imposed. The notice shall be given by certified mail, telephone, facsimile, e-mail, or any other method reasonably designed to achieve actual notice.

(d) If English is the second language of the parent, the notice shall be provided in the parent's primary language, when the appropriate foreign language resources are readily available, and in English, and both versions shall be in plain language and shall be easily understandable.

(e) A student is not entitled to appeal the principal's decision to impose a short-term suspension to the superintendent or local board of education. Further, such a decision is not subject to judicial review. Notwithstanding this subsection, the local board of education, in its discretion, may provide students an opportunity for a review or appeal of a short-term suspension to the superintendent or local board of education. (2011-282, s. 2.)

§ 115C-390.7. Long-term suspension.

(a) A principal may recommend to the superintendent the long-term suspension of any student who willfully engages in conduct that violates a provision of the Code of Student Conduct that authorizes long-term suspension. Only the superintendent has the authority to long-term suspend a student.

(b) Before the superintendent's imposition of a long-term suspension, the student must be provided an opportunity for a hearing consistent with G.S. 115C-390.8.

(c) If the student recommended for long-term suspension declines the opportunity for a hearing, the superintendent shall review the circumstances of the recommended long-term suspension. Following such review, the superintendent (i) may impose the suspension if is it consistent with board policies and appropriate under the circumstances, (ii) may impose another appropriate penalty authorized by board policy, or (iii) may decline to impose any penalty.

(d) If a teacher is assaulted or injured by a student and as a result the student is long-term suspended or reassigned to alternative education services, the student shall not be returned to that teacher's classroom unless the teacher consents.

(e) Disciplinary reassignment of a student to a full-time educational program that meets the academic requirements of the standard course of study established by the State Board of Education as provided in G.S. 115C-12 and provides the student with the opportunity to make timely progress towards graduation and grade promotion is not a long-term suspension requiring the due process procedures described in G.S. 115C-390.8. (2011-282, s. 2.)

§ 115C-390.8. Long-term suspension procedures.

(a) When a student is recommended by the principal for long-term suspension, the principal shall give written notice to the student's parent. The notice shall be provided to the student's parent by the end of the workday during which the suspension was recommended when reasonably possible or as soon thereafter as practicable. The written notice shall provide at least the following information:

(1) A description of the incident and the student's conduct that led to the long-term suspension recommendation.

(2) A reference to the provisions of the Code of Student Conduct that the student is alleged to have violated.

(3) The specific process by which the parent may request a hearing to contest the decision, including the number of days within which the hearing must be requested.

(4) The process by which a hearing will be held, including, at a minimum, the procedures described in subsection (e) of this section.

(5) Notice that the parent is permitted to retain an attorney to represent the student in the hearing process.

(6) The extent to which the local board policy permits the parent to have an advocate, instead of an attorney, accompany the student to assist in the presentation of his or her appeal.

(7) Notice that the parent has the right to review and obtain copies of the student's educational records before the hearing.

(8) A reference to the local board policy on the expungement of discipline records as required by G.S. 115C-402.

(b) Written notice may be provided by certified mail, fax, e-mail, or any other written method reasonably designed to achieve actual notice of the recommendation for long-term suspension. When school personnel are aware that English is not the primary language of the parent or guardian, the notice shall be written in both English and in the primary language of the parent or guardian when the appropriate foreign language resources are readily available. All notices described in this section shall be written in plain English, and shall include the following information translated into the dominant non-English language used by residents within the local school administrative unit:

(1) The nature of the document, i.e., that it is a long-term suspension notice.

(2) The process by which the parent may request a hearing to contest the long-term suspension.

(3) The identity and phone number of a school employee that the parent may call to obtain assistance in understanding the English language information included in the document.

(c) No long-term suspension shall be imposed on a student until an opportunity for a formal hearing is provided to the student. If a hearing is timely requested, it shall be held and a decision issued before a long-term suspension is imposed, except as otherwise provided in this subsection. The student and parent shall be given reasonable notice of the time and place of the hearing.

(1) If no hearing is timely requested, the superintendent shall follow the procedures described in G.S. 115C-390.7(c).

(2) If the student or parent requests a postponement of the hearing, or if the hearing is requested beyond the time set for such request, the hearing shall be scheduled, but the student shall not have the right to return to school pending the hearing.

(3) If neither the student nor parent appears for the scheduled hearing, after having been given reasonable notice of the time and place of the hearing, the parent and student are deemed to have waived the right to a hearing and the superintendent shall conduct the review required by G.S. 115C-390.7(c).

(d) The formal hearing may be conducted by the local board of education, by the superintendent, or by a person or group of persons appointed by the local board or superintendent to serve as a hearing officer or hearing panel. Neither the board nor the superintendent shall appoint any individual to serve as a hearing officer or on a hearing panel who is under the direct supervision of the principal recommending suspension. If the hearing is conducted by an appointed hearing officer or hearing panel, such officer or panel

shall determine the relevant facts and credibility of witnesses based on the evidence presented at the hearing. Following the hearing, the superintendent or local board shall make a final decision regarding the suspension. The superintendent or board shall adopt the hearing officer's or panel's factual determinations unless they are not supported by substantial evidence in the record.

(e) Long-term suspension hearings shall be conducted in accordance with policies adopted by the board of education. Such policies shall offer the student procedural due process including, but not limited to, the following:

(1) The right to be represented at the hearing by counsel or, in the discretion of the local board, a non-attorney advocate.

(2) The right to be present at the hearing, accompanied by his or her parents.

(3) The right of the student, parent, and the student's representative to review before the hearing any audio or video recordings of the incident and, consistent with federal and State student records laws and regulations, the information supporting the suspension that may be presented as evidence at the hearing, including statements made by witnesses related to the charges consistent with subsection (h) of this section.

(4) The right of the student, parent, or the student's representative to question witnesses appearing at the hearing.

(5) The right to present evidence on his or her own behalf, which may include written statements or oral testimony, relating to the incident leading to the suspension, as well as any of the factors listed in G.S. 115C-390.2(g).

(6) The right to have a record made of the hearing.

(7) The right to make his or her own audio recording of the hearing.

(8) The right to a written decision, based on substantial evidence presented at the hearing, either upholding, modifying, or rejecting the principal's recommendation of suspension and containing at least the following information:

a. The basis for the decision, including a reference to any policy or rule that the student is determined to have violated.

b. Notice of what information will be included in the student's official record pursuant to G.S. 115C-402.

c. The student's right to appeal the decision and notice of the procedures for such appeal.

(f) Following the issuance of the decision, the superintendent shall implement the decision by authorizing the student's return to school or by imposing the suspension reflected in the decision.

(g) Unless the decision was made by the local board, the student may appeal the decision to the local board in accordance with G.S. 115C-45(c) and policies adopted by the board. Notwithstanding the provisions of G.S. 115C-45(c), a student's appeal to the board of a decision upholding a long-term suspension shall be heard and a final written decision issued in not more than 30 calendar days following the request for such appeal.

(h) Nothing in this section shall compel school officials to release names or other information that could allow the student or his or her representative to identify witnesses when such identification could create a safety risk for the witness.

(i) A decision of the local board to uphold the long-term suspension of a student is subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes. The action must be brought within 30 days of the local board's decision. A person seeking judicial review shall file a petition in the superior court of the county where the local board made its decision. Local rules notwithstanding, petitions for judicial review of a long-term suspension shall be set for hearing in the first succeeding term of superior court in the county following the filing of the certified copy of the official record. (2011-282, s. 2.)

§ 115C-390.9. Alternative education services.

(a) Students who are long-term suspended shall be offered alternative education services unless the superintendent provides a significant or important reason for declining to offer such services. The following may be significant or important reasons, depending on the circumstances and the nature and setting of the alternative education services:

(1) The student exhibits violent behavior.
(2) The student poses a threat to staff or other students.
(3) The student substantially disrupts the learning process.
(4) The student otherwise engaged in serious misconduct that makes the provision of alternative educational services not feasible.
(5) Educationally appropriate alternative education services are not available in the local school administrative unit due to limited resources.
(6) The student failed to comply with reasonable conditions for admittance into an alternative education program.

(b) If the superintendent declines to provide alternative education services to the suspended student, the student may seek review of such decision by the local board of education as permitted by G.S. 115C-45(c)(2). If the student seeks such review, the superintendent shall provide to the student and the local board, in advance of the board's review, a written explanation for the denial of services together with any documents or other information supporting the decision. (2011-282, s. 2.)

§ 115C-390.10. 365-day suspension for gun possession.

(a) All local boards of education shall develop and implement written policies and procedures, as required by the federal Gun Free Schools Act, 20 U.SC. § 7151, requiring suspension for 365 calendar days of any student who is determined to have brought or been in possession of a firearm or destructive device on educational property, or to a school-sponsored event off of educational property. A principal shall recommend to the superintendent the 365-day suspension of any student believed to have violated board policies regarding weapons. The superintendent has the authority to suspend for 365 days a student who has been recommended for such suspension by the principal when such recommendation is consistent with board policies. Notwithstanding the foregoing, the

superintendent may modify, in writing, the required 365-day suspension for an individual student on a case-by-case basis. The superintendent shall not impose a 365-day suspension if the superintendent determines that the student took or received the firearm or destructive device from another person at school or found the firearm or destructive device at school, provided that the student delivered or reported the firearm or destructive device as soon as practicable to a law enforcement officer or a school employee and had no intent to use such firearm or destructive device in a harmful or threatening way.

(b) The principal must report all incidents of firearms or destructive devices on educational property or at a school-sponsored event as required by G.S. 115C-288(g) and State Board of Education policy.

(c) Nothing in this provision shall apply to a firearm that was brought onto educational property for activities approved and authorized by the local board of education, provided that the local board of education has adopted appropriate safeguards to protect student safety.

(d) At the time the student and parent receive notice that the student is suspended for 365 days under this section, the superintendent shall provide notice to the student and the student's parent of the right to petition the local board of education for readmission pursuant to G.S. 115C-390.12.

(e) The procedures described in G.S. 115C-390.8 apply to students facing a 365-day suspension pursuant to this section.

(f) Students who are suspended for 365 days pursuant to this section shall be considered for alternative educational services consistent with the provisions of G.S. 115C-390.9. (2011-282, s. 2.)

§ 115C-390.11. Expulsion.

(a) Upon recommendation of the superintendent, a local board of education may expel any student 14 years of age or older whose continued presence in school constitutes a clear threat to the safety of other students or school staff. Prior to the expulsion of any student, the local board shall conduct a hearing to determine whether the student's continued presence in school constitutes a clear threat to the safety of other students or school staff. The student shall be given reasonable notice of the recommendation in accordance with G.S. 115C-390.8(a) and (b), as well as reasonable notice of the time and place of the scheduled hearing.

(1) The procedures described in G.S. 115C-390.8(e)(1)-(8) apply to students facing expulsion pursuant to this section, except that the decision to expel a student by the local board of education shall be based on clear and convincing evidence that the student's continued presence in school constitutes a clear threat to the safety of other students and school staff.

(2) A local board of education may expel any student subject to G.S. 14-208.18 in accordance with the procedures of this section. Prior to ordering the expulsion of a student, the local board of education shall consider whether there are alternative education services that may be offered to the student. As provided by G.S. 14-208.18(f), if the local

board of education determines that the student shall be provided educational services on school property, the student shall be under the supervision of school personnel at all times.

(3) At the time a student is expelled under this section, the student shall be provided notice of the right to petition for readmission pursuant to G.S. 115C-390.12.

(b) During the expulsion, the student is not entitled to be present on any property of the local school administrative unit and is not considered a student of the local board of education. Nothing in this section shall prevent a local board of education from offering access to some type of alternative educational services that can be provided to the student in a manner that does not create safety risks to other students and school staff. (2011-282, s. 2.)

§ 115C-390.12. Request for readmission.

(a) All students suspended for 365 days or expelled may, after 180 calendar days from the date of the beginning of the student's suspension or expulsion, request in writing readmission to the local school administrative unit. The local board of education shall develop and publish written policies and procedures for the readmission of all students who have been expelled or suspended for 365 days, which shall provide, at a minimum, the following process:

(1) The process for 365-day suspended students.

a. At the local board's discretion, either the superintendent or the local board itself shall consider and decide on petitions for readmission. If the decision maker is the superintendent, the superintendent shall offer the student an opportunity for an in-person meeting. If the decision maker is the local board of education, the board may offer the student an in-person meeting or may make a determination based on the records submitted by the student and the superintendent.

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that the student's presence in school no longer constitutes a threat to the safety of other students or staff.

c. A superintendent's decision not to readmit the student may be appealed to the local board of education pursuant to G.S. 115C-45(c). The superintendent shall notify the parents of the right to appeal.

d. There is no right to judicial review of the board's decision not to readmit a 365-day suspended student.

e. A decision on readmission under this subsection shall be issued within 30 days of the petition.

(2) The process for expelled students.

a. The board of education shall consider all petitions for readmission of expelled students, together with the recommendation of the superintendent on the matter, and shall rule on the request for readmission. The board shall consider the petition based on the records submitted by the student and the response by the administration and

shall allow the parties to be heard in the same manner as provided by G.S. 115C-45(c).

b. The student shall be readmitted if the student demonstrates to the satisfaction of the board or superintendent that his or her presence in a school no longer constitutes a clear threat to the safety of other students or staff.

c. A decision by a board of education to deny readmission of an expelled student is not subject to judicial review.

d. An expelled student may subsequently request readmission not more often than every six months. The local board of education is not required to consider subsequent readmission petitions filed sooner than six months after the previous petition was filed.

e. A decision on readmission under this section shall be issued within 30 days of the petition.

(b) If a student is readmitted under this section, the board and the superintendent have the right to assign the student to any program within the school system and to place reasonable conditions on the readmission.

(c) If a teacher was assaulted or injured by a student, and as a result the student was expelled, the student shall not be returned to that teacher's classroom following readmission unless the teacher consents. (2011-282, s. 2.)

§ 115C-391: Repealed by Session Laws 2011-282, s. 1, effective June 23, 2011, and applicable beginning with the 2011-2012 school year.

§ 115C-391.1. Permissible use of seclusion and restraint.

(a) It is the policy of the State of North Carolina to:

(1) Promote safety and prevent harm to all students, staff, and visitors in the public schools.

(2) Treat all public school students with dignity and respect in the delivery of discipline, use of physical restraints or seclusion, and use of reasonable force as permitted by law.

(3) Provide school staff with clear guidelines about what constitutes use of reasonable force permissible in North Carolina public schools.

(4) Improve student achievement, attendance, promotion, and graduation rates by employing positive behavioral interventions to address student behavior in a positive and safe manner.

(5) Promote retention of valuable teachers and other school personnel by providing appropriate training in prescribed procedures, which address student behavior in a positive and safe manner.

(b) The following definitions apply in this section:

(1) "Assistive technology device" means any item, piece of equipment, or product system that is used to increase, maintain, or improve the functional capacities of a child with a disability.

(2) "Aversive procedure" means a systematic physical or sensory intervention program for modifying the behavior of a student with a disability which causes or reasonably may be expected to cause one or more of the following:

a. Significant physical harm, such as tissue damage, physical illness, or death.

b. Serious, foreseeable long-term psychological impairment.

c. Obvious repulsion on the part of observers who cannot reconcile extreme procedures with acceptable, standard practice, for example: electric shock applied to the body; extremely loud auditory stimuli; forcible introduction of foul substances to the mouth, eyes, ears, nose, or skin; placement in a tub of cold water or shower; slapping, pinching, hitting, or pulling hair; blindfolding or other forms of visual blocking; unreasonable withholding of meals; eating one's own vomit; or denial of reasonable access to toileting facilities.

(3) "Behavioral intervention" means the implementation of strategies to address behavior that is dangerous, disruptive, or otherwise impedes the learning of a student or others.

(4) "IEP" means a student's Individualized Education Plan.

(5) "Isolation" means a behavior management technique in which a student is placed alone in an enclosed space from which the student is not prevented from leaving.

(6) "Law enforcement officer" means a sworn law enforcement officer with the power to arrest.

(7) "Mechanical restraint" means the use of any device or material attached or adjacent to a student's body that restricts freedom of movement or normal access to any portion of the student's body and that the student cannot easily remove.

(8) "Physical restraint" means the use of physical force to restrict the free movement of all or a portion of a student's body.

(9) "School personnel" means:

a. Employees of a local board of education.

b. Any person working on school grounds or at a school function under a contract or written agreement with the public school system to provide educational or related services to students.

c. Any person working on school grounds or at a school function for another agency providing educational or related services to students.

(10) "Seclusion" means the confinement of a student alone in an enclosed space from which the student is:

a. Physically prevented from leaving by locking hardware or other means.

b. Not capable of leaving due to physical or intellectual incapacity.

(11) "Time-out" means a behavior management technique in which a student is separated from other students for a limited period of time in a monitored setting.

(c) Physical Restraint:

(1) Physical restraint of students by school personnel shall be considered a reasonable use of force when used in the following circumstances:

a. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.

b. As reasonably needed to maintain order or prevent or break up a fight.

c. As reasonably needed for self-defense.

d. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present, to teach a skill, to calm or comfort a student, or to prevent self-injurious behavior.

e. As reasonably needed to escort a student safely from one area to another.

f. If used as provided for in a student's IEP or Section 504 plan or behavior intervention plan.

g. As reasonably needed to prevent imminent destruction to school or another person's property.

(2) Except as set forth in subdivision (1) of this subsection, physical restraint of students shall not be considered a reasonable use of force, and its use is prohibited.

(3) Physical restraint shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of force by law enforcement officers in the lawful exercise of their law enforcement duties.

(d) Mechanical Restraint:

(1) Mechanical restraint of students by school personnel is permissible only in the following circumstances:

a. When properly used as an assistive technology device included in the student's IEP or Section 504 plan or behavior intervention plan or as otherwise prescribed for the student by a medical or related service provider.

b. When using seat belts or other safety restraints to secure students during transportation.

c. As reasonably needed to obtain possession of a weapon or other dangerous objects on a person or within the control of a person.

d. As reasonably needed for self-defense.

e. As reasonably needed to ensure the safety of any student, school employee, volunteer, or other person present.

(2) Except as set forth in subdivision (1) of this subsection, mechanical restraint, including the tying, taping, or strapping down of a student, shall not be considered a reasonable use of force, and its use is prohibited.

(3) Nothing in this subsection shall be construed to prevent the use of mechanical restraint devices such as handcuffs by law enforcement officers in the lawful exercise of their law enforcement duties.

(e) Seclusion:

(1) Seclusion of students by school personnel may be used in the following circumstances:

a. As reasonably needed to respond to a person in control of a weapon or other dangerous object.

b. As reasonably needed to maintain order or prevent or break up a fight.

c. As reasonably needed for self-defense.

d. As reasonably needed when a student's behavior poses a threat of imminent physical harm to self or others or imminent substantial destruction of school or another person's property.

e. When used as specified in the student's IEP, Section 504 plan, or behavior intervention plan; and

1. The student is monitored while in seclusion by an adult in close proximity who is able to see and hear the student at all times.

2. The student is released from seclusion upon cessation of the behaviors that led to the seclusion or as otherwise specified in the student's IEP or Section 504 plan.

3. The space in which the student is confined has been approved for such use by the local education agency.

4. The space is appropriately lighted.

5. The space is appropriately ventilated and heated or cooled.

6. The space is free of objects that unreasonably expose the student or others to harm.

(2) Except as set forth in subdivision (1) of this subsection, the use of seclusion is not considered reasonable force, and its use is not permitted.

(3) Seclusion shall not be considered a reasonable use of force when used solely as a disciplinary consequence.

(4) Nothing in this subsection shall be construed to prevent the use of seclusion by law enforcement officers in the lawful exercise of their law enforcement duties.

(f) Isolation. – Isolation is permitted as a behavior management technique provided that:

(1) The space used for isolation is appropriately lighted, ventilated, and heated or cooled.

(2) The duration of the isolation is reasonable in light of the purpose of the isolation.

(3) The student is reasonably monitored while in isolation.

(4) The isolation space is free of objects that unreasonably expose the student or others to harm.

(g) Time-Out. – Nothing in this section is intended to prohibit or regulate the use of time-out as defined in this section.

(h) Aversive Procedures. – The use of aversive procedures as defined in this section is prohibited in public schools.

(i) Nothing in this section modifies the rights of school personnel to use reasonable force as permitted under G.S. 115C-390.3 or modifies the rules and procedures governing discipline under G.S. 115C-390.1 through G.S. 115C-390.12.

(j) Notice, Reporting, and Documentation.

(1) Notice of procedures. – Each local board of education shall provide copies of this section and all local board policies developed to implement this section to school personnel and parents or guardians at the beginning of each school year.

(2) Notice of specified incidents:

a. School personnel shall promptly notify the principal or principal's designee of:

1. Any use of aversive procedures.
2. Any prohibited use of mechanical restraint.
3. Any use of physical restraint resulting in observable physical injury to a student.
4. Any prohibited use of seclusion or seclusion that exceeds 10 minutes or the amount of time specified on a student's behavior intervention plan.

b. When a principal or principal's designee has personal knowledge or actual notice of any of the events described in this subdivision, the principal or principal's designee shall promptly notify the student's parent or guardian and will provide the name of a school employee the parent or guardian can contact regarding the incident.

(3) As used in subdivision (2) of this subsection, "promptly notify" means by the end of the workday during which the incident occurred when reasonably possible, but in no event later than the end of following workday.

(4) The parent or guardian of the student shall be provided with a written incident report for any incident reported under this section within a reasonable period of time, but in no event later than 30 days after the incident. The written incident report shall include:

a. The date, time of day, location, duration, and description of the incident and interventions.
b. The events or events that led up to the incident.
c. The nature and extent of any injury to the student.
d. The name of a school employee the parent or guardian can contact regarding the incident.

(5) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because the employee makes a report alleging a prohibited use of physical restraint, mechanical restraint, aversive procedure, or seclusion, unless the employee knew or should have known that the report was false.

(k) Nothing in this section shall be construed to create a private cause of action against any local board of education, its agents or employees, or any institutions of teacher education or their agents or employees or to create a criminal offense. (2005-205, s. 2; 2006-264, s. 58; 2011-282, s. 3.)

§ 115C-392. Appeal of disciplinary measures.

Appeals of disciplinary measures are subject to the provisions of G.S. 115C-45(c). (1981, c. 423, s. 1.)

§§ 115C-393 through 115C-397. Reserved for future codification purposes.

Article 27A.

Management and Placement of Disruptive Students.

§ 115C-397.1. Management and placement of disruptive students.

If, after a teacher has requested assistance from the principal two or more times due to a student's disruptive behavior, the teacher finds that the student's disruptive behavior continues to interfere with the academic achievement of that student or other students in the class, then the teacher may refer the matter to a school-based committee. The teacher may request that additional classroom teachers participate in the committee's proceedings. For the purposes of this section, the committee shall notify the student's parent, guardian, or legal custodian and shall encourage that person's participation in the proceedings of the committee concerning the student. Nothing in this section requires a student to be screened, evaluated, or identified as a child with a disability under Article 9 of this Chapter. The committee shall review the matter and shall take one or more of the following actions: (i) advise the teacher on managing the student's behavior more effectively, (ii) recommend to the principal the transfer of the student to another class within the school, (iii) recommend to the principal a multidisciplinary evaluation of the student, (iv) recommend to the principal that the student be assigned to an alternative learning program, or (v) recommend to the principal that the student receive any additional services that the school or the school unit has the resources to provide for the student. If the principal does not follow the recommendation of the committee, the principal shall provide a written explanation to the committee, the teacher who referred the matter to the committee, and the superintendent, of any actions taken to resolve the matter and of the reason the principal did not follow the recommendation of the committee.

This section shall be in addition to the supplemental to disciplinary action taken in accordance with any other law. The recommendation of the committee is final and shall not be appealed under G.S. 115C-45(c). Nothing in this section shall authorize a student to refer a disciplinary matter to this committee or to have the matter of the student's behavior referred to this committee before any discipline is imposed on the student. (1997-443, s. 8.29(b); 2006-69, s. 3(m).)

Article 28.

Student Liability.

§ 115C-398. Damage to school buildings, furnishings, textbooks.

Students and their parents or legal guardians may be liable for damage to school buildings, furnishings and textbooks pursuant to the provisions of G.S. 115C-523, 115C-100 and 14-132. (1981, c. 423, s. 1; 1985, c. 581, s. 3.)

§ 115C-399. Trespass on or damage to school bus.

Any person who willfully trespasses upon or damages a school bus may be liable pursuant to the provisions of G.S. 14-132.2. (1981, c. 423, s. 1.)

Article 29.

Protective Provisions and Maintenance of Student Records.

§ 115C-400. School personnel to report child abuse.

Any person who has cause to suspect child abuse or neglect has a duty to report the case of the child to the Director of Social Services of the county, as provided in Article 3 of Chapter 7B of the General Statutes. (1981, c. 423, s. 1; 1998-202, s. 13(bb).)

§ 115C-401. School counseling inadmissible evidence.

Information given to a school counselor to enable him to render counseling services may be privileged as provided in G.S. 8-53.4. (1981, c. 423, s. 1.)

§ 115C-401.1. Prohibition on the disclosure of information about students.

(a) It is unlawful for a person who enters into a contract with a local board of education or its designee to sell any personally identifiable information that is obtained from a student as a result of the person's performance under the contract. This prohibition does not apply if the person obtains the prior written authorization of the student's parent or guardian. This authorization shall include the parent's or guardian's original signature. The person shall not solicit this authorization and signature through the school's personnel or equipment or on school grounds.

(b) The following definitions apply in this section:

(1) "Contract" means a contract for the provision of goods or services.

(2) "Personally identifiable information" means any information directly related to a student, including the student's name, birthdate, address, social security number, individual purchasing behavior or preferences, parents' names, telephone number, or any other information or identification number that would provide information about a specific student.

(3) "Sell" means sell or otherwise use for a business or marketing purpose.

(c) A violation of subsection (a) of this section shall be punished as a Class 2 misdemeanor, and when the defendant is an organization as defined in G.S. 15A-773(c) the fine shall be five thousand dollars ($5,000) for the first violation, ten thousand dollars ($10,000) for a second violation, and twenty-five thousand dollars ($25,000) for a third or subsequent violation.

(d) Nothing in this section shall preclude the enforcement of civil remedies as otherwise provided by law.

(e) Nothing in this section prohibits the identification and disclosure of directory information in compliance with federal law and local board of education policy or procedure. (2001-500, s. 1.)

§ 115C-401.2. Student online privacy protection.

(a) Definitions. – The following definitions apply in this section:

(1) Covered information. – Personally identifiable information or material in any media or format that is any of the following:

a. Created by or provided to an operator by a student, or the student's parent or legal guardian, in the course of the student's, parent's, or legal guardian's use of the operator's site, service, or application for K-12 school purposes.

b. Created by or provided to an operator by an employee or agent of a K-12 school or local school administrative unit for K-12 school purposes.

c. Gathered by an operator through the operation of a site, service, or application for K-12 school purposes and personally identifies a student, including, but not limited to, the following:

1. Information in the student's educational record or electronic mail.
2. First and last name.
3. Home address.
4. Telephone number.
5. Electronic mail address.
6. Other information that allows physical or online contact.
7. Discipline records.
8. Test results.
9. Special education data.
10. Juvenile dependency records.
11. Grades.
12. Evaluations.
13. Criminal records.
14. Medical records.
15. Health records.
16. Social Security number.
17. Biometric information.
18. Disabilities.
19. Socioeconomic information.
20. Food purchases.
21. Political affiliations.
22. Religious information.
23. Text messages.
24. Documents.
25. Student identifiers.
26. Search activity.
27. Photos.
28. Voice recordings.
29. Geolocation information.

(2) Interactive computer service. – As defined in 47 U.S.C. § 230.

(3) K-12 school. – A charter school, a regional school, or a school that offers any of grades kindergarten to 12 operated by a local board of education.

(4) K-12 school purposes. – Purposes that are directed by or that customarily take place at the direction of a K-12 school, a teacher, a local board of education, or the State Board of Education, or aid in the administration of school activities, including, but not limited to, instruction in the classroom or at home, administrative activities, and collaboration between students, school personnel, or parents, or are for the use and benefit of the K-12 school.

(5) Local board of education. – A local board as defined in G.S. 115C-5(5), a regional school board of directors as defined in G.S. 115C-238.61(5), or a board of directors of a nonprofit corporation operating a charter as provided in G.S. 115C-218.15.

(6) Operator. – To the extent that it is operating in this capacity, the operator of an Internet Web site, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for K-12 school purposes and was designed and marketed for K-12 school purposes. An operator does not include a K-12 school or local board of education that operates an Internet Web site, online service, online application, or mobile application for that K-12 school or local board of education's own K-12 school purposes.

(7) Subcontractor. – An entity providing a service to an operator under contract and on its behalf to further a K-12 school purpose.

(8) Targeted advertising. – Presenting an advertisement to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or covered information. Targeted advertising does not include advertising to a student at an online location based upon that student's current visit to that location, or in response to that student's request for information or feedback, without the retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.

(b) Prohibitions for Operators. – An operator shall not knowingly do any of the following:

(1) Engage in targeted advertising on the operator's site, service, or application, or target advertising on any other site, service, or application if the targeting of the advertising is based on any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator's site, service, or application for K-12 school purposes.

(2) Use information, including persistent unique identifiers, created or gathered by the operator's site, service, or application, to amass a profile about a student except in furtherance of K-12 school purposes. As used in this subdivision, "amass a profile" does not include the collection and retention of account information that remains under the control of the student, the student's parent or guardian, or K-12 school.

(3) Sell or rent a student's information, including covered information. This subdivision does not apply to the purchase, merger, or other type of acquisition of an operator by another entity, if the operator or successor entity complies with this section regarding previously acquired student information, or to national assessment providers if the provider secures the express written consent of the parent or student who is at least 13 years of age given in response to clear and conspicuous notice, solely to provide access to employment, educational scholarships or financial aid, and to postsecondary educational opportunities.

(4) Except as otherwise provided in subsection (d) of this section, disclose covered information unless the disclosure is made for the following purposes:

a. In furtherance of the K-12 school purpose of the site, service, or application, if the recipient of the covered information disclosed under this sub-subdivision does not further disclose the information unless done to allow or improve operability and functionality of the operator's site, service, or application.

b. To ensure legal and regulatory compliance or protect against liability.

c. To respond to or participate in the judicial process.

d. To protect the safety or integrity of users of the site or others or the security of the site, service, or application.

e. To a third party for a school, educational, or employment purpose requested by the student or the student's parent or guardian, provided that that information is required not to be used or further disclosed by the third party for any other purpose.

f. To a subcontractor, if the operator contractually prohibits the subcontractor from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator, prohibits the subcontractor from disclosing any covered information provided by the operator with subsequent third parties, and requires the subcontractor to implement and maintain reasonable security procedures and practices. This sub-subdivision does not prohibit the operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

(c) Requirements for Operators. – An operator shall do all of the following:

(1) Implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information and protect that covered information from unauthorized access, destruction, use, modification, or disclosure.

(2) Delete a student's covered information within 45 days if the K-12 school or local board of education requests deletion of covered information under the control of the K-12 school or local board of education, or the K-12 school or local board of education notifies the operator of completion of services with that operator, unless a student who is at least 13 years of age, a parent, or a guardian provides express written consent

given in response to clear and conspicuous notice to the maintenance of the covered information.

(d) Permissible Use or Disclosure of Information. – An operator may use or disclose covered information of a student under the following circumstances:

(1) If other provisions of federal or State law require the operator to disclose the information and the operator complies with the requirements of federal and State law in protecting and disclosing that information.

(2) As long as no covered information is used for advertising or to amass a profile on the student for purposes other than K-12 school purposes, for legitimate research purposes as required by State or federal law and subject to the restrictions under applicable State and federal law or as allowed by State or federal law in furtherance of K-12 school purposes or postsecondary educational purposes.

(3) To a K-12 school, local school administrative unit, or the State Board of Education, for K-12 school purposes, as permitted by State or federal law.

(4) At the direction of a K-12 school, local school administrative unit, or the State Board of Education, for K-12 school purposes, as permitted by State or federal law.

(e) Permissible Operator Actions. – This section does not prohibit an operator from doing any of the following:

(1) Using covered information that is not associated with an identified student within the operator's site, service, or application or other sites, services, or applications owned by the operator to improve educational products.

(2) Using covered information that is not associated with an identified student to demonstrate the effectiveness of the operator's products or services, including in their marketing.

(3) Sharing covered information that is not associated with an identified student for the development and improvement of educational sites, services, or applications.

(4) Using recommendation engines to recommend to a student either of the following:

a. Additional content relating to an educational, other learning, or employment opportunity purpose within the operator's site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party.

b. Additional services relating to an educational, other learning, or employment opportunity purpose within the operator's site, service, or application if the recommendation is not determined in whole or in part by payment or other consideration from a third party.

(5) Responding to a student's request for information or for feedback to help improve learning without the information or response being determined in whole or in part by payment or other consideration from a third party.

(6) Using a student's information, including covered information, solely to identify or display information on nonprofit institutions of higher education or scholarship providers to the student if the provider secures the express written consent of the parent or student who is at least 13 years of age given in response to clear and conspicuous notice.

(f) Limitations. – This section does not do any of the following:

(1) Limit the authority of a law enforcement agency to obtain any content or information from an operator as authorized by law or under a court order.

(2) Limit the ability of an operator to use student data, including covered information, for adaptive learning or customized student learning purposes.

(3) Apply to general audience Internet Web sites, general audience online services, general audience online applications, or general audience mobile applications, even if login credentials created for an operator's site, service, or application may be used to access those general audience sites, services, or applications.

(4) Limit service providers from providing Internet connectivity to schools or students and their families.

(5) Prohibit an operator of an Internet Web site, online service, online application, or mobile application from marketing educational products directly to parents if the marketing did not result from the use of covered information obtained by the operator through the provision of services covered under this section.

(6) Impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this section on those applications or software.

(7) Impose a duty upon a provider of an interactive computer service to review or enforce compliance with this section by third-party content providers.

(8) Prohibit students from downloading, exporting, transferring, saving, or maintaining their own student data or documents.

(g) A parent, K-12 school, teacher, local board of education, or the State Board of Education may report an alleged violation of this section to the Attorney General. The Attorney General, upon ascertaining that an operator has violated this section, may bring a civil action seeking injunctive and other equitable relief. Nothing in this section shall be construed to create a private right of action. (2016-11, s. 1; 2017-57, s. 7.26A.)

§ 115C-402. Student records; maintenance; contents; confidentiality.

(a) The official record of each student enrolled in North Carolina public schools shall be permanently maintained in the files of the appropriate school after the student graduates, or should have graduated, from high school unless the local board determines

that such files may be filed in the central office or other location designated by the local board for that purpose.

(b) The official record shall contain, as a minimum, adequate identification data including date of birth, attendance data, grading and promotion data, and such other factual information as may be deemed appropriate by the local board of education having jurisdiction over the school wherein the record is maintained. Each student's official record also shall include notice of any long-term suspension or expulsion imposed pursuant to G.S. 115C-390.7 through G.S. 115C-390.11 and the conduct for which the student was suspended or expelled. The superintendent or the superintendent's designee shall expunge from the record the notice of suspension or expulsion if the following criteria are met:

(1) One of the following persons makes a request for expungement:
  a. The student's parent, legal guardian, or custodian.
  b. The student, if the student is at least 16 years old or is emancipated.
(2) The student either graduates from high school or is not expelled or suspended again during the two-year period commencing on the date of the student's return to school after the expulsion or suspension.
(3) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to maintain safe and orderly schools.
(4) The superintendent or the superintendent's designee determines that the maintenance of the record is no longer needed to adequately serve the child.

(c) Notwithstanding subdivision (b)(1) of this section, a superintendent or the superintendent's designee may expunge from a student's official record any notice of suspension or expulsion provided all other criteria under subsection (b) are met.

(d) Each local board's policy on student records shall include information on the procedure for expungement under subsection (b) of this section.

(e) The official record of each student is not a public record as the term "public record" is defined by G.S. 132-1. The official record shall not be subject to inspection and examination as authorized by G.S. 132-6.

(f) The actual address and telephone number of a student who is a participant in the Address Confidentiality Program established pursuant to Chapter 15C of the General Statutes or a student with a parent who is a participant in the Address Confidentiality Program established pursuant to Chapter 15C of the General Statutes shall be kept confidential from the public and shall not be disclosed except as provided in Chapter 15C of the General Statutes. (1975, c. 624, ss. 1, 2; 1981, c. 423, s. 1; 1985, c. 268; c. 416; 1997-443, s. 8.29(s); 2001-195, s. 1; 2002-171, s. 6; 2011-282, s. 13.)

§ 115C-402.2: Reserved for future codification purposes.

§ 115C-402.3: Reserved for future codification purposes.

§ 115C-402.4: Reserved for future codification purposes.

§ 115C-402.5. Student data system security.

(a) Definitions. – The following definitions apply in this section:

(1) Aggregate student data. – Data collected or reported at the group, cohort, or institutional level.

(2) De-identified student data. – A student dataset in which parent and student personal or indirect identifiers, including the unique student identifier, have been removed.

(3) FERPA. – The federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.

(4) Personally identifiable student data. – Student data that:

a. Includes, but is not limited to, the following:

1. Student name.

2. Name of the student's parent or other family members.

3. Address of the student or student's family.

4. Personal identifier, such as the student's Social Security number or unique student identifier.

5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name.

6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

7. Information requested by a person who the Department of Public Instruction or local school administrative unit reasonably believes knows the identity of the student to whom the education record relates.

b. Does not include directory information that a local board of education has provided parents with notice of and an opportunity to opt out of disclosure of that information, as provided under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless a parent has elected to opt out of disclosure of the directory information.

(5) Student data system. – The student information management system used by the State Board of Education and Department of Public Instruction as part of the Uniform Education Reporting Systems for collection and reporting of student data from local boards of education.

(b) Security of Student Data System. – To ensure student data accessibility, transparency, and accountability relating to the student data system, the State Board of Education shall do all of the following:

(1) Create and make publicly available a data inventory and index of data elements with definitions of individual student data fields in the student data system, including, but not limited to:

a. Any personally identifiable student data required to be reported by State and federal education mandates.

b. Any other individual student data which has been proposed for inclusion in the student data system, with a statement regarding the purpose or reason for the proposed collection.

(2) Develop rules to comply with all relevant State and federal privacy laws and policies that apply to personally identifiable student data in the student data system, including, but not limited to, FERPA and other relevant privacy laws and policies. At a minimum, the rules shall include the following:

a. Restrictions on access to personally identifiable student data in the student data system to the following individuals:

1. Authorized staff of the State Board of Education and Department of Public Instruction and the contractors working on behalf of the Department who require such access to perform their assigned duties.
2. Authorized North Carolina public school administrators, teachers, and other school personnel and contractors working on behalf of the board of the North Carolina public school who require such access to perform their assigned duties.
3. Students and their parents or legal guardians, or any individual that a parent or legal guardian has authorized to receive personally identifiable student data.
4. Authorized staff of other State agencies and contractors working on behalf of those State agencies as required by law and governed by interagency data-sharing agreements.

b. Criteria for approval of research and data requests for personally identifiable student data in the student data system made to the State Board of Education from State or local agencies, researchers working on behalf of the Department, and the public.

(3) Prohibit the transfer of personally identifiable student data in the student data system to individuals other than those identified in subdivision (2) of this subsection, unless otherwise permitted by law and authorized by rules adopted under this section. Such rules shall authorize the release of personally identifiable data out of State to schools or educational agencies when a student enrolls in a school out of State or a local school administrative unit seeks help with locating a student formerly enrolled in this State who is now enrolled out of State.

(4) Develop a detailed data security plan for the student data system that includes all of the following:

a. Guidelines for authorizing access to the student data system and to individual student data, including guidelines for authentication of authorized access.
b. Privacy compliance standards.
c. Privacy and security audits.
d. Breach planning, notification, and procedures.
e. Data retention and disposition policies.

f. Data security policies, including electronic, physical, and administrative safeguards such as data encryption and training of employees.

(5) Ensure routine and ongoing compliance by the Department of Public Instruction with FERPA, other relevant privacy laws and policies, and the privacy and security rules, policies, and procedures developed under the authority of this section related to personally identifiable student data in the student data system, including the performance of compliance audits within the Department.

(6) Ensure that any contracts for the student data system that include de-identified student data or personally identifiable student data and are outsourced to private contractors include express provisions that safeguard privacy and security and include penalties for noncompliance.

(7) Notify the Governor and the General Assembly annually by October 1 of the following:

a. New student data, whether aggregate data, de-identified data, or personally identifiable student data, included or proposed for inclusion in the student data system for the current school year.

b. Changes to existing data collections for the student data system required for any reason, including changes to federal reporting requirements made by the United States Department of Education.

(c) Restricting on Student Data Collection. – The following information about a student or a student's family shall not be collected in nor reported as part of the student data system:

(1) Biometric information.

(2) Political affiliation.

(3) Religion.

(4) Voting history. (2014-50, s. 1.)

§ 115C-402.6: Reserved for future codification purposes.

§ 115C-402.7: Reserved for future codification purposes.

§ 115C-402.8: Reserved for future codification purposes.

§ 115C-402.9: Reserved for future codification purposes.

§ 115C-402.10: Reserved for future codification purposes.

§ 115C-402.11: Reserved for future codification purposes.

§ 115C-402.12: Reserved for future codification purposes.

§ 115C-402.13: Reserved for future codification purposes.

§ 115C-402.14: Reserved for future codification purposes.

§ 115C-402.15. Parental notification regarding rights to student records and opt-out opportunities.

(a) Annual Parental Notification. – Local boards of education shall annually provide parents, by a method reasonably designed to provide actual notice, information on parental rights under State and federal law with regards to student records and opt-out opportunities for disclosure of directory information as provided under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and notice and opt-out opportunities for surveys covered by the Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h.

(b) Notice Content. – The notice shall include information on parental rights under State and federal law to:

(1) Inspect and review education records.

(2) Seek to amend inaccurate education records.

(3) Provide written consent prior to disclosure of personally identifiable information from education records, except as otherwise provided by law. Information shall be included on disclosure of directory information and parental rights to opt out of disclosure of directory information.

(4) File a complaint with the U.S. Department of Education concerning alleged failures to comply with the Family Educational Rights and Privacy Act.

(5) Receive notice and the opportunity to opt out prior to the participation of the student in a protected information survey under 20 U.S.C. § 1232h. (2014-50, s. 2.)

§ 115C-403. Flagging and verification of student records; notification of law enforcement agencies.

(a) Upon notification by a law enforcement agency or the North Carolina Center for Missing Persons of a child's disappearance, the superintendent of a local school administrative unit or his designee shall flag or mark the record of any child who is currently or was previously enrolled in a school of that unit and who is reported as missing. The flag or mark shall be made in such a manner that when a copy of or information regarding the record is requested, school personnel are alerted to the fact that the record is that of a missing child.

Before providing a copy of the school record or other information concerning the child whose record is flagged pursuant to this section, the superintendent or his designee shall notify the agency that requested that the record be flagged of every inquiry made concerning the flagged record, and shall provide a copy to the agency of any written request for information concerning the flagged record.

(b) When any child transfers from one school system to another school system, the receiving school shall, within 30 days of the child's enrollment, obtain the child's record from the school from which the child is transferring. If the child's parent, custodian, or guardian provides a copy of the child's record from the school from which the child is transferring, the receiving school shall, within 30 days of the child's enrollment, request written verification of the school record by contacting the school or institution named on the transferring child's record. Upon receipt of a request, the principal or the principal's designee of the school from which the child is transferring

shall not withhold the record or verification for any reason, except as is authorized under the Family Educational Rights and Privacy Act. Any information received indicating that the transferring child is a missing child shall be reported to the North Carolina Center for Missing Persons. (1989, c. 331, s. 1; 1998-220, s. 12.)

§ 115C-404. Use of juvenile court information.

(a) **(Effective until December 1, 2019)** Written notifications received in accordance with G.S. 7B-3101 and information gained from examination of juvenile records in accordance with G.S. 7B-3100 are confidential records, are not public records as defined under G.S. 132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall shred, burn, or otherwise destroy documents received in accordance with G.S. 7B-3100 to protect the confidentiality of the information when the principal receives notification that the court dismissed the petition under G.S. 7B-2411, the court transferred jurisdiction over the student to superior court under G.S. 7B-2200, or the court granted the student's petition for expunction of the records. The principal shall shred, burn, or otherwise destroy all information gained from examination of juvenile records in accordance with G.S. 7B-3100 when the principal finds that the school no longer needs the information to protect the safety of or to improve the educational opportunities for the student or others. In no case shall the principal make a copy of these documents.

(a) **(Effective December 1, 2019)** Written notifications received in accordance with G.S. 7B-3101 and information gained from examination of juvenile records in accordance with G.S. 7B-3100 are confidential records, are not public records as defined under G.S. 132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall shred, burn, or otherwise destroy documents received in accordance with G.S. 7B-3100 to protect the confidentiality of the information when the principal receives notification that the court dismissed the petition under G.S. 7B-2411, the court transferred jurisdiction over the student to superior court under G.S. 7B-2200.5 or G.S. 7B-2200, or the court granted the student's petition for expunction of the records. The principal shall shred, burn, or otherwise destroy all information gained from examination of juvenile records in accordance with G.S. 7B-3100 when the principal finds that the school no longer needs the information to protect the safety of or to improve the educational opportunities for the student or others. In no case shall the principal make a copy of these documents.

(b) Documents received under this section shall be used only to protect the safety of or to improve the education opportunities for the student or others. Information gained in accordance with G.S. 7B-3100 shall not be the sole basis for a decision to suspend or expel a student. Upon receipt of each document, the principal shall share the document with those individuals who have (i) direct guidance, teaching, or supervisory responsibility for the student, and (ii) a specific need to know in order to protect the safety of the student or others. Those individuals shall indicate in writing that they have read the document and

that they agree to maintain its confidentiality. Failure to maintain the confidentiality of these documents as required by this section is grounds for the dismissal of an employee who is not employed on contract, grounds for dismissal of an employee on contract in accordance with G.S. 115C-325.4(a)(9), and grounds for dismissal of an employee who is a career employee in accordance with G.S. 115C-325(e)(1)i.

(c) If the student graduates, withdraws from school, is suspended for the remainder of the school year, is expelled, or transfers to another school, the principal shall return all documents not destroyed in accordance with subsection (a) of this section to the juvenile court counselor and, if applicable, shall provide the counselor with the name and address of the school to which the student is transferring. (1997-443, s. 8.29(f); 1998-202, ss. 8, 13(cc); 1998-217, s. 12; 2000-140, s. 25; 2013-360, s. 9.7(l), (v); 2017-57, s. 16D.4(q); 2017-157, ss. 2(i), (n).)

§ 115C-405. Reserved for future codification purposes.

§ 115C-406. Reserved for future codification purposes.

Article 29A.

Policy Prohibiting Use of Tobacco Products.

§ 115C-407. Policy prohibiting tobacco use in school buildings, grounds, and at school-sponsored events.

(a) Not later than August 1, 2008, local boards of education shall adopt, implement, and enforce a written policy prohibiting at all times the use of any tobacco product by any person in school buildings, in school facilities, on school campuses, and in or on any other school property owned or operated by the local school administrative unit. The policy shall further prohibit the use of all tobacco products by persons attending a school-sponsored event at a location not listed in this subsection when in the presence of students or school personnel or in an area where smoking is otherwise prohibited by law.

(b) The policy shall include at least all of the following elements:

(1) Adequate notice to students, parents, the public, and school personnel of the policy.

(2) Posting of signs prohibiting at all times the use of tobacco products by any person in and on school property.

(3) Requirements that school personnel enforce the policy.

(c) The policy may permit tobacco products to be included in instructional or research activities in public school buildings if the activity is conducted or supervised by the faculty member overseeing the instruction or research and the activity does not include smoking, chewing, or otherwise ingesting the tobacco product.

(d) The North Carolina Health and Wellness Trust Fund Commission shall work with local boards of education to provide assistance with the implementation of this policy including providing information regarding smoking cessation and prevention resources. Nothing in this section, G.S. 143-595 through G.S. 143-601, or any other section prohibits a local board of education from adopting and enforcing a more restrictive policy on the use of tobacco in school

buildings, in school facilities, on school campuses, or at school-related or school-sponsored events, and in or on other school property. (2003-421, s. 1; 2007-236, s. 1.)

§ 115C-407.1: Reserved for future codification purposes.

§ 115C-407.2: Reserved for future codification purposes.

§ 115C-407.3: Reserved for future codification purposes.

§ 115C-407.4: Reserved for future codification purposes.

Article 29B.

Interstate Compact on Educational Opportunity for Military Children.

§ 115C-407.5. Interstate Compact on Educational Opportunity for Military Children.

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I.
PURPOSE.

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

ARTICLE II.
DEFINITIONS.

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means: 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.

B. "Children of military families" means: a school-aged child(ren), enrolled in Kindergarten through Twelfth (12th) grade, in the household of an active duty member.

C. "Compact commissioner" means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means: the period one (1) month prior to the service members' departure from their home station on military orders though six (6) months after return to their home station.

E. "Education(al) records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

F. "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

G. "Interstate Commission on Educational Opportunity for Military Children" means: the commission that is created under Article IX of this compact, which is generally referred to as Interstate Commission.

H. "Local education agency" means: a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth (12th) grade public educational institutions.

I. "Member state" means: a state that has enacted this compact.

J. "Military installation" means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. "Non-member state" means: a state that has not enacted this compact.

L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and

effect of rules promulgated under the Administrative Procedures Act as found in Chapter 150B of the North Carolina General Statutes, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth (12th) grade.

Q. "Transition" means: 1) the formal and physical process of transferring from school to school or 2) the period of time in which a student moves from one school in the sending state to another school in the receiving state.

R. "Uniformed service(s)" means: the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means: a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.

ARTICLE III.

APPLICABILITY.

A. Except as otherwise provided in Section B, this compact shall apply to the children of:

1. active duty members of the uniformed services as defined in this compact, 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.;
2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and
3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. inactive members of the National Guard and military reserves;
2. members of the uniformed services now retired, except as provided in Section A;
3. veterans of the uniformed services, except as provided in Section A; and other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV.

EDUCATIONAL RECORDS & ENROLLMENT.

A. Unofficial or "hand-carried" education records – In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records/transcripts – Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations – Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V.

PLACEMENT & ATTENDANCE.

A. Course placement – When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement – The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to: 1) gifted and talented programs; and 2) English as a second language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services – 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP); and 2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI.

ELIGIBILITY.

A. Eligibility for enrollment – Children of military families shall be eligible for enrollment in the public schools of North Carolina pursuant to the provisions of G.S. 115C-366, including the provisions of (i) G.S. 115C-366(a3) that provides for admission without the payment of tuition of children of military families not domiciled within the local school administrative unit and (ii) G.S. 115C-366(a9) that provides for remote enrollment registration of children of military families not domiciled within the local school administrative unit, provided that the specified conditions are met.

B. Eligibility for extracurricular participation – State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII.

GRADUATION.

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

A. Waiver requirements – Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams – States shall accept: 1) exit or end-of-course exams required for graduation from the sending state; or 2) national norm-referenced achievement tests or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then the provisions of Article VII, Section C shall apply.

C. Transfers during Senior year – Should a military student transferring at the beginning or during his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.

ARTICLE VIII.

STATE COORDINATION.

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote.
2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.
3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.
4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session.

The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense shall serve as an ex-officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information which is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
6. Disclose investigative records compiled for law enforcement purposes; or
7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the

compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission, any member state, or any local education agency.

ARTICLE X.

POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of rules promulgated under the Administrative Procedures Act as found in Chapter 150B of the North Carolina General Statutes and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.

D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process. Any action to enforce compliance with the compact provisions by the Interstate Commission shall be brought against a member state only.

E. To establish and maintain offices which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire or contract for services of personnel.

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the

preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

P. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting, collecting and exchanging of data.

R. To maintain corporate books and records in accordance with the bylaws.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee, and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.
7. Providing "start up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:
    a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
    b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
    c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.
2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.
2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within

the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority – The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure – Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a Rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent.

The provisions of this compact and the rules promulgated hereunder shall have standing as rules promulgated under the Administrative Procedures Act as found in Chapter 150B of the North Carolina General Statutes.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.
3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

B. Default, Technical Assistance, Suspension and Termination – If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.
2. Provide remedial training and specific technical assistance regarding the default.
3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
5. The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.
6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the

federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.
2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.
2. The Interstate Commission, may by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.
3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

A. The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited

yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.
2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.
3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.
4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.
5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.
2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws
1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.
2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding Effect of the Compact
1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.
2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.
3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state. (2008-185, s. 1; 2009-281, s. 1; 2018-5, s. 7.18(d).)

§ 115C-407.6. Creation of a State Council.

The State Board of Education shall establish a State Council, as required by Article VIII of the compact. The membership of the State Council shall include, at a minimum, the Superintendent of Public Instruction, a superintendent of a local school administrative unit with a high concentration of military children, a representative from a military installation, a representative of the executive branch of government, a representative of the North Carolina School Boards Association, a representative of the North Carolina Association of School Administrators, a member appointed by the General Assembly upon the

recommendation of the President Pro Tempore of the Senate, and a member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. (2008-185, s. 1.)

§ 115C-407.7. Appointment of compact commissioner.

As required by Article VIII of the compact, the Governor shall appoint as compact commissioner a licensed North Carolina attorney who represents at least one local board of education, with preference given to an attorney representing a local board of education with a high concentration of military children or an attorney familiar with military issues. The compact commissioner shall be responsible for the administration and management of the State's participation in the compact. (2008-185, s. 1.)

§ 115C-407.8. Effective date of compact.

This Article becomes effective July 1, 2008, or upon enactment of the compact into law by nine other states, whichever date occurs later. (2008-185, s. 1.)

§ 115C-407.9: Reserved for future codification purposes.

§ 115C-407.10: Reserved for future codification purposes.

§ 115C-407.11: Reserved for future codification purposes.

§ 115C-407.12: Reserved for future codification purposes.

§ 115C-407.13: Reserved for future codification purposes.

§ 115C-407.14: Reserved for future codification purposes.

Article 29C.

School Violence Prevention.

§ 115C-407.15. Bullying and harassing behavior.

(a) As used in this Article, "bullying or harassing behavior" is any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

(1) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or

(2) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.

Bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics.

(b) No student or school employee shall be subjected to bullying or harassing behavior by school employees or students.

(c) No person shall engage in any act of reprisal or retaliation against a victim, witness, or a person with reliable information about an act of bullying or harassing behavior.

(d) A school employee who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior shall report the incident to the appropriate school official.

(e) A student or volunteer who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior should report the incident to the appropriate school official. (2009-212, s. 1; 2009-570, s. 39.)

§ 115C-407.16. Policy against bullying or harassing behavior.

(a) Before December 31, 2009, each local school administrative unit shall adopt a policy prohibiting bullying or harassing behavior.

(b) The policy shall contain, at a minimum, the following components:

(1) A statement prohibiting bullying or harassing behavior.

(2) A definition of bullying or harassing behavior no less inclusive than that set forth in this Article.

(3) A description of the type of behavior expected for each student and school employee.

(4) Consequences and appropriate remedial action for a person who commits an act of bullying or harassment.

(5) A procedure for reporting an act of bullying or harassment, including a provision that permits a person to report such an act anonymously. This shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

(6) A procedure for prompt investigation of reports of serious violations and complaints of any act of bullying or harassment, identifying either the principal or the principal's designee as the person responsible for the investigation.

(7) A statement that prohibits reprisal or retaliation against any person who reports an act of bullying or harassment, and the consequence and appropriate remedial action for a person who engages in reprisal or retaliation.

(8) A statement of how the policy is to be disseminated and publicized, including notice that the policy applies to participation in school-sponsored functions.

(c) Nothing in this Article shall prohibit a local school administrative unit from adopting a policy that includes components beyond the minimum components provided in this section or that is more inclusive than the requirements of this Article.

(d) At the beginning of each school year, the principal shall provide the local school administrative unit's policy prohibiting bullying and harassing behavior, including cyber-bullying, to staff, students, and parents as defined in G.S. 115C-390.1(b)(8). Notice of the local policy shall appear in any school unit publication that sets forth the comprehensive rules, procedures, and standards of conduct for schools within the school unit and in any student and school employee handbook.

(e) Information regarding the local policy against bullying or harassing behavior shall be incorporated into a school's employee training program.

(f) To the extent funds are appropriated for these purposes, a local school administrative unit shall, by March 1, 2010, provide training on the local policy to school employees and volunteers who have significant contact with students. (2009-212, s. 1; 2009-570, s. 39; 2014-100, s. 8.32(a).)

§ 115C-407.17. Prevention of school violence.

Schools shall develop and implement methods and strategies for promoting school environments that are free of bullying or harassing behavior. (2009-212, s. 1; 2009-570, s. 39.)

§ 115C-407.18. Construction of this Article.

(a) This Article shall not be construed to permit school officials to punish student expression or speech based on an undifferentiated fear or apprehension of disturbance or out of a desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint.

(b) This Article shall not be interpreted to prevent a victim of bullying or harassing behavior from seeking redress under any other available law, either civil or criminal.

(c) Nothing in this Article shall be construed to require an exhaustion of the administrative complaint process before civil or criminal law remedies may be pursued regarding bullying or harassing behavior.

(d) The provisions of this Article are severable, and if any provision of this Article is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of this Article which can be given effect without the invalid provision.

(e) The provisions of this Article shall be liberally construed to give effect to its purposes.

(f) Nothing in this act shall be construed to create any classification, protected class, suspect category, or preference beyond those existing in present statute or case law. (2009-212, s. 1; 2009-570, s. 39.)

§ 115C-407.19: Reserved for future codification purposes.

§ 115C-407.20: Reserved for future codification purposes.

§ 115C-407.21: Reserved for future codification purposes.

§ 115C-407.22: Reserved for future codification purposes.

§ 115C-407.23: Reserved for future codification purposes.

§ 115C-407.24: Reserved for future codification purposes.

§ 115C-407.25: Reserved for future codification purposes.

§ 115C-407.26: Reserved for future codification purposes.

§ 115C-407.27: Reserved for future codification purposes.

§ 115C-407.28: Reserved for future codification purposes.

§ 115C-407.29: Reserved for future codification purposes.

Article 29D.

Student Prayer and Religious Activity.

§ 115C-407.30. Student rights to engage in prayer and religious activity.

(a) A student shall be permitted to voluntarily do any of the following:

(1) Pray, either silently or audibly and alone or with other students, to the same extent and under the same circumstances as a student is permitted to vocally or silently reflect, meditate, or speak on nonreligious matters alone or with other students in public schools.

(2) Express religious viewpoints in a public school to the same extent and under the same circumstances as a student is permitted to express viewpoints on nonreligious topics or subjects in the school.

(3) Speak to and attempt to share religious viewpoints with other students in a public school to the same extent and under the same circumstances as a student is permitted to speak to and attempt to share nonreligious viewpoints with other students.

(4) Possess or distribute religious literature in a public school, subject to reasonable time, place, and manner restrictions, to the same extent and under the same circumstances as a student is permitted to possess or distribute literature on nonreligious topics or subjects in the school.

(5) Organize prayer groups, religious clubs, "see you at the pole" gatherings, or other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups shall be given the same access to school facilities for assembling as is given to other noncurricular groups without discrimination based on the religious content of the students' expression. If student groups that meet for nonreligious activities are permitted to advertise or announce meetings of the groups, the school district shall not discriminate against groups that meet for prayer or other

religious speech. A local board of education and local school administrative unit may disclaim school sponsorship of noncurricular groups and events in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

(6) Express beliefs about religion in homework, artwork, and other written or oral assignments free from discrimination based on the religious content of the submission. Homework and classroom assignments shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the local board of education. A student shall not be penalized or rewarded based on the religious content of the student's work.

(b) A student may be prohibited from engaging in the actions provided in subsection (a) of this section if the actions of the student would do any of the following:

(1) Infringe on the rights of the school to (i) maintain order and discipline, (ii) prevent disruption of the educational process, and (iii) determine educational curriculum and assignments.

(2) Harass other persons or coerce other students to participate in the activity.

(3) Otherwise infringe on the rights of other persons. (2014-13, s. 1.)

§ 115C-407.31. Administrative remedies and cause of action for complaints regarding exercise of religious activity.

(a) The local board of education may establish or make available an existing formal grievance process to allow students or the parents or guardians of students to present allegations that a right established under this Article has been violated by a public school. The formal grievance process shall include the right of appeal to the local board of education.

(b) If a local board of education fails to provide a formal grievance process, the following process shall be provided:

(1) A student or a student's parent or guardian shall state the complaint to the school's principal, who shall meet with the student or the student's parent or guardian, if requested.

(2) If the student's concerns are not resolved by the meeting with the principal, the student or student's parent or guardian may make a complaint in writing to the superintendent of the local school administrative unit with the specific facts of the alleged violation. The superintendent shall investigate and take appropriate action to ensure the alleged violation of the rights of the student is resolved within 30 days of receiving the written complaint.

(3) If the superintendent fails to resolve the student's concerns within 30 days, the student or student's parent or guardian may appeal to the local board of education as provided in G.S. 115C-45.

(c) If a right of a student established under this Article is violated by a public school and the student has exhausted the administrative remedies provided in this section, the

student may assert the violation as a cause of action or defense in a judicial proceeding and obtain appropriate relief against the local board of education. The action shall be brought in the superior court of the county in which the local school administrative unit is located.

(d) No action may be maintained pursuant to this Article unless the student has exhausted the administrative remedies provided in subsections (a) and (b) of this section.

(e) A student prevailing in a claim brought against a local school administrative unit for a violation under this Article or any action brought by a public school against a student for conduct covered by this Article shall be entitled to reasonable attorneys' fees and court costs.

(f) The Attorney General shall intervene and shall provide legal defense of this Article in any action which includes claims challenging the constitutionality of this Article. (2014-13, s. 1.)

§ 115C-407.32. Religious activity for school personnel.

(a) Nothing in this Article shall be construed to support, encourage, or permit a teacher, administrator, or other employee of the local board of education to lead, direct, or encourage any religious or antireligious activity in violation of that portion of the First Amendment of the Constitution of the United States prohibiting laws respecting an establishment of religion.

(b) Local boards of education may not prohibit school personnel from participating in religious activities on school grounds that are initiated by students at reasonable times before or after the instructional day so long as such activities are voluntary for all parties and do not conflict with the responsibilities or assignments of such personnel.

(c) School employees supervising extracurricular activities, including coaches, may be present while a student or group of students exercises their voluntary right to pray as provided in G.S. 115C-407.30 and, if present, shall not be disrespectful of the student exercise of such rights and may adopt a respectful posture.

(d) Nothing in this section shall prohibit local boards of education from allowing school personnel to participate in other constitutionally permissible religious activities on school grounds. (2014-13, s. 1.)

§ 115C-407.33. Limitations of Article.

This Article shall not be construed to direct any local board of education to take any action in violation of the Constitution of North Carolina or the United States. The specification of rights in this Article shall not be construed to exclude or limit religious liberty or free speech rights otherwise protected by federal, State, or local law. (2014-13, s. 1.)

SUBCHAPTER VII. FISCAL AFFAIRS.

Article 30.

Financial Powers of the State Board of Education.

§ 115C-408. Funds under control of the State Board of Education.

(a) It is the policy of the State of North Carolina to create a public school system that graduates good citizens with the skills demanded in the marketplace, and the skills necessary to cope with contemporary society, using State, local and other funds in the most cost-effective manner. The Board shall have general supervision and administration of the educational funds provided by the State and federal governments, except those mentioned in Section 7 of Article IX of the State Constitution, and also excepting such local funds as may be provided by a county, city, or district. The Superintendent of Public Instruction shall administer any available educational funds through the Department of Public Instruction in accordance with all needed rules and regulations adopted by the State Board of Education.

(b) To insure a quality education for every child in North Carolina, and to assure that the necessary resources are provided, it is the policy of the State of North Carolina to provide from State revenue sources the instructional expenses for current operations of the public school system as defined in the standard course of study.

It is the policy of the State of North Carolina that the facilities requirements for a public education system will be met by county governments.

It is the intent of the 1983 General Assembly to further clarify and delineate the specific financial responsibilities for the public schools to be borne by State and local governments. (1955, c. 1372, art. 2, s. 2; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 476, s. 138; c. 675; 1975, c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1; 1983 (Reg. Sess., 1984), c. 1103, s. 12; 2016-126, 4th Ex. Sess., s. 5.)

§ 115C-409. Power to accept federal funds and aid.

(a) The Board is authorized to accept, receive, use or reallocate to local school administrative units any federal funds, or aids, that may be appropriated now or hereafter by the federal government for the encouragement and improvement of any phase of the free public school program which, in the judgment of the Board, will be beneficial to the operation of the schools. However, the Board is not authorized to accept any such funds upon any condition that the public schools of this State shall be operated contrary to any provisions of the Constitution or statutes of this State.

(b) The State Board of Education or any other State agency designated by the Governor shall have the power and authority to provide library resources, textbooks, and other instructional materials purchased from federal funds appropriated for the funding of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 89th Congress, HR 2362, effective April 11, 1965) or other acts of Congress for the use of children and teachers in private elementary and secondary schools in the State as required by acts of Congress and rules and regulations promulgated thereunder. (1955, c. 1372, art. 2, s. 2; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 476, s. 138; c. 675; 1975, c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1.)

§ 115C-410. Power to accept gifts and grants.

The Board is authorized to adopt all needed rules and regulations related to the creation and administration of special funds within the Department of Public Instruction to manage any funds received as grants from nongovernmental sources in support of public education. In accordance with the State Board's rules and regulations, the Superintendent of Public Instruction is authorized to create and administer such special funds and to accept, receive, use, or reallocate to local school administrative units any gifts, donations, grants, devises, or other forms of voluntary contributions. (1955, c. 1372, art. 2, s. 2; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 476, s. 138; c. 675; 1975, c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1; 2011-284, s. 76; 2016-126, 4th Ex. Sess., s. 6.)

§ 115C-411. Authority to invest school funds.

The Board is authorized to direct the State Treasurer to invest in interest-bearing securities any funds which may come into its possession, and which it deems expedient to invest, as other funds of the State are now or may be hereafter invested. (1955, c. 1372, art. 2, s. 2; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 476, s. 138; c. 675; 1975, c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1.)

§ 115C-412. Power to purchase at mortgage sales.

The State Board of Education is authorized to purchase at public sale any land upon which it has a mortgage or deed of trust securing the purchase price, or any part thereof, and when any land so sold and purchased by the said Board of Education is a part of a drainage district theretofore constituted, upon which said land assessments have been levied for the maintenance thereof, such assessments shall be paid by the said State Board of Education, as if said land had been purchased or owned by an individual. (1955, c. 1372, art. 2, s. 2; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 476, s. 138; c. 675; 1975, c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1.)

§ 115C-413. Power to adjust debts.

The State Board of Education is hereby authorized and empowered to settle, compromise or otherwise adjust any indebtedness due it upon the purchase price of any land or property sold by it, or to cancel and surrender the notes, mortgages, trust deeds, or other evidence of indebtedness without payment, when, in the discretion of said Board, it appears that it is proper to do so. The Board of Education is further authorized and empowered to sell or otherwise dispose of any such notes, mortgages, trust deeds, or other evidence of indebtedness. (1955, c. 1372, art. 2, s. 2; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1;

1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 476, s. 138; c. 675; 1975, c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1.)

§ 115C-414. State Board as successor to powers of abolished commissions and boards.

The Board shall succeed to all the powers and trusts of the president and directors of the Literary Fund of North Carolina; and to all the powers, functions, duties, and property of all abolished commissions and boards including the State School Commission, the State Textbook Commission, the Department of Health and Human Services, and the State Board of Commercial Education, including the power to take, hold and convey property, both real and personal, to the same extent that any corporation might take, hold and convey the same under the laws of this State. (1955, c. 1372, art. 2, s. 2; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 476, s. 138; c. 675; 1975, c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1; 1997-443, s. 11A.122.)

§ 115C-415: Repealed by Session Laws 1997-18, s. 15(l).

§ 115C-416. Power to allot funds for teachers and other personnel.

The Board shall have power to provide for the enrichment and strengthening of educational opportunities for the children of the State, and when sufficient State funds are available to provide first for the allotment of such a number of teachers as to prevent the teacher loan from being too great in any school, the Board is authorized, in its discretion, to make an additional allotment of teaching personnel to local school administrative units of the State to be used either jointly or separately, as the Board may prescribe. Such additional teaching personnel may be used in the local school administrative units as librarians, special teachers, or supervisors of instruction and for other special instructional services such as art, music, physical education, adult education, special education, or industrial arts as may be authorized and approved by the Board. The salary of all such personnel shall be determined in accordance with the State salary schedule adopted by the Board.

In addition, the Board is authorized and empowered in its discretion, to make allotments of funds for clerical assistants for classified principals and for school social workers.

The Board is further authorized, in its discretion, to allot teaching personnel to local school administrative units for experimental programs and purposes.

The Board may also allot teaching and other positions, within funds available, to local school administrative units to allow local units to place personnel occupying those positions in private hospitals and treatment facilities for the limited purpose of providing education to students confined to those institutions. The Board shall adopt rules to ensure that any such placements do not contribute to the profitability of private institutions and that they are otherwise in accordance with State and federal law. (1955, c. 1372, art. 2, s. 2; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c.

476, s. 138; c. 675; 1975, c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1; 1985, c. 686, s. 1; 1989 (Reg. Sess., 1990), c. 1066, s. 92.)

§ 115C-417. Availability of funds allocated for staff development.

Funds allocated by the State Board of Education for staff development at the local level shall become available for expenditure on July 1 of each fiscal year and shall remain available for expenditure until December 31 of the subsequent fiscal year. (1991 (Reg. Sess., 1992), c. 900, s. 63(c); 1997-443, s. 8.21.)

§ 115C-418: Repealed by Session Laws 1995, c. 450, s. 23.

§§ 115C-419 through 115C-421. Reserved for future codification purposes.

Article 31.

The School Budget and Fiscal Control Act.

Part 1. General Provisions.

§ 115C-422. Short title.

This Article may be cited as "The School Budget and Fiscal Control Act." (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

§ 115C-423. Definitions.

The words and phrases defined in this section have the meanings indicated when used in this Article, unless the context clearly requires another meaning:

(1) "Budget" is a plan proposed by a board of education for raising and spending money for specified school programs, functions, activities, or objectives during a fiscal year.

(2) "Budget resolution" is a resolution adopted by a board of education that appropriates revenues for specified school programs, functions, activities, or objectives during a fiscal year.

(3) "Budget year" is the fiscal year for which a budget is proposed and a budget resolution is adopted.

(4) "Fiscal year" is the annual period for the compilation of fiscal operations. The fiscal year begins on July 1 and ends on June 30.

(5) "Fund" is an independent fiscal and accounting entity consisting of cash and other resources together with all related liabilities, obligations, reserves, and equities which are segregated by appropriate accounting techniques for the purpose of carrying on specific activities or attaining certain objectives in accordance with established legal regulations, restrictions or limitations.

(6) "Vending facilities" has the same meaning as it does in G.S. 111-42(d), but also means any mechanical or electronic device dispensing items or something of value or entertainment or services for a fee, regardless of the method of activation, and regardless of the means of payment, whether by coin, currency,

tokens, or other means. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1983 (Reg. Sess., 1984), c. 1034, s. 167; 2006-203, s. 34.)

§ 115C-424. Uniform system; conflicting laws and local acts superseded.

It is the intent of the General Assembly by enactment of this Article to prescribe for the public schools a uniform system of budgeting and fiscal control. To this end, all provisions of general laws and local acts in effect as of July 1, 1976, and in conflict with the provisions of this Article are repealed except local acts providing for the levy or for the levy and collection of school supplemental taxes. No local act enacted or taking effect after July 1, 1976, may be construed to modify, amend, or repeal any portion of this Article unless it expressly so provides by specific reference to the appropriate section. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

Part 2. Budget.

§ 115C-425. Annual balanced budget resolution.

(a) Each local school administrative unit shall operate under an annual balanced budget resolution adopted and administered in accordance with this Article. A budget resolution is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations. Appropriated fund balance in any fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year. The budget resolution shall cover one fiscal year.

(b) It is the intent of this Article that all moneys received and expended by a local school administrative unit should be included in the school budget resolution. Therefore, notwithstanding any other provisions of law, after July 1, 1976, no local school administrative unit may expend any moneys, regardless of their source (including moneys derived from federal, State, or private sources), except in accordance with a budget resolution adopted pursuant to this Article.

(c) Subsection (b) of this section does not apply to funds of individual schools, as defined in G.S. 115C-448. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1993, c. 179, s. 1.)

§ 115C-426. Uniform budget format.

(a) The State Board of Education, in cooperation with the Local Government Commission, shall cause to be prepared and promulgated a standard budget format for use by local school administrative units throughout the State.

(b) The uniform budget format shall be organized so as to facilitate accomplishment of the following objectives: (i) to enable the board of education and the board of county commissioners to make the local educational and local fiscal policies embodied therein; (ii) to control and facilitate the fiscal management of the local school administrative unit during the fiscal year; and (iii) to facilitate the gathering of accurate and reliable fiscal data on the operation of the public school system throughout the State.

(c) The uniform budget format shall require the following funds:

(1) The State Public School Fund.

(2) The local current expense fund.

(3) The capital outlay fund.

In addition, other funds may be used to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem

method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, federal appropriations made directly to local school administrative units, municipal appropriations made directly to local school administrative units under G.S. 160A-700, and funds received for prekindergarten programs. In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation included as a part of the local current expense fund.

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations.

(d) The State Public School Fund shall include appropriations for the current operating expenses of the public school system from moneys made available to the local school administrative unit by the State Board of Education.

(e) The local current expense fund shall include appropriations sufficient, when added to appropriations from the State Public School Fund, for the current operating expense of the public school system in conformity with the educational goals and policies of the State and the local board of education, within the financial resources and consistent with the fiscal policies of the board of county commissioners. These appropriations shall be funded by revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7 of the Constitution, moneys made available to the local school administrative unit by the board of county commissioners, supplemental taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to 115C-511, State money disbursed directly to the local school administrative unit, and other moneys made available or accruing to the local school administrative unit for the current operating expenses of the public school system.

(f) The capital outlay fund shall include appropriations for:

(1) The acquisition of real property for school purposes, including but not limited to school sites, playgrounds, athletic fields, administrative headquarters, and garages.

(2) The acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, including but not limited to buildings for classrooms and laboratories, physical and career and technical educational purposes, libraries, auditoriums, gymnasiums, administrative offices, storage, and vehicle maintenance.

(3) The acquisition or replacement of furniture and furnishings, instructional apparatus, data-processing equipment, business machines, and similar items of furnishings and equipment.

(4) The acquisition of school buses as additions to the fleet.

(5) The acquisition of activity buses and other motor vehicles.

(6) Such other objects of expenditure as may be assigned to the capital outlay fund by the uniform budget format.

The cost of acquiring or constructing a new building, or reconstructing, enlarging, or renovating an existing building, shall include the cost of all real property and interests in real property, and all plants, works, appurtenances, structures, facilities, furnishings,

machinery, and equipment necessary or useful in connection therewith; financing charges; the cost of plans, specifications, studies, reports, and surveys; legal expenses; and all other costs necessary or incidental to the construction, reconstruction, enlargement, or renovation.

No contract for the purchase of a site shall be executed nor any funds expended therefor without the approval of the board of county commissioners as to the amount to be spent for the site; and in case of a disagreement between a board of education and a board of county commissioners as to the amount to be spent for the site, the procedure provided in G.S. 115C-431 shall, insofar as the same may be applicable, be used to settle the disagreement.

Appropriations in the capital outlay fund shall be funded by revenues made available for capital outlay purposes by the State Board of Education and the board of county commissioners, supplemental taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to 115C-511, the proceeds of the sale of capital assets, the proceeds of claims against fire and casualty insurance policies, and other sources.

(g) Other funds shall include appropriations for such purposes funded from such sources as may be prescribed by the uniform budget format. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 2010-31, s. 7.17(a); 2013-355, s. 2(a); 2017-57, s. 7.23H(h); 2018-5, s. 38.8(f).)

§ 115C-426.1. Vending facilities.

Moneys received by a local school administrative unit on account of operation of vending facilities shall be deposited, budgeted, appropriated, and expended in accordance with the provisions of this Article. (1983 (Reg. Sess., 1984), c. 1034, s. 168.)

§ 115C-426.2. Joint planning.

In order to promote greater mutual understanding of immediate and long-term budgetary issues and constraints affecting public schools and county governments, local boards of education and boards of county commissioners are strongly encouraged to conduct periodic joint meetings during each fiscal year. In particular, the boards are encouraged to assess the school capital outlay needs, to develop and update a joint five-year plan for meeting those needs, and to consider this plan in the preparation and approval of each year's budget under this Article. (1995 (Reg. Sess., 1996), c. 666, s. 2.)

§ 115C-427. Preparation and submission of budget and budget message.

(a) Before the close of each fiscal year, the superintendent shall prepare a budget for the ensuing year for consideration by the board of education. The budget shall comply in all respects with the limitations imposed by G.S. 115C-432.

(b) The budget, together with a budget message, shall be submitted to the board of education not later than May 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the educational goals fixed by the budget for the budget year, should set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels, and should explain any major changes in educational or fiscal policy. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

§ 115C-428. Filing and publication of the budget; budget hearing.

(a) On the same day that he submits the budget to the board of education, the superintendent shall file a copy of it in his office where it shall remain available for public inspection until the budget resolution is adopted. He may also publish a statement in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county that the budget has been submitted to the board of education, and is available for public inspection in the office of the superintendent of schools. The statement should also give notice of the time and place of the budget hearing authorized by subsection (b) of this section.

(b) Before submitting the budget to the board of county commissioners, the board of education may hold a public hearing at which time any persons who wish to be heard on the school budget may appear. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

§ 115C-429. Approval of budget; submission to county commissioners; commissioners' action on budget.

(a) Upon receiving the budget from the superintendent and following the public hearing authorized by G.S. 115C-428(b), if one is held, the board of education shall consider the budget, make such changes therein as it deems advisable, and submit the entire budget as approved by the board of education to the board of county commissioners not later than May 15, or such later date as may be fixed by the board of county commissioners.

(b) The board of county commissioners shall complete its action on the school budget on or before July 1, or such later date as may be agreeable to the board of education. The commissioners shall determine the amount of county revenues to be appropriated in the county budget ordinance to the local school administrative unit for the budget year. The board of county commissioners may, in its discretion, allocate part or all of its appropriation by purpose, function, or project as defined in the uniform budget format.

(c) The board of county commissioners shall have full authority to call for, and the board of education shall have the duty to make available to the board of county commissioners, upon request, all books, records, audit reports, and other information bearing on the financial operation of the local school administrative unit.

(d) Nothing in this Article shall be construed to place a duty on the board of commissioners to fund a deficit incurred by a local school administrative unit through failure of the unit to comply with the provisions of this Article or rules and regulations issued pursuant hereto, or to provide moneys lost through misapplication of moneys by a bonded officer, employee or agent of the local school administrative unit when the amount of the fidelity bond required by the board of education was manifestly insufficient.

(e) A local board of education may request appropriations directly from a city, as authorized by G.S. 160A-700. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 2018-5, s. 38.8(g).)

§ 115C-430. Apportionment of county appropriations among local school administrative units.

If there is more than one local school administrative unit in a county, all appropriations by the county to the local current expense funds of the units, except appropriations funded by supplemental taxes levied less than countywide pursuant to a local act of G.S. 115C-501 to 115C-511, must be apportioned according to the membership of each unit. County appropriations

are properly apportioned when the dollar amount obtained by dividing the amount so appropriated to each unit by the total membership of the unit is the same for each unit. The total membership of the local school administrative unit is the unit's average daily membership for the budget year to be determined by and certified to the unit and the board of county commissioners by the State Board of Education. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 1014, s. 78.)

§ 115C-431. Procedure for resolution of dispute between board of education and board of county commissioners.

(a) If the board of education determines that the amount of money appropriated to the local current expense fund, or the capital outlay fund, or both, by the board of county commissioners is not sufficient to support a system of free public schools, the chairman of the board of education and the chairman of the board of county commissioners shall arrange a joint meeting of the two boards to be held within seven days after the day of the county commissioners' decision on the school appropriations.

Prior to the joint meeting, the Senior Resident Superior Court Judge shall appoint a mediator unless the boards agree to jointly select a mediator. The mediator shall preside at the joint meeting and shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the boards' differences.

At the joint meeting, the entire school budget shall be considered carefully and judiciously, and the two boards shall make a good-faith attempt to resolve the differences that have arisen between them.

(b) If no agreement is reached at the joint meeting of the two boards, the mediator shall, at the request of either board, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Unless otherwise agreed upon by both boards, the following individuals shall constitute the two working groups empowered to represent their respective boards during the mediation:

(1) The chair of each board or the chair's designee;
(2) The superintendent of the local school administrative unit and the county manager or either's designee;
(3) The finance officer of each board; and
(4) The attorney for each board.

Members of both boards, their chairs, and representatives shall cooperate with and respond to all reasonable requests of the mediator to participate in the mediation. Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings involving the two working groups shall be conducted in private. Evidence of statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any court action. However, no evidence otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation. The mediator shall not be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediation in any civil proceeding for any purpose,

except disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators. Reports by members of either working group to their respective boards shall be made in compliance with Article 33C of Chapter 143 of the General Statutes.

Unless both boards agree otherwise, or unless the boards have already resolved their dispute, the mediation shall end no later than August 1. The mediator shall have the authority to determine that an impasse exists and to discontinue the mediation. The mediation may continue beyond August 1 provided both boards agree. If both boards agree to continue the mediation beyond August 1, the board of county commissioners shall appropriate to the local school administrative unit for deposit in the local current expense fund a sum of money sufficient to equal the local contribution to this fund for the previous year.

If the working groups reach a proposed agreement, the terms and conditions must be approved by each board. If no agreement is reached, the mediator shall announce that fact to the chairs of both boards, the Senior Resident Superior Court Judge, and the public. The mediator shall not disclose any other information about the mediation. The mediator shall not make any recommendations or public statement of findings or conclusions.

The local board of education and the board of county commissioners shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes.

(b1) If agreement is not reached in mediation on the amount of money appropriated to the local current expense fund, and the amount to be appropriated has not been calculated pursuant to this subsection for longer than the prior year, the sum to be appropriated for the budget year in dispute shall be calculated as follows:

(1) The amount of moneys appropriated to the local current expense fund by the board of county commissioners in the prior fiscal year that are expended in that year by the local school administrative unit or transferred as required by G.S. 115C-75.10, 115C-218.105, 115C-238.70, and 116-239.11 shall be divided by the sum of the following: the average daily membership of the local school administrative unit plus the share of the average daily membership of any innovative, charter, regional, or laboratory school whose students reside in the local school administrative unit for the prior school year.

(2) The amount from subdivision (1) of this subsection, rounded to the nearest penny, shall then be multiplied by the sum of one plus the twelve month percent change in the second quarter Employment Cost Index for elementary and secondary school workers as reported by the Federal Bureau of Labor Statistics.

(3) The amount from subdivision (2) of this subsection, rounded to the nearest penny, shall then be multiplied by the sum of the following: the allotted average daily membership for the school year plus the share of the average daily membership of any innovative, charter, regional, or laboratory school whose students reside in the local school administrative unit for the budget year in dispute.

The board of county commissioners shall appropriate to the local current expense fund the sum from subdivision (3) of this subsection, rounded to the nearest penny, to the local board of education for the budget year in dispute.

(b2) If agreement is not reached in mediation, and the amount to be appropriated has been calculated pursuant to subsection (b1) of this section to the local current expense fund for the prior two years, the sum to be appropriated for the budget year in dispute shall be calculated as follows:

(1) The amount of moneys appropriated to the local current expense fund by the board of county commissioners in the prior fiscal year that are expended in the prior fiscal year by the local school administrative unit and transferred as required by G.S. 115C-75.10, 115C-218.105, 115C-238.70, and 116-239.11 shall be divided by the sum of the following: the average daily membership plus the share of the average daily membership of any innovative, charter, regional, or laboratory school whose students reside in the local school administrative unit for the prior school year.

(2) The twelve month percent change in the second quarter Employment Cost Index for elementary and secondary school workers as reported by the Federal Bureau of Labor Statistics shall be increased by three percent (3%).

(3) The amount from subdivision (1) of this subsection, rounded to the nearest penny, shall then be multiplied by the sum of one plus the sum from subdivision (2) of this subsection, rounded to the nearest penny.

(4) The amount from subdivision (3) of this subsection shall then be multiplied by the sum of the following: the allotted average daily membership for the school year plus the share of the average daily membership of any innovative, charter, regional, or laboratory school whose students reside in the local school administrative unit for the budget year in dispute.

The board of county commissioners shall appropriate to the local current expense fund the sum from subdivision (4) of this subsection, rounded to the nearest penny, to the local board of education for the budget year in dispute.

(b3) Neither the local board of education nor the board of county commissioners shall file any legal action challenging the determination as to the funds to be appropriated by the board of county commissioners to the local current expense fund in accordance with the formulas found in subsections (b1) and (b2) of this section.

(c) Within five days after an announcement of no agreement on the amount of money to be appropriated to the capital outlay fund by the mediator, the local board of education may file an action in the superior court division of the General Court of Justice. Either board has the right to have the issues of fact tried by a jury. When a jury trial is demanded, the cause shall be set for the first succeeding term of the superior court in the county, and shall take precedence over all other business of the court. However, if the judge presiding certifies to the Chief Justice of the Supreme Court, either before or during the

term, that because of the accumulation of other business, the public interest will be best served by not trying the cause at the term next succeeding the filing of the action, the Chief Justice shall immediately call a special term of the superior court for the county, to convene as soon as possible, and assign a judge of the superior court or an emergency judge to hold the court, and the cause shall be tried at this special term. The judge shall find, or if the issue is submitted to the jury, the jury shall find the amount of money legally necessary from the board of county commissioners to provide the local school administrative units with buildings suitably equipped, as required by G.S. 115C-521, in order to maintain a system of free public schools as defined by State law and State Board of Education policy. In making the finding, the judge or the jury shall consider the educational goals and policies of the State and the local board of education, the budgetary request of the local board of education, the financial resources of the county and the local board of education, and the fiscal policies of the board of county commissioners and the local board of education.

All findings of fact in the superior court, whether found by the judge or a jury, shall be conclusive. When the facts have been found, the court shall give judgment ordering the board of county commissioners to appropriate a sum certain to the local school administrative unit for the amount of money to be appropriated to the capital outlay fund and to levy such taxes on property as may be necessary to make up this sum when added to other revenues available for the purpose.

(d) An appeal from the judgement entered as provided in subsection (c) of this section may be taken to the appellate division of the General Court of Justice, and notice of appeal shall be given in writing within 10 days after entry of the judgment. All papers and records relating to the case shall be considered a part of the record on appeal. The conclusion of the school or fiscal year shall not be deemed to resolve the question in controversy between the parties while an appeal is still pending. Any final judgment shall be legally binding on the parties at the conclusion of the appellate process. The payment of any final judgment by the county in favor of the local school administrative unit shall not be considered, or used in any manner, to deny or reduce appropriations to the local school administrative unit by the county in fiscal years subsequent to the one at issue to offset such payment of a final judgment.

(e) If, in an action filed under subsection (c) of this section, the final judgment of the General Court of Justice is rendered after the due date prescribed by law for property taxes, the board of county commissioners is authorized to levy such supplementary taxes as may be required by the judgment, notwithstanding any other provisions of law with respect to the time for doing acts necessary to a property tax levy. Upon making a supplementary levy under this subsection, the board of county commissioners shall designate the person who is to compute and prepare the supplementary tax receipts and records for all such taxes. Upon delivering the supplementary tax receipts to the tax collector, the board of county commissioners shall proceed as provided in G.S. 105-321.

The due date of supplementary taxes levied under this subsection is the date of the levy, and the taxes may be paid at par or face amount at any time before the one hundred and twentieth day after the due date. On or after the one hundred and twentieth day and before the one hundred and fiftieth day from the due date there shall be added to the taxes interest

at the rate of two percent (2%). On or after the one hundred and fiftieth day from the due date, there shall be added to the taxes, in addition to the two percent (2%) provided above, interest at the rate of three-fourths of one percent (3/4 of 1%) per 30 days or fraction thereof until the taxes plus interest have been paid. No discounts for prepayment of supplementary taxes levied under this subsection shall be allowed. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1989, c. 493, s. 2; 1995 (Reg. Sess., 1996), c. 666, s. 3; 1997-222, s. 1; 2007-92, s. 1; 2013-141, s. 1; 2018-83, s. 1.)

§ 115C-432. The budget resolution; adoption; limitations; tax levy; filing.

(a) After the board of county commissioners has made its appropriations to the local school administrative unit, or after the appeal procedure set out in G.S. 115C-431 for the capital outlay fund has been concluded, the board of education shall adopt a budget resolution making appropriations for the budget year in such sums as the board may deem sufficient and proper. The budget resolution shall conform to the uniform budget format established by the State Board of Education.

(b) The following directions and limitations shall bind the board of education in adopting the budget resolution:

(1) If the county budget ordinance allocates appropriations to the local school administrative unit pursuant to G.S. 115C-429(b), the school budget resolution shall conform to that allocation. The budget resolution may be amended to change allocated appropriations only in accordance with G.S. 115C-433.

(2) Subject to the provisions of G.S. 115C-429(d), the full amount of any lawful deficit from the prior fiscal year shall be appropriated.

(3) Contingency appropriations in a fund may not exceed five percent (5%) of the total of all other appropriations in that fund. Each expenditure to be charged against a contingency appropriation shall be authorized by resolution of the board of education, which resolution shall be deemed an amendment to the budget resolution, not subject to G.S. 115C-429(b) and 115C-433(b), setting up or increasing an appropriation for the object of expenditure authorized. The board of education may authorize the superintendent to authorize expenditures from contingency appropriations subject to such limitations and procedures as it may prescribe. Any such expenditure shall be reported to the board of education at its next regular meeting and recorded in the minutes.

(4) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated.

(5) The sum of estimated net revenues and appropriated fund balances in each fund shall be equal to appropriations in that fund.

(6) No appropriation may be made that would require the levy of supplemental taxes pursuant to a local act or G.S. 115C-501 to 115C-511 in excess of the rate of tax approved by the voters, or the expenditure of revenues for purposes not permitted by law.

(7) In estimating revenues to be realized from the levy of school supplemental taxes pursuant to a local act or G.S. 115C-501 to 115C-511, the estimated percentage of collection may not exceed the percentage of that tax actually realized in cash during the preceding fiscal year, or if the tax was not levied in the preceding fiscal year, the percentage of the general county tax levy actually realized in cash during the preceding fiscal year.

(8) Amounts to be realized from collection of supplemental taxes levied in prior fiscal years shall be included in estimated revenues.

(9) No appropriation may be made to or from the capital outlay fund to or from any other fund, except as permitted by G.S. 115C-433(d).

(c) If the local school administrative unit levies its own supplemental taxes pursuant to a local act, the budget resolution shall make the appropriate tax levy in accordance with the local act, and the board of education shall notify the county or city that collects the levy in accordance with G.S. 159-14.

(d) The budget resolution shall be entered in the minutes of the board of education, and within five days after adoption, copies thereof shall be filed with the superintendent, the school finance officer and the county finance officer. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1987 (Reg. Sess., 1988), c. 1025, s. 13; 1993, c. 57, s. 1; 2018-83, s. 2.)

§ 115C-433. Amendments to the budget resolution; budget transfers.

(a) Subject to the provisions of subsection (b) of this section, the board of education may amend the budget resolution at any time after its adoption, in any manner, so long as the resolution as amended continues to satisfy the requirements of G.S. 115C-425 and 115C-432.

(b) If the board of county commissioners allocates part or all of its appropriations pursuant to G.S. 115C-429(b), the board of education must obtain the approval of the board of county commissioners for an amendment to the budget that (i) increases or decreases expenditures from the capital outlay fund for projects listed in G.S. 115C-426(f)(1) or (2), or (ii) increases or decreases the amount of county appropriation allocated to a purpose or function by twenty-five percent (25%) or more from the amount contained in the budget ordinance adopted by the board of county commissioners: Provided, that at its discretion, the board may in its budget ordinance specify a lesser percentage, so long as such percentage is not less than ten percent (10%).

(c) The board of education may by appropriate resolution authorize the superintendent to transfer moneys from one appropriation to another within the same fund, subject to such limitations and procedures as may be prescribed by the board of education or State or federal law or regulations. Any such transfers shall be reported to the board of education at its next regular meeting and shall be entered in the minutes.

(d) The board of education may amend the budget to transfer money to or from the capital outlay fund to or from any other fund, with the approval of the board of county commissioners, to meet emergencies unforeseen and unforeseeable at the time the budget resolution was adopted. When such an emergency arises, the board of education may adopt a resolution requesting approval from the board of commissioners for the transfer of a specified amount of money to or from the capital outlay fund to or from some other fund. The resolution shall state the nature of the emergency, why the emergency was not foreseen and was not foreseeable when the budget resolution was adopted, what specific objects of expenditure will be added or increased as a result

of the transfer, and what objects of expenditure will be eliminated or reduced as a result of the transfer. A certified copy of this resolution shall be transmitted to the board of county commissioners for (its) approval and to the boards of education of all other local school administrative units in the county for their information. The board of commissioners shall act upon the request within 30 days after it is received by the clerk to the board of commissioners or the chairman of the board of commissioners, after having afforded the boards of education of all other local school administrative units in the county an opportunity to comment on the request. The board of commissioners may either approve or disapprove the request as presented. Upon either approving or disapproving the request, the board of commissioners shall forthwith so notify the board of education making the request and any other board of education that exercised its right to comment thereon. Upon receiving such notification, the board of education may proceed to amend the budget resolution in the manner indicated in the request. Failure of the board of county commissioners to act within the time allowed for approval or disapproval shall be deemed approval of the request. The time limit for action by the board of county commissioners may be extended by mutual agreement of the board of county commissioners and the board of education making the request. A budget resolution amended in accordance with this subsection need not comply with G.S. 115C-430. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

§ 115C-434. Interim budget.

In case the adoption of the budget resolution is delayed until after July 1, the board of education shall make interim appropriations for the purpose of paying salaries and the usual ordinary expenses of the local school administrative unit for the interval between the beginning of the fiscal year and the adoption of the budget resolution. Interim appropriations so made and expended shall be charged to the proper appropriations in the budget resolution. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

Part 3. Fiscal Control.

§ 115C-435. School finance officer.

Each local school administrative unit shall have a school finance officer who shall be appointed or designated by the superintendent of schools and approved by the board of education, with the school finance officer serving at the pleasure of the superintendent. The duties of school finance officer may be conferred on any officer or employee of the local school administrative unit or, upon request of the superintendent, with approval by the board of education and the board of county commissioners, on the county finance officer. In counties where there is more than one local school administrative unit, the duties of finance officer may be conferred on any one officer or employee of the several local school administrative units by agreement between the affected superintendents with the concurrence of the affected board of education and the board of county commissioners. The position of school finance officer is hereby declared to be an office that may be held concurrently with other appointive, but not elective, offices pursuant to Article VI, Sec. 9, of the Constitution. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

§ 115C-436. Duties of school finance officer.

(a) The school finance officer shall be responsible to the superintendent for:

(1) Keeping the accounts of the local school administrative unit in accordance with generally accepted principles of governmental

accounting, the rules and regulations of the State Board of Education, and the rules and regulations of the Local Government Commission.

(2) Giving the preaudit certificate required by G.S. 115C-441.

(3) Signing and issuing all checks, drafts, and State warrants by the local school administrative unit, investing idle cash, and receiving and depositing all moneys accruing to the local school administrative unit.

(4) Preparing and filing a statement of the financial condition of the local school administrative unit as often as requested by the superintendent, and when requested in writing, with copy to the superintendent, by the board of education or the board of county commissioners.

(5) Performing such other duties as may be assigned to him by law, by the superintendent, or by rules and regulations of the State Board of Education and the Local Government Commission.

All references in other portions of the General Statutes or local acts to school treasurers, county treasurers, or other officials performing any of the duties conferred by this section on the school finance officer shall be deemed to refer to the school finance officer.

(b) The State Board of Education has authority to issue rules and regulations having the force of law governing procedures for the disbursement of money allocated to the local school administrative unit by or through the State. The Local Government Commission has authority to issue rules and regulations having the force of law governing procedures for the disbursement of all other moneys allocated or accruing to the local school administrative unit. The State Board of Education and the Local Government Commission may inquire into and investigate the internal control procedures of a local school administrative unit with respect to moneys under their respective jurisdictions and may require any modifications in internal control procedures which may be necessary or desirable to prevent embezzlements or mishandling of public moneys.

(c) Upon receipt of a report from the North Carolina Teachers' and State Employees' Retirement System, generated pursuant to G.S. 135-8(f)(2)f., containing a list of employees for whom the local board of education made a contribution to the North Carolina Teachers' and State Employees' Retirement System that is likely to require an additional employer contribution should the employee elect to retire in the following 12 months, the school financial officer shall transmit a copy of the report to the local board of education. The school financial officer shall also notify the board of county commissioners of the county in which the local administrative unit is located that the report was received and the number of employees listed in the report. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 2017-128, s. 4(a).)

§ 115C-437. Allocation of revenues to the local school administrative unit by the county.

Revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7, of the Constitution and taxes levied by or on behalf of the local school administrative unit pursuant to a local act or G.S. 115C-501 to 115C-511 shall be remitted to the school finance officer by the officer having custody thereof within 10 days after the close of the calendar month in which the revenues were received or collected. The clear proceeds of all penalties and forfeitures and of all fines collected for any breach of the penal laws of the State, as referred to in Article IX, Sec. 7 of the Constitution, shall include the full amount of all penalties, forfeitures or fines collected under

authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected. Revenues appropriated to the local school administrative unit by the board of county commissioners from general county revenues shall be made available to the school finance officer by such procedures as may be mutually agreeable to the board of education and the board of county commissioners, but if no such agreement is reached, these funds shall be remitted to the school finance officer by the county finance officer in monthly installments sufficient to meet its lawful expenditures from the county appropriation until the county appropriation to the local school administrative unit is exhausted. Each installment shall be paid not later than 10 days after the close of each calendar month. When revenue has been appropriated to the local school administrative unit by the board of county commissioners from funds which carry specific restrictions binding upon the county as recipient, the board of commissioners must inform the local school administrative unit in writing of those restrictions. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1985, c. 779.)

§ 115C-438. Provision for disbursement of State money.

The deposit of money in the State treasury to the credit of local school administrative units shall be made in monthly installments, and additionally as necessary, at such time and in such a manner as may be most convenient for the operation of the public school system. Before an installment is credited, the school finance officer shall certify to the State Board of Education the expenditures to be made by the local school administrative unit from the State Public School Fund during the month. This certification shall be filed on or before the fifth day following the end of the month preceding the period in which the expenditures will be made. The State Board of Education shall determine whether the moneys requisitioned are due the local school administrative unit, and upon determining the amount due, shall cause the requisite amount to be credited to the local school administrative unit. Upon receiving notice from the State Treasurer of the amount placed to the credit of the local school administrative unit, the finance officer may issue State warrants up to the amount so certified.

Upon notification by the Board of Trustees of the Teachers' and State Employees' Retirement System to the State Treasurer and the Office of State Budget and Management as to the default of the local school administrative unit, the State Board of Education shall withhold from any State appropriation due to the local school administrative unit an amount equal to the sum of all delinquent contributions and payments due to the Retirement Systems Division and shall transmit that amount to the Retirement Systems Division.

The State Board of Education may withhold money for payment of salaries for administrative officers of local school administrative units if any report required to be filed with State school authorities is more than 30 days overdue. The State Board of Education shall withhold money for payment of salaries for the superintendent, finance officer, and all other administrative officers charged with providing payroll information pursuant to G.S. 115C-12(18), if the local school administrative unit fails to provide the payroll information to the State Board in a timely fashion and substantially in accordance with the standards set by the State Board. The State Board of Education shall also withhold money used for payment of salaries for the superintendent, transportation director, and all other administrative officers or employees charged by the local board of education or the local

superintendent with implementing the Transportation Information Management System, pursuant to G.S. 115C-240(d), if the State Board finds that a local school administrative unit is not progressing in good faith and is not using its best efforts to implement the Transportation Information Management System.

Money in the State Public School Fund and State bond moneys shall be released only on warrants drawn on the State Treasurer, signed by such local official as may be required by the State Board of Education. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1987, c. 414, s. 14; 1987 (Reg. Sess., 1988), c. 1025, s. 15; 1989 (Reg. Sess., 1990), c. 1066, s. 106; 1991, c. 689, s. 39.2; 1991 (Reg. Sess., 1992), c. 900, s. 77(b); 2015-164, s. 6(c).)

§ 115C-439. Facsimile signatures.

The board of education may provide by appropriate resolution for the use of facsimile signature machines, signature stamps, or similar devices in signing checks and drafts and in signing the preaudit certificate on contracts or purchase orders. The board shall charge the finance officer or some other bonded officer or employee with the custody of the necessary machines, stamps, plates, or other devices, and that person and the sureties on his official bond are liable for any illegal, improper, or unauthorized use of them. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

§ 115C-440. Accounting system.

(a) System Required. – Each local school administrative unit shall establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures. The system shall also be designed to show appropriations and estimated revenues as established in the budget resolution as originally adopted and subsequently amended.

(b) Basis of Accounting. – Local school administrative units shall use the modified accrual basis of accounting in recording transactions.

(c) Encumbrance Systems. – Except as otherwise provided in this subsection, no local school administrative unit is required to record or show encumbrances in its accounting system. The Local Government Commission, in consultation with the State Board of Education, shall establish regulations, based on total membership of the local school administrative unit or some other appropriate criterion, setting forth which units are required to maintain an accounting system that records and shows the encumbrances outstanding against each category of expenditure appropriated in the budget resolution. Any other local school administrative unit may record and show encumbrances in its accounting system.

(d) Commission Regulations. – The Local Government Commission, in consultation with the State Board of Education, may prescribe rules and regulations having the force of law as to:

(1) Features of accounting systems to be maintained by local school administrative units.

(2) Bases of accounting, including identifying in detail the characteristics of a modified accrual basis and identifying what revenues are susceptible to accrual.

(3) Definitions of terms not clearly defined in this Article.

These rules and regulations may be varied according to the size of the local school administrative unit, or according to any other criteria reasonably related to the purpose or complexity of the financial operations involved. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

§ 115C-440.1. Report on county spending on public capital outlay.

(a) It is the purpose of Article 42 of Chapter 105 of the General Statutes for counties to appropriate funds generated under that Article to increase the level of county spending for public elementary and secondary school capital outlay (including retirement of indebtedness incurred by the county for this purpose) above and beyond the level of spending prior to the levy of the additional tax authorized under that Article.

(b) On or before May 1 of each year the Local Government Commission shall furnish to the General Assembly a report of the level of each county's appropriations for public school capital outlay, including appropriations to the public school capital outlay fund, funds expended by counties on behalf of and for the benefit of public schools for capital outlay, monies reserved for future years' retirement of debt incurred or capital outlay, and any other information the Local Government Commission considers relevant. For purposes of this subsection, the term "public schools" includes charter schools, if authorized. The Local Government Commission shall develop and implement by May 1, 1997, a uniform reporting system whereby counties are able to report all county expenditures under this subsection.

(c) Any local board of education may petition the Local Government Commission to make a finding that the funds provided by a county for public school capital outlay purposes are, within the financial resources available and consistent with the fiscal policies of the Board of County Commissioners, inadequate to meet the public school capital outlay needs within that county and that the Board of County Commissioners has not complied with the requirements or intent of this Article. The petition shall be in the form prescribed by the Commission. In making its finding, the Commission shall consider the facts it is required to report under subsection (b) of this section, as well as any other information it deems necessary. The Commission shall report its findings on such petition, together with any recommendations it deems appropriate, to the Joint Legislative Commission on Governmental Operations. (1985 (Reg. Sess., 1986), c. 906, s. 1; 1995, c. 507, s. 17.5; 1995 (Reg. Sess., 1996), c. 666, ss. 4, 5.)

§ 115C-441. Budgetary accounting for appropriations.

(a) Incurring Obligations. – Except as set forth below, no obligation may be incurred by a local school administrative unit unless the budget resolution includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year. Nothing in this section shall require a contract to be reduced to writing.

(a1) Preaudit Requirement. – If an obligation is reduced to a written contract or written agreement requiring the payment of money, or is evidenced by a purchase order for supplies and materials, the written contract, agreement, or purchase order shall include on its face a certificate stating that the instrument has been preaudited to assure compliance with subsection (a) of this section. The certificate, which shall be signed by the finance officer, shall take substantially the following form:

"This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act.

_____

(Date)

_____

(Signature of finance officer)"

(a2) Failure to Preaudit. – An obligation incurred in violation of subsection (a) or (a1) of this section is invalid and may not be enforced. The finance officer shall establish procedures to assure compliance with this section, in accordance with any rules adopted by the Local Government Commission.

(b) When a bill, invoice, or other claim against a local school administrative unit is presented, the finance officer shall either approve or disapprove the necessary disbursement. The finance officer may approve the claim only if all of the following apply:

(1) The amount claimed is determined to be payable.

(2) The budget resolution includes an appropriation authorizing the expenditure.

(3) Either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (c) of this section, by the board of education. The finance officer shall establish procedures to assure compliance with this subsection, in accordance with any rules adopted by the Local Government Commission.

(c) Board of Education Approval of Bills, Invoices, or Claims. – The board of education may, as permitted by this subsection, approve a bill, invoice, or other claim against the local school administrative unit that has been disapproved by the finance officer. The board of education may not approve a claim for which no appropriation appears in the budget resolution, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The board of education shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board, or some other member designated for this purpose, shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(c1) Continuing Contracts for Capital Outlay. – A local school administrative unit may enter into a contract for capital outlay expenditures, some portion or all of which is to be performed or paid in ensuing fiscal years, without the budget resolution including an appropriation for the entire obligation, provided all of the following apply:

a. The budget resolution includes an appropriation authorizing the current fiscal year's portion of the obligation.

b. An unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year.

c. Contracts for capital outlay expenditures are approved by a resolution adopted by the board of county commissioners, which resolution when adopted shall bind the board of county commissioners to appropriate

sufficient funds in ensuing fiscal years to meet the amounts to be paid under the contract in those years.

(d) Payment. – A local school administrative unit may not pay a bill, invoice, salary, or other claim except by any of the following methods:

(1) Check or draft on an official depository.
(2) Bank wire transfer from an official depository.
(3) Electronic payment or an electronic funds transfer originated by the local school administrative unit through an official depository.
(4) Cash, if the local school administrative unit has adopted a policy authorizing the use of cash, and specifying the limits of the use of cash.
(5) Warrant on the State Treasurer.

(d1) Except as provided in subsection (d) of this section, each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or signed by the chairman or some other member of the board pursuant to subsection (c) of this section. The certificate shall take substantially the following form:

"This disbursement has been approved as required by the School Budget and Fiscal Control Act.

_____

(Signature of finance officer)"

No certificate is required on payroll checks or drafts or on State warrants.

(d2) An electronic payment or electronic funds transfer shall be subject to the preaudit process in accordance with this section and any rules adopted by the Local Government Commission. The rules so adopted shall address execution of electronic payment or electronic funds transfer and how to indicate that the finance officer has performed the preaudit process in accordance with this section. A finance officer shall be presumed in compliance with this section if the finance officer complies with the rules adopted by the Local Government Commission.

(e) Penalties. – If an officer or employee of a local school administrative unit incurs an obligation or pays out or causes to be paid out any funds in violation of this section, that officer or employee, and the sureties on any official bond for that officer or employee, are liable for any sums so committed or disbursed. If the finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, the finance officer and the sureties on any official bond are liable for any sums illegally committed or disbursed thereby.

(f) The certifications required by subsections (a1) and (d1) of this section shall not apply to any of the following:

(1) An obligation or a document related to the obligation has been approved by the Local Government Commission.
(2) Payroll expenditures, including all benefits for employees of the local government.
(3) Electronic payments, as specified in rules adopted by the Local Government Commission.

(g) As used in this section, the following terms shall have the following meanings:

(1) Electronic funds transfer. – A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.

(2) Electronic payment. – Payment by charge card, credit card, debit card, gas card, procurement card, or electronic funds transfer. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1985, c. 783, ss. 1, 2; 1997-456, s. 27; 2015-246, s. 6(b).)

§ 115C-441.1. Dependent care assistance program.

The State Board of Education is authorized to provide eligible employees of local school administrative units a program of dependent care assistance as available under Section 129 and related sections of the Internal Revenue Code of 1986, as amended. The State Board may authorize local school administrative units to enter into annual agreements with employees who elect to participate in the program to provide for a reduction in salary. Should the State Board decide to contract with a third party to administer the terms and conditions of a program of dependent care assistance, it may select a contractor only upon a thorough and completely competitive procurement process. (1989, c. 458, s. 1; 1991 (Reg. Sess., 1992), c. 1044, s. 14(b); 1993, c. 561, s. 42; 1993 (Reg. Sess, 1994), c. 769, s. 7.28A; 1997-443, s. 33.20(a); 1999-237, s. 28.27(a).)

§ 115C-442. Fidelity bonds.

(a) The finance officer shall give a true accounting and faithful performance bond with sufficient sureties in an amount to be fixed by the board of education, not less than fifty thousand dollars ($50,000). This bond shall cover the faithful performance of all duties placed on the finance officer by or pursuant to law and the faithful accounting for all funds in his custody except State funds placed to the credit of the local school administrative unit by the State Treasurer. The premium on the bond shall be paid by the local school administrative unit.

(b) The State Board of Education shall provide for adequate and appropriate bonding of school finance officers and such other employees as it deems appropriate with respect to the disbursement of State funds. When it requires such bonds, the State Board of Education is authorized to place the bonds and pay the premiums thereon.

(c) The treasurer of each individual school and all other officers, employees and agents of each local school administrative unit who have custody of public school money in the normal course of their employment or agency shall give a true accounting bond with sufficient sureties in an amount to be fixed by the board of education. The premiums on these bonds shall be paid by the local school administrative unit. Instead of individual bonds, a local school administrative unit may provide for a blanket bond to cover all officers, employees, and agents of the local school administrative unit required to be bonded, except the finance officer. The finance officer may be included within the blanket bond if the blanket bond protects against risks not protected against by the individual bond. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 2007-85, s. 1.)

§ 115C-443. Investment of idle cash.

(a) A local school administrative unit may deposit at interest or invest all or part of the cash balance of any fund. The finance officer shall manage investments subject to whatever restrictions and directions the board of education may impose. The finance officer shall have the power to purchase, sell, and exchange securities on behalf of the board of education. The

investment program shall be so managed that investments and deposits can be converted into cash when needed.

(b) Moneys may be deposited at interest at any bank, savings and loan association, or trust company in this State in the form of certificates of deposit or such other forms of time deposit as the Local Government Commission may approve. Investment deposits shall be secured as provided in G.S. 115C-444(b).

(c) Moneys may be invested in the following classes of securities, and no others:

(1) Obligations of the United States of America.

(2) Obligations of any agency or instrumentality of the United States of America if the payment of interest and principal of such obligations is fully guaranteed by the United States of America.

(3) Obligations of the State of North Carolina.

(4) Bonds and notes of any North Carolina local government or public authority, subject to such restrictions as the Secretary of the Local Government Commission may impose.

(5) Shares of any savings and loan association organized under the laws of this State and shares of any federal savings and loan association having its principal office in this State, to the extent that the investment in such shares is fully insured by the United States of America or an agency thereof or by any mutual deposit guaranty association authorized by the Commissioner of Insurance of North Carolina to do business in North Carolina pursuant to Article 7A of Chapter 54 of the General Statutes.

(6) Obligations maturing no later than 18 months after the date of purchase of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, Fannie Mae, the Banks for Cooperatives, and the Federal Land Banks.

(7) Any form of investment allowed by law to the State Treasurer.

(8) Any form of investment allowed by G.S. 159-30 to local governments and public authorities.

(d) Investment securities may be bought, sold, and traded by private negotiation, and local school administrative units may pay all incidental costs thereof and all reasonable cost of administering the investment and deposit program. Securities and deposit certificates shall be in the custody of the finance officer who shall be responsible for their safekeeping and for keeping accurate investment accounts and records.

(e) Interest earned on deposits and investments shall be credited to the fund whose cash is deposited or invested. Cash of several funds may be combined for deposit or investment if not otherwise prohibited by law; and when such joint deposits or investments are made, interest earned shall be prorated and credited to the various funds on the basis of the amounts thereof invested, figured according to an average periodic balance or some other sound accounting principle. Interest earned on the deposit or investment of bond funds shall be deemed a part of the bond proceeds.

(f) Registered securities acquired for investment may be released from registration and transferred by signature of the finance officer.

(g) It is the intent of this Article that the foregoing provisions of this section shall apply only to those funds received by the local school administrative unit as required by G.S. 115C-437. The county finance officer shall be responsible for the investment of all county funds allocated to the local school administrative unit prior to such county funds actually being remitted to the school

finance officer as provided by G.S. 115C-437. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1985, c. 246, s. 1; 2001-487, s. 14(h).)

§ 115C-444. Selection of depository; deposits to be secured.

(a) Each board of education shall designate as the official depositories of the local school administrative unit one or more banks, savings and loan associations, or trust companies in this State. It shall be unlawful for any money belonging to a local school administrative unit or an individual school to be deposited in any place, bank, or trust company other than an official depository, except as permitted by G.S. 115C-443(b); however, moneys belonging to an administrative unit or an individual school may be deposited in official depositories in Negotiable Order of Withdrawal (NOW) accounts.

(b) Money on deposit in an official depository or deposited at interest pursuant to G.S. 115C-443(b) shall be secured by deposit insurance, surety bonds, or investment securities of such nature, in a sufficient amount to protect the administrative unit or an individual school on account of deposit of moneys made therein, and in such manner, as may be prescribed by rule or regulation of the Local Government Commission. When deposits are secured in accordance with this subsection, no public officer or employee may be held liable for any losses sustained by a local school administrative unit because of the default or insolvency of the depository. (1975, c. 437, s. 1; 1981, c. 423, s. 1; c. 682, s. 23; c. 866, ss. 1, 2; 1985, c. 246, s. 2.)

§ 115C-445. Daily deposits.

Except as otherwise provided by law, all moneys collected or received by an officer, employee or agent of a local school administrative unit or an individual school shall be deposited in accordance with this section. Each officer, employee and agent of a local school administrative unit or individual school whose duty it is to collect or receive any taxes or other moneys shall deposit his collections and receipts daily. If the board of education gives its approval, deposits shall be required only when the moneys on hand amount to as much as two hundred fifty dollars ($250.00), but in any event a deposit shall be made on the last business day of the month. All deposits shall be made with the finance officer or in an official depository. Deposits in an official depository shall be immediately reported to the finance officer or individual school treasurer by means of a duplicate deposit ticket. The finance officer may at any time audit the accounts of any officer, employee or agent collecting or receiving any taxes or other moneys, and may prescribe the form and detail of these accounts. The accounts of such an officer, employee or agent shall be audited at least annually. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

§ 115C-446. Semiannual reports on status of deposits and investments.

Each school finance officer shall report to the Secretary of the Local Government Commission on January 1 and July 1 of each year, or such other dates as the Secretary may prescribe, the amounts of money then in his custody and in the custody of treasurers of individual schools within the local school administrative unit, the amount of deposits of such money in depositories, a list of all investment securities and time deposits held by the local school administrative unit and individual schools therein. In like manner, each bank or trust company acting as the official depository of any administrative unit or individual school may be required to report to the Secretary a description of the surety bonds or investment securities securing such public deposits. If the Secretary finds at any time that any moneys of a local school administrative unit or an individual school are not properly deposited or secured, or are invested in securities not eligible

for investment, he shall notify the officer in charge of the moneys of the failure to comply with law. Upon such notification, the officer shall comply with the law within 30 days, except as to the sale of securities not eligible for investment which shall be sold within nine months at a price to be approved by the Secretary. The Local Government Commission may extend the time for sale of ineligible securities, but no one extension may cover a period of more than one year. (1975, c. 437, s. 1; 1981, c. 423, s. 1; c. 866, s. 3.)

§ 115C-447. Annual independent audit.

(a) Each local school administrative unit shall have its accounts and the accounts of individual schools therein audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Local Government Commission as qualified to audit local government accounts. The auditor who audits the accounts of a local school administrative unit shall also audit the accounts of its individual schools. The auditor shall be selected by and shall report directly to the board of education. The audit contract shall be in writing, shall include all its terms and conditions, and shall be submitted to the Secretary of the Local Government Commission for his approval as to form, terms and conditions. The terms and conditions of the audit contract shall include the scope of the audit, and the requirement that upon completion of the examination the auditor shall prepare a typewritten or printed report embodying financial statements and his opinion and comments relating thereto. The financial statements accompanying the auditor's report shall be prepared in conformity with generally accepted accounting principles. The auditor shall file a copy of the audit report with the Secretary of the Local Government Commission, the State Board of Education, the board of education and the board of county commissioners, and shall submit all bills or claims for audit fees and costs to the Secretary of the Local Government Commission for his approval. It shall be unlawful for any local school administrative unit to pay or permit the payment of such bills or claims without this approval. Each officer, employee and agent of the local school administrative unit having custody of public money or responsibility for keeping records of public financial or fiscal affairs shall produce all books and records requested by the auditor and shall divulge such information relating to fiscal affairs as he may request. If any member of a board of education or any other public officer, employee or agent shall conceal, falsify, or refuse to deliver or divulge any books, records, or information, with an intent thereby to mislead the auditor or impede or interfere with the audit, he is guilty of a Class 1 misdemeanor.

The State Auditor shall have authority to prescribe the manner in which funds disbursed by administrative units by warrants on the State Treasurer shall be audited.

(b) When the State Board of Education finds that incidents of fraud, embezzlement, theft, or management failures in a local school administrative unit make it appropriate to review the internal control procedures of the unit, the State Board of Education shall so notify the unit. If the incidents were discovered by the firm performing the audit under subsection (a) of this section, the board of the local school administrative unit shall submit the audit together with a plan for any corrective actions relative to its internal control procedures to the State Board of Education and the Local Government Commission for approval and shall implement the approved changes prior to the next annual audit. Where the firm preparing the audit under subsection (a) of this section identifies significant problems with internal control procedures the local school administrative unit shall submit the audit together with a plan for any corrective actions relative to its internal control procedures to the State Board of Education and the Local Government Commission for approval and shall implement the approved changes prior to the next annual audit.

If the incidents were not discovered by the firm performing the audit under subsection (a) of this section, the State Board of Education and the Local Government Commission shall employ an audit firm to review the internal control procedures of that local school administrative unit. Upon completion of this review, the audit firm shall report publicly to the State Board of Education, the Local Government Commission, and the board of the local school administrative unit. If the State Board of Education determines that significant changes are needed in the internal control procedures of the local school administrative unit, the local board shall submit a plan of corrective actions to the State Board of Education and the Local Government Commission for approval and shall implement the approved changes prior to the next annual audit. The local school administrative unit shall pay the cost of this audit. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1983, c. 913, s. 17; 1987 (Reg. Sess., 1988), c. 1025, s. 14; 1993, c. 539, s. 891; 1994, Ex. Sess., c. 24, s. 14(c); 2005-276, s. 7.58.)

§ 115C-448. Special funds of individual schools.

(a) The board of education shall appoint a treasurer for each school within the local school administrative unit that handles special funds. The treasurer shall keep a complete record of all moneys in his charge in such form and detail as may be prescribed by the finance officer of the local school administrative unit, and shall make such reports to the superintendent and finance officer of the local school administrative unit as they or the board of education may prescribe. Special funds of individual schools shall be deposited in an official depository of the local school administrative unit in special accounts to the credit of the individual school, and shall be paid only on checks or drafts signed by the principal of the school and the treasurer. The board of education may, in its discretion, waive the requirements of this section for any school which handles less than three hundred dollars ($300.00) in any school year.

(b) Nothing in this section shall prevent the board of education from requiring that all funds of individual schools be deposited with and accounted for by the school finance officer. If this is done, these moneys shall be disbursed and accounted for in the same manner as other school funds except that the check or draft shall not bear the certificate of preaudit.

(c) For the purposes of this section, "special funds of individual schools" includes by way of illustration and not limitation funds realized from gate receipts of interscholastic athletic competition, sale of school annuals and newspapers, and dues of student organizations.

(d) Special funds of individual schools shall not be included as part of the local current expense fund of a local school administrative unit for the purposes of determining the per pupil share of the local current expense fund transferred to a charter school pursuant to G.S. 115C-218.105(c). (1975, c. 437, s. 1; 1981, c. 423, s. 1; 2013-355, s. 2(b); 2014-101, s. 7.)

§ 115C-449. Proceeds of insurance claims.

Moneys paid to a local school administrative unit pursuant to contracts of insurance against loss of capital assets through fire or casualty shall be used to repair or replace the damaged asset,

or if the asset is not repaired or replaced, placed to the credit of the capital outlay fund for appropriation at some future time. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

§ 115C-450. School food services.

(a) School food services shall be included in the budget of each local school administrative unit and the State Board of Education shall provide for school food services in the uniform budget format required by G.S. 115C-426.

(b) No local school administrative unit shall assess indirect costs to a child nutrition program unless the program has a minimum of one month's operating balance. One month's operating balance shall be derived from net cash resources divided by one month's operating costs. "Net cash resources" means all monies, as determined in accordance with the State agency's established accounting system, that are available to or have accrued to a school food authority's nonprofit child nutrition account at any given time, less cash payables and other liabilities. When calculating the average month's operating balance, the Department of Public Instruction shall use the complete and final figures obtained from the annual financial report from each child nutrition program's operation. An average month's operating balance shall be calculated and published by the Department of Public Instruction for each child nutrition program and shall be equal to the average of the three prior fiscal years' monthly operating balances. If complete and final financial reports for a given year are not yet available for a child nutrition program, the Department of Public Instruction may use projected figures but shall update the published average month's operating balance once complete and final financial reports become available. As used in this subsection, the term "indirect costs" is as defined in the United States Office of Budget and Management Circular A-87, as revised, and the term "net cash resources" is as defined in 7 C.F.R. § 210.2. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 2013-235, s. 1.)

§ 115C-451. Reports to State Board of Education; failure to comply with School Budget Act.

(a) The State Board of Education shall have authority to require local school administrative units to make such reports as it may deem advisable with respect to the financial operation of the public schools.

(b) The State Board of Education shall be responsible for assuring that local boards of education comply with State laws and regulations regarding the budgeting, management, and expenditure of funds. When a local board of education willfully or negligently fails or refuses to comply with these laws and regulations, the State Board of Education shall issue a warning to the local board of education and direct it to take remedial action. In addition, the State Board may suspend the flexibility given to the local board under G.S. 115C-105.21A and may require the local board to use funds during the term of suspension only for the purposes for which they were allotted or for other purposes with the specific approval from the State Board.

(c) If the local board of education, after warning, persists in willfully or negligently failing or refusing to comply with these laws and regulations, the State Board of Education shall by resolution assume control of the financial affairs of the local board of education and shall appoint an administrator to exercise the powers assumed. The adoption of a resolution shall have the effect of divesting the local board of education of its powers as to the adoption of budgets, expenditure of money, and all other financial powers conferred upon the local board of education by law. (1975, c. 437, s. 1; 1981, c. 423, s. 1; 1991, c. 529, s. 5; 1997-443, s. 8.7.)

§ 115C-452. Fines and forfeitures.

The clear proceeds of all penalties and forfeitures and of all fines collected in the General Court of Justice in each county shall be remitted by the clerk of the superior court to the county finance officer, who shall forthwith determine what portion of the total is due to each local school administrative unit in the county and remit the appropriate portion of the amount to the finance officer of each local school administrative unit. Fines and forfeitures shall be apportioned according to the projected average daily membership of each local school administrative unit as determined by and certified to the local school administrative units and the board of county commissioners by the State Board of Education pursuant to G.S. 115C-430. (1975, c. 437, s. 1; 1981, c. 423, s. 1.)

§§ 115C-453 through 115C-457. Reserved for future codification purposes.

Article 31A.

Civil Penalty and Forfeiture Fund.

§ 115C-457.1. Creation of Fund; administration.

(a) There is created the Civil Penalty and Forfeiture Fund. The Fund shall consist of the clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by a State agency and that the General Assembly is authorized to place in a State fund pursuant to Article IX, Section 7(b) of the Constitution.

(b) The Fund shall be administered by the Office of State Budget and Management. The Fund and all interest accruing to the Fund shall be faithfully used exclusively for maintaining free public schools. (1997-443, s. 8.20; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-423, s. 2.)

§ 115C-457.2. Remittance of moneys to the Fund.

The clear proceeds of all civil penalties, civil forfeitures, and civil fines that are collected by a State agency and that the General Assembly is authorized to place in a State fund pursuant to Article IX, Section 7(b) of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, all such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of these funds include the full amount of all civil penalties, civil forfeitures, and civil fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed twenty percent (20%) of the amount collected. The collection cost percentage to be used by a State agency shall be established and approved by the Office of State Budget and Management on an annual basis based upon the computation of actual collection costs by each agency for the prior fiscal year. (1997-443, s. 8.20; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-423, s. 3; 2005-276, s. 6.37(v); 2006-66, s. 6.9(c).)

§ 115C-457.3. Appropriation of moneys in the Fund.

(a) The General Assembly shall appropriate moneys in the Civil Penalty and Forfeiture Fund in the Current Operations Appropriations Act. These appropriations shall be made to the State Public School Fund for allotment by the State Board of Education, on behalf of the counties,

to local school administrative units on a per pupil basis in accordance with Article IX, Section 7(b) of the North Carolina Constitution.

(b) In accordance with subsection (a) of this section, the State Board of Education shall allocate these funds according to the allotted average daily membership of each local school administrative unit as determined by and certified to the local school administrative units and the board of county commissioners by the State Board pursuant to G.S. 115C-430. (1997-443, s. 8.20; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-423, s. 3.2; 2005-276, s. 6.37(g).)

Article 32.

State Literary Fund.

§ 115C-458. State Literary Fund.

The State Literary Fund includes all funds derived from the sources enumerated in Sec. 6, Article IX, of the Constitution, and all funds that may be hereafter so derived, together with any interest that may accrue thereon. This Fund shall be separate and distinct from other funds of the State.

The State Literary Fund shall be faithfully appropriated and used exclusively for establishing and maintaining a uniform system of free public schools. (1955, c. 1372, art. 11, s. 1; 1971, c. 704, s. 11; c. 1096; 1981, c. 423, s. 1; 2009-451, s. 7.37(a).)

§ 115C-459. Terms of loans.

Loans made under the provisions of this Article shall be payable in 10 installments, shall bear interest at a uniform rate determined by the State Board of Education not to exceed eight percent (8%), payable annually, and shall be evidenced by the note of the county, executed by the chairman, the clerk of the board of county commissioners, and the chairman and secretary of the local board of education, and deposited with the State Treasurer. The first installment of such loan, together with the interest on the whole amount then due, shall be paid by the local board on the tenth day of February after the tenth day of August subsequent to the making of such loan, and the remaining installments, together with the interest, shall be paid on the tenth day of February of each subsequent year until all shall have been paid. (1955, c. 1372, art. 11, s. 2; 1971, c. 1094; 1981, c. 423, s. 1; 1983, c. 477.)

§ 115C-460: Repealed by Session Laws 2009-451, s. 7.37(c), effective July 1, 2009.

§ 115C-461: Repealed by Session Laws 2009-451, s. 7.37(c), effective July 1, 2009.

§ 115C-462: Repealed by Session Laws 2009-451, s. 7.37(c), effective July 1, 2009.

§ 115C-463: Repealed by Session Laws 2009-451, s. 7.37(c), effective July 1, 2009.

§ 115C-464: Repealed by Session Laws 2009-451, s. 7.37(c), effective July 1, 2009.

§ 115C-465: Repealed by Session Laws 2009-451, s. 7.37(c), effective July 1, 2009.

§ 115C-466: Repealed by Session Laws 2009-451, s. 7.37(c), effective July 1, 2009.

§ 115C-467: Repealed by Session Laws 2009-451, s. 7.37(c), effective July 1, 2009.

Article 32A.

Scholarship Loan Fund for Prospective Teachers.

§ 115C-468: Recodified as G.S. 116-209.33 by Session Laws 2005-276, s. 9.17(b), effective January 1, 2006, and applicable to scholarship loans awarded on or after that date.

§§ 115C-469, 115C-470: Repealed by Session Laws 2005-276, s. 9.17(b), effective January 1, 2006, and applicable to scholarship loans awarded on or after that date.

§ 115C-471: Recodified as G.S. 116-209.34 by Session Laws 2005-276, s. 9.17(b), effective January 1, 2006, and applicable to scholarship loans awarded on or after that date.

§ 115C-472: Repealed by Session Laws 1997-18, s. 11.

§ 115C-472.1: Repealed by Session Laws 2005-276, s. 9.17(b), effective January 1, 2006, and applicable to scholarship loans awarded on or after that date.

Article 32B.

Computer Loan Revolving Fund.

§ 115C-472.5: Repealed by Session Laws 2009-451, s. 7.36(a), effective July 1, 2009.

§§ 115C-472.6 through 115C-472.9. Reserved for future codification purposes.

Article 32C.

Fund for the Reduction of Class Size in Public Schools.

§ 115C-472.10: Repealed by Session Laws 2014-100, s. 8.11(g), effective July 1, 2014.

§ 115C-472.11: Reserved for future codification purposes.

§ 115C-472.12: Reserved for future codification purposes.

§ 115C-472.13: Reserved for future codification purposes.

§ 115C-472.14: Reserved for future codification purposes.

Article 32D.

Fund for Special Education and Related Services.

§ 115C-472.15: Repealed by Session Laws 2013-364, s. 6(a), effective July 1, 2013.

Article 32E.

North Carolina Education Endowment Fund.

§ 115C-472.16. Establishment of the North Carolina Education Endowment Fund.

(a) There is established the North Carolina Education Endowment Fund. The Fund shall be a special fund consisting of (i) moneys credited to it under G.S. 20-81.12 from the sale of "I Support Teachers" special registration plates; (ii) proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Fund; (iii) appropriations made to it by the General Assembly; and (iv) interest accrued to it thereon. Moneys in the Fund shall be available for expenditure only upon an act of appropriation by the General Assembly.

(b) The General Assembly shall only appropriate moneys in the North Carolina Education Endowment Fund for (i) the forgivable loans for the North Carolina Teaching Fellows Program, (ii) funds to provide mentoring and coaching support to North Carolina Teaching Fellows Program forgivable loan recipients through the North Carolina New Teacher Support Program, and (iii) administration of the North Carolina Teaching Fellows Program under Part 3 of Article 23 of Chapter 116 of the General Statutes. (2014-100, s. 8.11(a); 2017-57, s. 10A.3(f); 2018-5, s. 10A.2(c).)

Article 33.

Assumption of School District Indebtedness by Counties.

§ 115C-473. Method of assumption; validation of proceedings.

The county board of education, with the approval of the board of commissioners, and when the assumption of such indebtedness is approved at an election as hereinafter provided, if such election is required by the Constitution, may include in the debt service fund in the school budget all outstanding indebtedness for school purposes of every city, town, school district, school taxing district, township, city administrative unit or other political subdivision in the county, hereinafter collectively called "local districts," lawfully incurred in erecting and equipping school buildings necessary for the school term. The election on the question of assuming such indebtedness shall be called and held in accordance with the provisions of Chapter 159 of the General Statutes, known as "The Local Government Finance Act," insofar as the same may be made applicable, and the returns of such election shall be canvassed and a statement of the result thereof prepared, filed and published as provided in the Local Government Finance Act. No right of action or defense founded upon the invalidity of the election shall be asserted, nor shall the validity of the election be open to question in any court upon any ground whatever, except in an action or proceeding commenced within 30 days after the publication of such statement of result. When such indebtedness is taken over for payment by the county as a whole and the local districts are relieved of their annual payments, the county funds provided for such purpose shall be deducted from the debt service fund prior to the division of such fund among the schools of the county as provided in Article 31 of this Chapter.

The assumption, as herein provided, by any county, at any time prior to the 28th day of February, 1951, of the indebtedness of local districts for school purposes and all proceedings had in connection therewith are hereby in all respects ratified, approved, confirmed, and validated: Provided, that nothing herein shall prevent counties and local taxing districts from levying taxes to provide for the payment of their debt service requirements if they have not been otherwise provided for. (1955, c. 1372, art. 12, s. 1; 1981, c. 423, s. 1.)

§ 115C-474. Taxes levied and collected for bonds assumed to be paid into school debt service fund of county; discharge of sinking fund custodian.

In any county where the bonds of a local district have been assumed under the provisions of this Article, all taxes levied and collected for the purpose of paying the principal of and interest on said bonds, or for creating a sinking fund for the retirement of said bonds, shall be deposited in the school debt service fund of the county. The custodian of all moneys and other assets of a sinking fund created for the retirement of said bonds is hereby authorized to turn over such moneys and assets to the county treasurer, the county sinking fund commissioner or other county officer charged with the custodianship of sinking funds, and such custodian shall thereby be discharged from further responsibility for administration of and accounting for such sinking fund. (1955, c. 1372, art. 12, s. 2; 1981, c. 423, s. 1.)

§ 115C-475. Allocation to district bonds of taxes collected.

The collections of taxes levied for debt service on all taxable property of a county in which local district bonds have been assumed shall be proportionately allocated to each issue of such bonds. (1955, c. 1372, art. 12, s. 3; 1981, c. 423, s. 1.)

§§ 115C-476 through 115C-480. Reserved for future codification purposes.

Article 34.

Refunding and Funding Bonds of School Districts.

§ 115C-481. School district defined.

The term "school district" as used in this Article shall be deemed to include any special school taxing district, local tax district, special charter district, city administrative unit or other political subdivision of a county by which or on behalf of which bonds have been issued for erecting and equipping school buildings, or for refunding the same, and such bonds are outstanding. (1955, c. 1372, art. 13, s. 1; 1981, c. 423, s. 1.)

§ 115C-482. Continuance of district until bonds are paid.

Notwithstanding the provisions of any law which affect the continued existence of a school district or the levy of taxes therein for the payment of its bonds, such school district shall continue in existence with its boundaries unchanged from those established at the time of issuance of its bonds, unless such boundaries shall have been extended and thereby embrace additional territory subject to the levy of such taxes, until all of its outstanding bonds, together with the interest thereon, shall be paid. (1955, c. 1372, art. 13, s. 2; 1981, c. 423, s. 1.)

§ 115C-483. Funding and refunding of bonds authorized; issuance and sale or exchange; tax levy for repayment.

The board of commissioners of the county in which any such school district is located is hereby authorized to issue bonds at one time or from time to time for the purpose of refunding or funding the principal or interest of any bonds of such school district then outstanding. Such refunding or funding bonds shall be issued in the name of the school district and they may be sold or delivered in exchange for or upon the extinguishment of the obligations or indebtedness refunded or funded. Except as otherwise provided in this Article, such refunding and funding bonds shall be issued in accordance with the provisions of Chapter 159 of the General Statutes, the Local Government Finance Act. The tax-levying body or bodies authorized by law to levy taxes for the payment of the bonds, the principal or interest of which shall be refunded or funded, shall levy annually a special tax on all taxable property in such school district sufficient to pay the principal and interest of said refunding or funding bonds as the same become due. (1955, c. 1372, art. 13, s. 3; 1981, c. 423, s. 1.)

§ 115C-484. Issuance of bonds by cities and towns; debt statement; tax levy for repayment.

In case the governing body of any city or town is the body authorized by law to levy taxes for the payment of the bonds of such district, whether the territory embraced in such district lies wholly or partly within the corporate limits of such city or town, such governing body of such city or town is hereby authorized to issue bonds at the time or from time to time for the purpose of refunding or funding the principal or interest of any bonds then outstanding which were issued by or on behalf of such school district. Except as otherwise provided in this Article, such refunding and funding bonds shall be issued in accordance with the provisions of the Local Government Bond Act, relating to the issuance of refunding and funding bonds under that act, and the provisions of the Local Government Finance Act, except in the following respects:

(1) The bonds shall be issued in the name and on behalf of the school district by the governing body of such city or town.

(2) It shall not be necessary to include in the ordinance authorizing the bonds, or in the notice required to be published after the passage of the ordinance, any statement concerning the filing of a debt statement, and, as applied to said bonds, G.S. 159-54 and G.S. 159-55 (the Local Government Bond Act,) shall be read and understood as if they contained no requirements in respect to such matters.

(3) The governing body of such city or town shall annually levy and collect a tax ad valorem upon all the taxable property in such school district sufficient to pay the principal and interest of such refunding or funding bonds as the same become due. (1955, c. 1372, art. 13, s. 4; 1981, c. 423, s. 1.)

§§ 115C-485 through 115C-489. Reserved for future codification purposes.

Article 34A.

Critical School Facility Needs Fund.

§ 115C-489.1, 115C-489.2: Repealed by Session Laws 1995 (Reg. Sess., 1996), c. 631, s. 14, effective 30 days after the last school administrative unit on the priority list established in 1988 by the Commission on School Facility Needs is funded.

§ 115C-489.2. Repealed by Session Laws 1995 (Reg. Sess., 1996), c. 631, s. 14, effective 30 days after the last school administrative unit on the priority list established in 1988 by the Commission on School Facility Needs is funded.

§§ 115C-489.3 through 115C-489.4: Repealed by Session Laws 1995 (Regular Session, 1996), c. 631, s. 13.

Article 34B.

Qualified Zone Academy Bonds and Qualified School Construction Bonds.

§ 115C-489.5. Qualified zone academy bonds and qualified school construction bonds; findings.

The General Assembly finds:

(1) Section 226 of the Taxpayer Relief Act of 1997, as codified at 26 U.S.C. § 54E, provides funds for school improvements through taxable qualified zone academy bonds. Ninety-five percent (95%) or more of the proceeds of a qualified zone academy bond issue must be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency.

(2) Partnerships between private entities and local schools are promoted through the use of qualified zone academy bonds. Issuers must certify that they have received written commitments from one or more private entities to make qualified contributions valued at ten percent (10%) of the proceeds of the issue.

(2a) Section 1521, et seq., of the American Recovery and Reinvestment Tax Act of 2009 (ARRTA), enacted as 26 U.S.C. § 54F, provides a new source of funds for construction, rehabilitation, or repair of public school facilities or for acquisition of land for public school facilities through the issuance of qualified school construction bonds.

(3) Eligible taxpayers may receive federal tax credits for holding the qualified zone academy bonds or qualified school construction bonds. It is intended that the qualified zone academy bonds and qualified school construction bonds be sold at a price so that the tax credits received produce the economic equivalent of interest that otherwise would have been paid on the bonds. Therefore, issuers of qualified zone academy bonds or qualified school construction bonds are obligated to repay the principal amount of the qualified zone academy bonds or qualified school construction bonds but need not make interest payments.

(4) Applicable federal law limits the amount of qualified zone academy bonds and qualified school construction bonds that may be issued in North Carolina in a calendar year. The amount of qualified school construction bonds that may be issued in the State is divided between amounts specifically designated for identified local school districts pursuant to ARRTA ("local allocation") and amounts allocated to the entire State for use throughout the State ("statewide allocation"). (2000-69, s. 1; 2009-140, s. 1.)

§ 115C-489.6. Administration; consultation; issuance of bonds.

(a) QZAB Program. – The State Board of Education is designated the State education agency responsible for administering the qualified zone academy bond program in North Carolina for the purposes of 26 U.S.C. § 54E. The State Board of Education shall perform all activities required to implement and carry out the qualified zone activity bond program in North Carolina. Those activities include:

(1) Defining those areas and schools that are eligible under federal law to participate in the qualified zone academy bond program in North Carolina.

(2) Designing an application process under which proposals may be solicited from qualified zone academies.

(3) Determining the eligibility of an applicant to be a participating qualified zone academy.

(4) Awarding the State's allocation of total funds among selected applicants and establishing conditions upon the usage of the allocation. These conditions must include:

a. Ensuring that the bond proceeds be (i) used only for purposes listed in 26 U.S.C. § 54E and (ii) prioritized so as to be used first in counties determined to have greater economic distress, as determined pursuant to G.S. 143B-437.08, and for schools where seventy-five percent (75%) or more of the school's students are eligible to receive free or reduced lunch under the federal lunch program. The State Board of Education shall establish an application process and require any information necessary to enable the Board to accomplish the prioritization and efficient use of the bond proceeds in accordance with this subdivision.

b. Conditions designed to assure that the allocation is used in a timely manner.

(5) Confirming that the terms of any qualified zone academy bonds issued in accordance with this program are consistent with the terms of the federal program.

(a1) Qualified School Construction Bond Program. – The State Board of Education is designated the State education agency responsible for administering the statewide allocation of authority to issue qualified school construction bonds under 26 U.S.C. § 54F. The State Board of Education shall perform all activities required to implement and carry out the statewide allocation for the qualified school construction bond program in North Carolina. Those activities include:

(1) Designing an application process under which proposals may be solicited from issuers wishing to issue qualified school construction bonds pursuant to the statewide allocation.

(2) Awarding the State's allocation of total funds among selected applicants and establishing conditions upon the usage of the allocation. These conditions may include:

a. Requiring that the bond proceeds be used for purposes permitted under 26 U.S.C. § 54F.

b. Conditions designed to assure that the allocation is used in a timely manner and that the allocations are made in accordance with the requirements of federal statutes, regulations, and rulings.

(3) Confirming that the terms of any qualified school construction bonds issued in accordance with this program are consistent with the terms of the federal program.

(4) Acting as the State entity designated to receive notice from any local school district that it will not utilize its local allocation so that the unused resource will become part of the statewide allocation. Local school districts receiving a local allocation are hereby directed to coordinate the use of such allocation with the State Board of Education so that any local allocation that will not be used by the local school district becomes eligible for use as part of the statewide allocation.

(b) Assistance. – The Department of Public Instruction shall provide the State Board of Education any support it requires in carrying out this section.

(c) Consultation. – In reviewing applications and awarding allocations, the State Board of Education shall consult with the Local Government Commission to determine whether a prospective issuer of qualified zone academy bonds or qualified school construction bonds is able to issue or incur marketable obligations.

(d) Issuance of Bonds. – Any qualified zone academy bonds or qualified school construction bonds may be issued pursuant to the applicable provisions of and in compliance with the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes, or pursuant to the applicable provisions of and in compliance with G.S. 160A-20, to the extent authorized by G.S. 153A-158.1. As provided in G.S. 159-123(b), qualified zone academy bonds or qualified school construction bonds to be issued pursuant to the Local Government Bond Act may be sold by the Local Government Commission at private sale. (2000-69, s. 1; 2009-140, s. 1; 2017-187, s. 1.)

Article 35.

Voluntary Endowment Fund for Public Schools.

§ 115C-490. Creation of endowment funds; administration.

Any local board of education is hereby authorized and empowered upon the passage of a resolution to create and establish a permanent endowment fund which shall be financed by gifts, donations, devises, or other forms of voluntary contributions. Any endowment fund established under the provisions of this Article shall be administered by the members of such board of education who, ex officio, shall constitute and be known as "The Board of Trustees of the Endowment Fund of the Public Schools of _____ County or _____ City or Town" (in which shall be inserted the name of the county, city or town). The board of trustees so established shall determine its own organization and methods of procedure. (1961, c. 970; 1981, c. 423, s. 1; 2011-284, s. 77.)

§ 115C-491. Boards of trustees public corporations; powers and authority generally; investments.

Any board of trustees created and organized under this Article shall be a body politic, public corporation and instrumentality of government and as such may sue and be sued in matters relating to the endowment fund and shall have the power and authority to acquire, hold, purchase and invest in all forms of property, both real and personal, including, but not by way of limitation, all types of stocks, bonds, securities, mortgages and all types, kinds and subjects of investments of any nature and description. The board of trustees of said endowment fund may receive pledges, gifts, donations, devises, and may in its discretion retain such in the form in which they are made, and may use the same as a permanent endowment fund. The board of trustees of any endowment fund created hereunder shall have the power to sell any property, real, personal or choses in action, of the endowment fund, at either public or private sale. The board of trustees shall be responsible for the prudent investment of any funds or monies belonging to the endowment fund in the exercise of its sound discretion without regard to any statute or rule of law relating to the investment of funds by fiduciaries. (1961, c. 970; 1981, c. 423, s. 1; 2011-284, s. 78.)

§ 115C-492. Expenditure of funds; pledges.

It is not the intent that such endowment fund created hereunder shall take the place of State appropriations or any regular appropriations, tax funds or other funds made available by counties, cities, towns or local school administrative units for the normal operation of the public schools. Any endowment fund created hereunder, or the income from same, shall be used for the benefit of the public schools of the county, city or town involved and to supplement regular and normal appropriations to the end that the public schools may improve and increase their functions, may enlarge their areas of service and may become more useful to a greater number of people. The board of trustees in its discretion shall determine the objects and purposes for which the endowment fund shall be spent. Nothing herein shall be construed to prevent the board of trustees of any such endowment fund established hereunder from receiving pledges, gifts, donations, and devises and from using the same for such lawful school purposes as the donor or donors designate: Provided, always, that the administration of any such pledges, gifts, donations, and devises, or the expenditure of funds from same, will not impose any financial burden or obligation on the State of North Carolina or any subdivisions of government of the State. The board of trustees may, with the consent of the donor of any pledges, transfer and assign such pledges as security for loans. This consent by the donor may be made at the time of the pledge or at any time before said pledges are paid off in full. It is the purpose of this provision to enable the board of trustees to have the immediate use of funds which the donor may desire to pledge as payable over a period of years. (1961, c. 970; 1981, c. 423, s. 1; 2011-284, s. 79.)

§ 115C-493. When only income from fund expended.

Where the donor of said pledges, gifts, donations, and devises so provides, the board of trustees shall keep the principal of such gift or gifts intact and only the income therefrom may be expended. (1961, c. 970; 1981, c. 423, s. 1; 2011-284, s. 80.)

§ 115C-494. Property and income of board of trustees exempt from State taxation.

All property received, purchased, contributed or donated to the board of trustees for the benefit of any endowment fund created hereunder and all donations, gifts and devises received or otherwise administered for the benefit of said endowment fund, as well as the principal and income from said endowment fund, shall at all times be free from taxation, of any nature whatsoever, within the State. (1961, c. 970; 1981, c. 423, s. 1; 2011-284, s. 81.)

§§ 115C-495 through 115C-499. Reserved for future codification purposes.

Article 35A.

College Scholarships.

§ 115C-499.1. Definitions.

The following definitions apply to this Article:

(1) Academic year. – A period of time in which a student is expected to complete the equivalent of at least two semesters' or three quarters' academic work.

(2) Authority. – The State Education Assistance Authority created by Article 23 of Chapter 116 of the General Statutes.

(3) Eligible postsecondary institution. – A school that is:

a. A constituent institution of The University of North Carolina as defined in G.S. 116-2(4); or

b. A community college as defined in G.S. 115D-2(2).

c., d. Repealed by Session Laws 2011-145, s. 9.18(b), effective July 1, 2012.

(4) Matriculated status. – Being recognized as a student in a defined program of study leading to a degree, diploma, or certificate at an eligible postsecondary institution.

(5) Scholarship. – A scholarship for education awarded under this Article.

(6) Title IV. – Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. § 1070, et seq. (2005-344, s. 2; 2006-66, s. 9.19; 2006-221, s. 5B; 2006-259, s. 8(h); 2011-145, s. 9.18(b).)

§ 115C-499.2. Eligibility requirements for a scholarship.

In order to be eligible to receive a scholarship under this Article, a student seeking a degree, diploma, or certificate at an eligible postsecondary institution must meet all of the following requirements:

(1) Only needy North Carolina students are eligible to receive scholarships. For purposes of this subsection, "needy North Carolina students" are those eligible students whose expected family contribution under the federal methodology does not exceed five thousand dollars ($5,000).

(2) The student must meet all other eligibility requirements for the federal Pell Grant, with the exception of the expected family contribution.

(3) The student must qualify as a legal resident of North Carolina and as a resident for tuition purposes under the criteria set forth in G.S. 116-143.1 and in accordance with definitions of residency that may from time to time be adopted by the Board of Governors of The University of North Carolina.

(4) The student must meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status at an eligible postsecondary institution.

(5) In order to continue to be eligible for a scholarship for the student's second and subsequent academic years, the student must meet achievement standards by maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for federal Title IV programs by the eligible postsecondary institution in which the student is enrolled.

(6) Repealed by Session Laws 2013-360, s. 11.15(a), and applicable to the 2014-2015 academic year and each subsequent academic year. (2005-344, s. 2; 2013-360, s. 11.15(a); 2016-57, s. 2(e).)

§ 115C-499.2A. Semester limitation on eligibility for scholarship.

(a) Except as otherwise provided by subsection (c) of this section, a student with a matriculated status at a constituent institution of The University of North Carolina shall not receive a scholarship for more than 10 full-time academic semesters, or its equivalent if enrolled part-time, unless the student is enrolled in a program officially designated by the Board of Governors as a five-year degree program. If a student is enrolled in such a five-year degree program, then the student shall not receive a scholarship for more than 12 full-time academic semesters or the equivalent if enrolled part-time.

(b) Except as otherwise provided by subsection (c) of this section, a student with a matriculated status at a community college shall not receive a scholarship for more than six full-time academic semesters, or the equivalent if enrolled part-time.

(c) Upon application by a student, the appropriate postsecondary institution may grant a waiver to the student who may then receive a scholarship for the equivalent of one additional full-time academic semester if the student demonstrates that any of the following have substantially disrupted or interrupted the student's pursuit of a degree, diploma, or certificate: (i) a military service obligation, (ii) serious medical debilitation, (iii) a short-term or long-term disability, or (iv) other extraordinary hardship. The Board of Governors or the State Board of Community Colleges, as appropriate, shall establish

policies and procedures to implement the waiver provided by this subsection. (2013-360, s. 11.15(b).)

§ 115C-499.3. Scholarship amounts; amounts dependent on net income available.

(a) Subject to the amount of net income available under G.S. 18C-164(b)(2), a scholarship awarded under this Article to a student at an eligible postsecondary institution shall be based upon the enrollment status and expected family contribution of the student and shall not exceed four thousand dollars ($4,000) per academic year, including any federal Pell Grant, to be used for the costs of attendance as defined for federal Title IV programs.

(b) Subject to the maximum amounts provided in this section, the Authority shall have the power to determine the actual scholarship amounts disbursed to students in any given year based on the amount of funds appropriated from the Education Lottery Fund. If the net income available is not sufficient to fully fund the scholarships to the maximum amount, all scholarships shall be reduced equally, to the extent practicable, so that every eligible applicant shall receive a proportionate scholarship amount.

(c) The minimum award of a scholarship under this Article shall be one hundred dollars ($100.00). (2005-344, s. 2; 2005-276, s. 31.1(v); 2006-226, s. 22; 2013-360, s. 6.11(d).)

§ 115C-499.4. Scholarship administration; reporting requirements.

(a) The scholarships provided for in this Article shall be administered by the Authority under rules adopted by the Authority in accordance with the provisions of this Article.

(b) The Authority shall report no later than June 1, 2008, and annually thereafter to the Joint Legislative Education Oversight Committee. The report shall contain, for the previous academic year, the amount of scholarship and grant money disbursed, the number of students eligible for the funds, the number of eligible students receiving the funds, and a breakdown of the eligible postsecondary institutions that received the funds.

(c) The Authority may use up to one and one-half percent (1.5%) of the funds transferred in accordance with Chapter 18C of the General Statutes for administrative purposes.

(d) Scholarship funds unexpended shall remain available for future scholarships to be awarded under this Article.

(e) The State Education Assistance Authority shall report annually to the Joint Legislative Commission on Governmental Operations regarding the use of the funds allocated to the Authority under S.L. 2005-344. (2005-344, s. 2; 2005-276, s. 31.1(v1); 2006-259, s. 8(k); 2006-264, s. 91(d).)

SUBCHAPTER VIII. LOCAL TAX ELECTIONS.

Article 36.

Voted Tax Supplements for School Purposes.

§ 115C-500. Superintendents must furnish boundaries of special taxing districts.

It shall be the duty of superintendents to furnish tax listers at tax listing time the boundaries of each taxing district as provided in G.S. 115C-276(m). (1981, c. 423, s. 1.)

§ 115C-501. Purposes for which elections may be called.

(a) To Vote a Supplemental Tax. – Elections may be called by the local tax-levying authority to ascertain the will of the voters as to whether there shall be levied and collected a special tax in the several local school administrative units, districts, and other school areas, including districts formed from contiguous counties, to supplement the funds from State and county allotments and thereby operate schools of a higher standard by supplementing any item of expenditure in the school budget. When supplementary funds are authorized by the carrying of such an election, such funds may be used to employ additional teachers other than those allotted by the State, to teach any grades or subjects or for kindergarten instruction, to establish and maintain approved summer schools, to make the contribution to the Teachers' and State Employees' Retirement System of North Carolina for such teachers, or for any object of expenditure: Provided, that elections may be called to ascertain the will of the voters of an entire county, as to whether there shall be levied and collected a special tax on all the taxable property within the county for the purposes enumerated in this subsection. In such event, the supplemental tax shall be apportioned among the local school administrative units in the county pursuant to G.S. 115C-430.

(b) To Increase a Supplemental Tax Rate. – Elections may be called in any school area which has previously voted a supplemental tax of less than the maximum for the purpose of increasing the rate of tax previously voted but not to exceed the maximum.

(c) To Enlarge City Administrative Units. – Elections may be called in any districts, or other school areas, of a county administrative unit to ascertain the will of the voters in such districts or other school areas, as to whether an adjoining city administrative unit shall be enlarged by consolidating such districts, or other school areas, with such city administrative unit, and whether after such enlargement of the city administrative unit there shall be levied in such other districts, or other school area or areas, so consolidated with the city administrative unit the same school taxes as shall be levied in the other portion of the city administrative unit.

(d) To Supplement and Equalize Educational Advantages. – Elections may be called in any area of a county administrative unit which is enclosed in one common boundary line to ascertain the will of the voters as to whether there shall be levied and collected a special tax to supplement and equalize the standards on which the schools in such areas are operated, and at the same time repeal any special taxes heretofore voted by any parts of such area.

(e) To Abolish a Special School Tax. – Elections may be called in any local school administrative unit, district or other school area which has previously voted a supplemental tax, to ascertain the will of the people as to whether such tax shall be abolished.

(f) To Vote School Bonds. – Boards of county commissioners are authorized as provided by law to call elections to ascertain the will of the voters as to whether bonds for school purposes may be issued.

(g) To Provide a Supplemental Tax on a Countywide Basis after Petition for Consolidation of City or County Administrative Units. – Elections may be called for an entire county on the question of a special tax to supplement the funds from State and county allotments and thereby operate schools of a higher standard by supplementing any item of expenditure in the school budget, where the boards of education of all the city administrative units in said county have petitioned the county board of education for a consolidation with the county administrative unit pursuant to the provisions of the first paragraph of G.S. 115C-70(a) and prior to the approval of said petitions by the county and State boards of education. In which event, and provided the petitions so specify, if said election for a countywide supplemental tax fails to carry, said petitions may be withdrawn and any existing supplemental tax theretofore voted in any of the city administrative units involved or in the county administrative unit shall not be affected. If the vote for the countywide supplemental tax carries, said tax shall not be levied unless and until the consolidation of the units involved shall be completed according to the requirements of the first paragraph of G.S. 115C-70(a).

(h) To Annex or Consolidate Areas or Districts from Contiguous Counties and to Provide a Supplemental School Tax in Such Annexed Areas or Consolidated Districts. – An election may be called in any districts or other school areas, from contiguous counties, as to whether the districts in one county shall be enlarged by annexing or consolidating therewith any adjoining districts, or other school area or areas from an adjoining county, and if a special or supplemental school tax is levied and collected in the districts of the county to which the territory is to be annexed or consolidated, whether upon such annexation or consolidation there shall be levied and collected in the territory to be annexed or consolidated the same special or supplemental tax for schools as is levied and collected in the districts in the other county. If such election carries, the said special or supplemental tax shall be collected pursuant to G.S. 115C-511 and remitted to the local school administrative unit on whose behalf such special and supplemental tax is already levied.

(i) To Vote School Bonds and Taxes in Certain Merged School Administrative Units. – Elections for the purpose of authorizing the levy of certain taxes and the issuance of bonds shall be called by a merged school administrative unit described in G.S. 115C-513 with the consent of the boards of county commissioners of both counties in which the merged unit is located. The election shall be conducted and the results canvassed by the boards of elections of both counties. The boards of elections shall certify the results of the election to the board of education of the merged school administrative unit. The board of education shall certify and declare the result of the election, which shall be determined on an aggregate basis from the results certified by the boards of elections. The board of education shall publish a statement of the result once as provided in the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes.

(j) All elections called under this section shall be conducted in accordance with G.S. 163A-1592. (1955, c. 1372, art. 14, s. 1; 1957, c. 1066; c. 1271, s. 1; 1959, c. 573, s.

9; 1961, c. 894, s. 2; c. 1019, s. 1; 1975, c. 437, ss. 2-4; 1981, c. 423, s. 1; 1991, c. 325, s. 2; 2013-381, ss. 10.16, 10.17; 2017-6, s. 3.)

§ 115C-502. Maximum rate and frequency of elections.

(a) A tax for supplementing the public school budget shall not exceed fifty cents (50¢) on the one-hundred-dollar ($100.00) value of property subject to taxation by the local school administrative unit: Provided, that in any local school administrative unit, district, or other school area having a total population of not less than 100,000 said local annual tax that may be levied shall not exceed sixty cents (60¢) on one-hundred-dollars ($100.00) valuation of said property.

(b) If a majority of those who vote in any election called pursuant to the provisions of this Article do not vote in favor of the purpose for which such election is called, another election for the same purpose shall not be called for and held in the same local school administrative unit, district, or area until the lapse of six months after the prior election. However, the foregoing time limitation shall not apply to any election held in a local school administrative unit, district, or other school area which is larger or smaller than the local school administrative unit, district, or area in which the prior election was held, or to any election held for a different purpose than the prior election. (1955, c. 1231; c. 1372, art. 14, s. 2; 1957, c. 1271, s. 2; 1959, c. 573, s. 10; 1975, c. 437, s. 5; 1981, c. 423, s. 1.)

§ 115C-503. Who may petition for election.

Local boards of education may petition the board of county commissioners for an election in their respective local school administrative units or for any school areas therein.

A majority of the qualified voters who have resided for the preceding 12 months in an area which is adjacent to a city administrative unit may petition the county board of education for an election on the question of annexing such area to the city administrative unit. For any of the other purposes enumerated in G.S. 115C-501, twenty-five percent (25%) of the qualified voters who reside in a local school administrative unit may petition the local board of education for an election. (1955, c. 1372, art. 14, s. 3; 1961, c. 1019, s. 2; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 7.)

§ 115C-504. Necessary information in petitions.

The petition for an election shall contain such of the following information as may be pertinent to the proposed election:

(1) Purpose for calling the proposed election.

(2) A legally sufficient description of the area, by metes and bounds or otherwise, in which the election is requested.

(3) The maximum rate of tax which is proposed to be levied. This subdivision shall not apply to a petition for an election to enlarge a city administrative unit.

(4) If the petition is for an election to enlarge a city administrative unit, it shall state therein that, if a majority of those who shall vote in the area proposed to be consolidated with the city administrative unit shall vote in favor of such enlargement, such area shall be consolidated with the city administrative unit, effective July 1 next following such election, and that there shall thereafter be levied in such area so consolidated with the city administrative unit the same school taxes as shall be levied in the other portions of the city administrative unit, including any tax to provide for the payment of school bonds theretofore

issued by or for such city administrative unit or for all or some part of the school area annexed to such city administrative unit, unless payment of such bonds has otherwise been provided for.

(5) If the petition for an election is to supplement and equalize educational advantages, and if any school districts in the area in which it is proposed to vote such a tax have heretofore voted a supplementary tax, the petition and the notice of election shall state that in the event such election is carried, it will repeal all local taxes heretofore voted in any district except those in effect for debt service in any district, unless such debt service obligation is assumed by the county or otherwise provided for. (1955, c. 1372, art. 14, s. 4; 1957, c. 1271, ss. 3-5; 1981, c. 423, s. 1.)

§ 115C-505. Boards of education must consider petitions.

The board of education to whom the petition requesting an election is addressed shall receive the petition and give it due consideration. If, in the discretion of the board of education, the petition for an election shall be approved, it shall be endorsed by the chairman and the secretary of the board and a record of the endorsement shall be made in the minutes of the board. Petitions for an election to enlarge a city administrative unit shall be subject to the approval and endorsement of both county and city boards of education which are therein affected.

Local boards of education shall have no discretion in granting an election to abolish a special school tax in any local school administrative unit, or district, or other school area, which has previously voted a supplemental tax, whenever a majority of the qualified voters residing in said local school administrative unit, district or school area shall petition for an election. When such a petition, showing the proper number of names of qualified voters, is presented to a board of education, it is hereby made mandatory that such petition shall be granted and the election held. If at the election a majority of those in the district who have voted thereon have voted "against local tax," the tax shall be deemed revoked and shall not be levied: Provided, that in Alexander, Anson, Beaufort, Buncombe, Carteret, Catawba, Chatham, Chowan, Cleveland, Craven, Currituck, Davidson, Duplin, Franklin, Gates, Greene, Henderson, Hoke, Hyde, Iredell, Jackson, Johnston, Lenoir, Martin, Mecklenburg, Moore, Nash, Onslow, Pamlico, Pitt, Randolph, Richmond, Robeson, Rockingham, Transylvania, Vance, Wake, Warren and Wilkes Counties, petition of twenty-five percent (25%) of the number of voters in the election creating said special tax district, said petition to be signed by qualified voters residing in such special tax district, shall be sufficient.

The provisions of this section as to abolishing local tax districts shall not be applied when such local tax district is in debt in any sum whatever, or has obligated or committed its resources in any contractual manner: Provided, that no election for revoking a local tax in any local tax district shall be ordered and held in the district within less than one year from the date of the election at which the tax was voted and the district established, nor at any time within less than one year after the date of the last election on the question of revoking the tax in the district; and no petition seeking to revoke a school tax shall be approved by a board of education more often than once a year. (1955, c. 1372, art. 14, s. 5; 1957, c. 1100; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 24.)

§ 115C-506. Action of board of county commissioners or governing body of municipality.

Petitions requesting special school elections and bearing the approval of the board of education of the local school administrative unit shall be presented to the board of county commissioners,

and it shall be the duty of said board of county commissioners to call an election and fix the date for the same: Provided, that the board of education requesting the election may, for any reason deemed sufficient by said board which shall be specified and recorded in the minutes of the board, withdraw the petition by the twenty-fifth day before the election, and if the petition be so withdrawn, the election shall not be held unless by some other provision of law the holding of such election is mandatory. In the case of a city administrative unit in any incorporated city or town and formed from portions of contiguous counties, said petition shall be presented to the governing body of the city or town situated within, coterminous with, or embracing such city administrative unit, and the election shall be ordered by said governing body, and said governing body shall perform all the duties pertaining to said election performed by the board of county commissioners in elections held under this Article. (1955, c. 1372, art. 14, s. 6; 1959, c. 72; 1981, c. 423, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 9.)

§ 115C-507. Rules governing elections.

All elections under this Chapter shall be held and conducted by the appropriate county board of elections.

If the purpose of the election is to enlarge a city administrative unit, the notice of election shall include the following: a statement of the purpose of the election; a legal description of the area within which the election is to be held; and a statement that if a majority of those who shall vote in the area proposed to be consolidated with the city administrative unit shall vote in favor of such enlargement such area shall be consolidated with the city administrative unit, effective July 1 next following such election, and there shall thereafter be levied in such area so consolidated with the city administrative unit the same school taxes as shall be levied in the other portions of the city administrative unit, including any tax levy to provide for the payment of school bonds theretofore issued by or for such city administrative unit or for all or some part of the school area annexed to such city administrative unit, unless payment of such bonds has otherwise been provided for.

The notice of the election shall be given as provided in G.S. 163A-769(8) and in addition include a legal description of the area within which the election is to be held, and, if any additional tax is proposed to be levied, the maximum rate of tax to be levied which shall not exceed the maximum prescribed by this Article, and the purpose of the tax.

No new registration of voters is required, but the board of elections, in its discretion, may use either Method A or Method B set forth in G.S. 163A-1596 in activating the voters in the territory.

The ballot in such election shall contain the words "FOR local tax and AGAINST local tax" except when the election is held under subsection (c) of G.S. 115C-501, in which case the ballots shall contain the words "FOR enlargement of the ____ City Administrative Unit and school tax of the same rate," and "AGAINST enlargement of the ____ City Administrative Unit and school tax of the same rate."

The elections shall be held in accordance with the applicable provisions of Chapter 163 and the expense of the election shall be paid by the board of education of the administrative unit in which the election is held, provided that when territory is proposed to be added to a city administrative unit, that unit shall bear the expense.

No election held under this Article shall be open to question except in an action or proceeding commenced within 30 days after the board of elections has certified the results. (1955, c. 1372, art. 14, s. 7; 1957, c. 1271, ss. 6, 7; 1981, c. 423, s. 1; 2011-31, s. 11; 2017-6, s. 3.)

§ 115C-508. Effective date; levy of taxes.

(a) If, in any election authorized by this Article, a majority of the voters voting in such election vote in favor of the enlargement of a city administrative unit, such enlargement shall become effective July 1 next following such election; and thereafter there shall be levied and collected in the area consolidated with the city administrative unit the same school taxes as shall be levied in the other portions of the city administrative unit.

(b) If, in any election authorized by this Article, a majority of the voters voting in such election vote in favor of a supplemental tax, or in favor of the increase of a supplemental tax, or in favor of a tax to supplement and equalize educational advantages, the tax so authorized shall be levied and collected beginning with the fiscal year commencing July 1 next following such election. (1957, c. 1271, s. 8; 1981, c. 423, s. 1.)

§ 115C-509. Conveyance of school property upon enlargement of city administrative unit.

Before any election is called to enlarge a city administrative unit, if any school property is located in the area proposed to be consolidated with the city administrative unit, the board of education of such city administrative unit and the board of education of the county administrative unit concerned shall agree with each other as to the school property to be conveyed and transferred to the board of education of the city administrative unit if a majority of the voters voting in the election vote in favor of such enlargement. And, if such enlargement is authorized by such election, the board of education of the county administrative unit shall, within 10 days after July 1 next following such election, convey and transfer to the board of education of the city administrative unit the property so agreed to be conveyed and transferred. (1957, c. 1271, s. 8; 1981, c. 423, s. 1.)

§ 115C-510. Elections in districts created from portions of contiguous counties.

Districts already created and those that may be created from portions of two or more contiguous counties may hold elections under this Article to be incorporated or to vote a special local tax therein for the purposes enumerated in G.S. 115C-501.

Elections for either purpose must be initiated by petitions from the portion of each county included in the district, or the proposed district. In districts already created or proposed to be created, the petition must be signed by fifteen percent (15%) of the registered voters who reside in the area. When the petitions shall have been approved by each of the boards of education of such contiguous counties, they shall then be presented by each of said boards of education to their respective boards of county commissioners.

The boards of commissioners of each of the contiguous counties, in compliance with the provisions of this Article relating to the conduct of local tax elections, then shall call upon the county board of elections to hold an election in that portion of the proposed district lying in its county. Election returns shall be made from each portion of the proposed district to the board of commissioners ordering the election in that portion, and the returns shall be canvassed and recorded as required in this Article for local tax districts.

If a majority of the voters who vote thereon in each of the counties shall vote in favor of the tax, or for incorporation, the election shall be determined to have carried in the whole district, and

shall be so recorded in the records of the board of county commissioners in each county in which the district is located.

If the proposition submitted to the voters in the election is a question of incorporating the district, the ballots for this election shall have printed thereon the words "For Incorporation" and "Against Incorporation." If the election for incorporation is carried, the district is thereby incorporated and shall possess all the authority of incorporated districts.

In case the election carried in each portion of the proposed district, the several county boards of education concerned shall each pass a formal order consolidating the territory into one joint local tax district, which shall be and become a body corporate by the name and style of "_____Joint Local Tax School District of _____Counties." The county board of education having the largest school census and the largest area in the part of the joint local tax district lying in its county shall determine the location of the schoolhouse; but if the largest census and largest area do not both lie in the same county, then the county boards shall jointly select the site for the building; and in case of a disagreement they shall submit the question to a board of arbitration consisting of three members, one member to be named by each board of education if three counties are concerned, or if there are but two counties, then each board shall choose one member and the two so named shall select the third member. The decision of this board of arbitration shall be binding on all county boards of education concerned.

The building of all schoolhouses in such joint local tax districts shall be effected by the county board of education of the county in which the building is to be located under authority of law governing the erection of school buildings by county boards of education. It shall be lawful for the boards of education in the other county or counties to contribute to the cost of the building in proportion to the number of children shown by the official census to be resident within that part of the joint district lying within each county respectively. If the building is to be erected from moneys borrowed from the State Literary Fund or from county taxation, then each county board of education shall contribute to its construction in the proportion set out above and pay over its contribution to the treasurer of the county board having control of the erection of the building: Provided, it shall be lawful for the county board that controls the erection of the building to borrow from the State and lend to the district the full amount of the cost of the building in cases where the entire amount, or part of the amount, is to repaid by the district from district funds.

All district funds of a joint local tax district shall be kept distinct from all other funds, placed to the credit of the district, and expended as other local tax or district bond funds are lawfully disbursed.

The county board of education and county superintendent of schools of the county in which the schoolhouse is located shall have as full and ample control over the joint school and the district as it has in the case of other local tax districts, subject only to the limitations of this section.

All districts formed from portions of contiguous counties before the ratification of this Article are hereby authorized and empowered to exercise all the powers and privileges conferred by this Article. (1955, c. 1372, art. 14, s. 8; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, ss. 8, 24.)

§ 115C-511. Levy and collection of taxes.

(a) If a local school administrative unit or district has voted a tax to operate schools of a higher standard than that provided by State and county support, the board of county commissioners of each county in which the local school administrative unit is located is authorized to levy a tax on all property having a situs in the local school administrative unit for the purpose of supplementing the local current expense fund, the capital outlay fund, or both.

(b) Before April 15 of each year, the tax supervisor of each county in which the local school administrative unit is located shall certify to the superintendent of schools an estimate of the total assessed value of property in the county subject to taxation on behalf of the local school administrative unit and any districts therein pursuant to this Article. The board of education, in the budget it submits to the board of county commissioners, shall request the rate of ad valorem tax it wishes to have levied on its behalf as a school supplemental tax, not in excess of the rate approved by the voters. The board of county commissioners may approve or disapprove this request in whole or in part, and may levy such rate of supplemental tax as it may find to be in the best interests of the taxpayers and the public schools, not in excess of the rate requested by the board of education. Upon approving a supplemental tax levy pursuant to this section, the board of county commissioners shall cause the school supplemental tax to be computed for all property subject thereto. The taxes thus computed shall be shown separately on the county tax receipts for the fiscal year, and the county shall collect the school supplemental tax in the same manner that county taxes are collected. Collections shall be remitted to the local school administrative unit within 10 days after the close of each calendar month. Partial payments shall be proportionately divided between the county and the local school administrative unit. The board of county commissioners may, in its discretion, deduct from the proceeds of the school supplemental tax the actual additional cost to the county of levying, computing, billing, and collecting the tax.

(c) It shall be unlawful for any part of a tax levied pursuant to this Article to be used for any purpose other than those purposes authorized by the election in the unit or district. (1955, c. 1372, art. 14, s. 9; 1965, c. 584, s. 12; 1975, c. 437, s. 6; 1981, c. 423, s. 1.)

§ 115C-512. Expansion of existing supplemental school tax area pursuant to merger of school administrative units in certain counties.

(a) This section applies to:

(1) Counties that have three school administrative units located entirely within the county, only one of which units has a supplemental school tax in effect that is levied exclusively by the elected school board of the administrative unit.

(2) Counties that have three school administrative units, two of which are entirely within the county and one of which is located in more than one county.

(b) If a school administrative unit in a county to which this section applies merges with another school administrative unit in the county, and one of the merging units has previously voted a supplemental school tax that is in effect prior to and at the time of the merger, then the geographic area subject to the supplemental school tax in effect prior to the merger shall be expanded to include the entire geographic area encompassed by the new school administrative unit resulting from the merger. The levy and collection of and the expenditure of revenues from the tax shall be expanded as herein provided without approval of the voters of the geographic area directly affected by the merger, and shall be used for purposes provided in G.S. 115C-501(a).

(b1) If legislation is enacted providing for the merger of two school administrative units located entirely within a county described in subdivision (a)(2), and one of the merging units has previously voted a supplemental school tax that is in effect, then from July 1, 1991, and for two years following the effective date of the merger, the board of commissioners of the county in which the units are located may create a special tax district pursuant to this Article consisting of one of the merging units and may levy a supplemental school tax in that district at a rate that is different from the rate levied in the remainder of the merged unit. The tax levied in the special district may be levied without approval of the voters of the district but may not exceed the amount of the

supplemental school tax previously voted in one of the merged units. The supplemental school tax levied pursuant to this subsection may be used for any purpose for which a board of education may budget funds under Article 31 of Chapter 115C of the General Statutes.

(c) Notwithstanding levying authority in existence prior to the merger, the board of county commissioners shall, upon merger of the administrative units, have the exclusive authority to levy the supplemental tax expanded in accordance with this section, provided that the tax shall be levied at a rate not to exceed the rate of the supplemental school tax in effect prior to the merger of the school administrative units. (1989, c. 768, s. 1; 1991, c. 325, s. 1.)

§ 115C-513. Special tax for certain merged school administrative units.

(a) Scope. – This section applies to a merged school administrative unit that consists of one entire county and part of a second county and is composed of two merging units, one of which is located within one county and one of which is located partly in the same county as the first unit and partly in a second county. A merged school administrative unit to which this section applies may levy taxes as provided in this section to be applied to the payment of notes, bonds, or refunding bonds issued to finance capital costs of school facilities as described in G.S. 159-48.

(b) Issuance of Bonds. – The board of education of a merged school administrative unit may issue notes, bonds, or refunding bonds at one time or from time to time to pay the capital costs of school facilities as described in G.S. 159-48. The bonds shall be issued and maintained in accordance with the provisions of Articles 1, 4, 5A, 7, 9, 10, and 11 of Chapter 159 of the General Statutes, except as modified by this section.

The board of education of a merged school administrative unit shall call for a referendum authorizing the issuance of notes, bonds, and refunding bonds and the levy of a tax to pay amounts relating to these notes, bonds, or refunding bonds. The referendum may be called only with the consent of the boards of commissioners of both counties in which the merged school administrative unit is located. The referendum shall be held in the merged school administrative unit and only those qualified voters who reside in the unit may vote. The board of commissioners of each county shall have the referendum conducted by the board of elections of its county.

After issuance of the approved bonds, the merged school administrative unit shall make timely payments of principal and interest on the bonds after receipt of notification of its debt service obligation pursuant to G.S. 159-35. The provisions of G.S. 159-36 govern a failure by the merged school administrative unit to levy taxes or otherwise provide for payment of the debt.

Bonds, notes, and refunding bonds issued under this section shall be exempt from all State, county, and municipal taxation and assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding income taxes on the gain from the transfer of bonds, notes, and refunding bonds, and franchise taxes. The interest on bonds, notes, and refunding bonds is not subject to taxation as income.

Article 9 of the North Carolina Uniform Commercial Code, Chapter 25 of the General Statutes, does not apply to any security interest created in connection with the issuance of bonds under this section.

(c) Tax. – If a majority of the qualified voters of a merged school administrative unit voting on the question approve the issuance of bonds and levy of a tax as provided in this section, the board of education of the merged school administrative unit may levy a tax on all property having a situs in the merged school administrative unit for the purpose of retiring bonds issued by the unit under this section. Taxes levied pursuant to this section may be levied prior to the issuance of notes or bonds. The authority of a merged school administrative unit to levy a tax pursuant to this section terminates after all of the related notes, bonds, and refunding bonds are discharged or paid.

Before April 15 of each year, the tax assessor of each county in which the merged school administrative unit is located shall certify to the superintendent of schools an estimate of the total assessed value of property in the county subject to taxation on behalf of the merged school administrative unit pursuant to this Article. The board of education of the merged school administrative unit, in the budget it submits to each board of county commissioners, shall set the rate of ad valorem tax it levies as a tax under this section. The levy under this section shall be at the rate necessary to provide for payment of interest on and principal of outstanding notes, bonds, and refunding bonds issued by the merged school administrative unit.

Each county in which the merged school administrative unit is located shall compute and collect this tax in the same manner that county taxes are collected. The tax shall be shown separately on the tax receipts for the fiscal year. Collections shall be remitted to the merged school administrative unit within 10 days after the close of each calendar month. Partial payments shall be proportionally divided between the county collecting the tax and the merged school administrative unit. The board of commissioners of each county collecting the tax levied under this section may, in its discretion, deduct from the proceeds of the tax the actual additional cost to the county of computing, billing, and collecting the tax. (1991, c. 325, s. 3; 1995, c. 46, s. 4; 2015-264, s. 16(b).)

§ 115C-514. Reserved for future codification purposes.

§ 115C-515. Reserved for future codification purposes.

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SUBCHAPTER IX. PROPERTY.

Article 37.

School Sites and Property.

§ 115C-517. Acquisition of sites.

Local boards of education may acquire suitable sites for schoolhouses or other school facilities either within or without the local school administrative unit; but no school may be operated by a local school administrative unit outside its own boundaries, although other school facilities such as repair shops, may be operated outside the boundaries of the local school administrative unit. Whenever any such board is unable to acquire or enlarge a suitable site or right-of-way for a school,

school building, school bus garage or for a parking area or access road suitable for school buses or for other school facilities by gift or purchase, condemnation proceedings to acquire same may be instituted by such board under the provisions of Chapter 40A of the General Statutes, and the determination of the local board of education of the land necessary for such purposes shall be conclusive. (1955, c. 1335; c. 1372, art. 15, s. 1; 1957, c. 683; 1969, c. 516; 1971, c. 290; 1981, c. 423, s. 1; c. 1127, s. 78; 1995, c. 199, s. 1.)

§ 115C-518. Disposition of school property; easements and rights-of-way.

(a) When in the opinion of any local board of education the use of any building site or other real property or personal property owned or held by the board is unnecessary or undesirable for public school purposes, the local board of education may dispose of such according to the procedures prescribed in General Statutes, Chapter 160A, Article 12, or any successor provisions thereto. Provided, when any real property to which the board holds title is no longer suitable or necessary for public school purposes, the board of county commissioners for the county in which the property is located shall be afforded the first opportunity to obtain the property. The board of education shall offer the property to the board of commissioners at a fair market price or at a price negotiated between the two boards. If the board of commissioners does not choose to obtain the property as offered, the board of education may dispose of such property according to the procedure as herein provided. Provided that no State or federal regulations would prohibit such action. For the purposes of this section references in Chapter 160A, Article 12, to the "city," the "council," or a specific city official are deemed to refer, respectively, to the school administrative unit, the board of education, and the school administrative official who most nearly performs the same duties performed by the specified city official. A local board of education may also sell any property other than real property through the facilities of the North Carolina Department of Administration. The proceeds of any sale of real property or from any lease for a term of over one year shall be applied to reduce the county's bonded indebtedness for the school administrative unit disposing of such real property or for capital outlay purposes.

(b) In addition to the foregoing, local boards of education are hereby authorized and empowered, in their sound discretion, to grant easements to any public utility, municipality or quasi-municipal corporations to furnish utility services, with or without compensation except the benefits accruing by virtue of the location of the said public utility, and to dedicate portions of any lands owned by such boards as rights-of-way for public streets, roads or sidewalks, with or without compensation except the benefits accruing by virtue of the location or improvement of such public streets, roads or sidewalks.

(c) Any sale, exchange or lease of real or personal property by any local board of education prior to June 18, 1982, and pursuant to the authority of G.S. 115-126 is hereby validated, ratified and confirmed. (1955, c. 1372, art. 15, s. 2; 1959, c. 324; c. 573, s. 11; 1961, c. 395; 1975, c. 264; c. 879, s. 46; 1977, c. 803; 1981, c. 423, s. 1; 1981 (Reg. Sess., 1982), c. 1216; 1983, c. 731; 1985 (Reg. Sess., 1986), c. 975, s. 22.)

§ 115C-519. Deeds to property.

All deeds to school property shall, after registration, be delivered to the superintendent of the local school administrative unit in which the property is located and he shall provide a safe place for preserving all such deeds. (1955, c. 1372, art. 15, s. 3; 1981, c. 423, s. 1.)

§ 115C-520. Vehicles owned by boards of education.

All school buses, trucks, automobiles and other motor vehicles owned by local boards of education and used for transporting pupils to and from school or used by other school personnel in the performance of their work, shall be exempt from taxation, but all such vehicles shall be duly registered in the Division of Motor Vehicles as provided in G.S. 20-84. (1955, c. 1372, art. 15, s. 4; 1975, c. 716, s. 5; 1981, c. 423, s. 1.)

§ 115C-521. Erection of school buildings.

(a) It shall be the duty of local boards of education to provide classroom facilities adequate to meet the requirements of G.S. 115C-47(10) and 115C-301. Local boards of education shall submit their long-range plans for meeting school facility needs to the State Board of Education by January 1, 1988, and every five years thereafter. In developing these plans, local boards of education shall consider the costs and feasibility of renovating old school buildings instead of replacing them.

(b) It shall be the duty of the local boards of education to make provisions for the public school term by providing adequate school buildings equipped with suitable school furniture and apparatus. The needs and the cost of those buildings, equipment, and apparatus, shall be presented each year when the school budget is submitted to the respective tax-levying authorities. The boards of commissioners shall be given a reasonable time to provide the funds which they, upon investigation, shall find to be necessary for providing their respective units with buildings suitably equipped, and it shall be the duty of the several boards of county commissioners to provide funds for the same.

Upon determination by a local board of education that the existing permanent school building does not have sufficient classrooms to house the pupil enrollment anticipated for the school, the local board of education may acquire and use as temporary classrooms for the operation of the school, relocatable or mobile classroom units, whether built on the lot or not, which units and method of use shall meet the approval of the School Planning Division of the Department of Public Instruction, and which units shall comply with all applicable requirements of the North Carolina State Building Code and of the local building and electrical codes applicable to the area in which the school is located. These units shall also be anchored in a manner required to assure their structural safety in severe weather. The acquisition and installation of these units shall be subject in all respects to the provisions of Chapter 143 of the General Statutes. The provisions of Chapter 87, Article 1, of the General Statutes, shall not apply to persons, firms or corporations engaged in the sale or furnishing to local boards of education and the delivery and installation upon school sites of classroom trailers as a single building unit or of relocatable or mobile classrooms delivered in less than four units or sections.

(c) The building of all new school buildings and the repairing of all old school buildings shall be under the control and direction of, and by contract with, the board of education for which the building and repairing is done. If a board of education is considering building a new school building to replace an existing school building, the board shall not invest any construction money in the new building unless it submits to the State Superintendent and the State Superintendent submits to the North Carolina Historical Commission an analysis that compares the costs and feasibility of building the new

building and of renovating the existing building and that clearly indicates the desirability of building the new building. No board of education shall invest any money in any new building until it has (i) developed plans based upon a consideration of the State Board's facilities guidelines, (ii) submitted these plans to the State Board for its review and comments, and (iii) reviewed the plans based upon a consideration of the comments it receives from the State Board. No local board of education shall contract for more money than is made available for the erection of a new building. However, this subsection shall not be construed so as to prevent boards of education from investing any money in buildings that are being constructed pursuant to a continuing contract of construction as provided for in G.S. 115C-441(c). All contracts for buildings shall be in writing and all buildings shall be inspected, received, and approved by the local superintendent and the architect before full payment is made therefor. Nothing in this subsection shall prohibit boards of education from repairing and altering buildings with the help of janitors and other regular employees of the board.

In the design and construction of new school buildings and in the renovation of existing school buildings that are required to be designed by an architect or engineer under G.S. 133-1.1, the local board of education shall participate in the planning and review process of the Energy Guidelines for School Design and Construction that are developed and maintained by the Department of Public Instruction and shall adopt local energy-use goals for building design and operation that take into account local conditions in an effort to reduce the impact of operation costs on local and State budgets. In the design and construction of new school facilities and in the repair and renovation of existing school facilities, the local board of education shall consider the placement and design of windows to use the climate of North Carolina for both light and ventilation in case of power shortages. A local board shall also consider the installation of solar energy systems in the school facilities whenever practicable.

In the case of any school buildings erected, repaired, or equipped with any money loaned or granted by the State to any local school administrative unit, no board of education shall invest any money until it has (i) developed plans based upon a consideration of the State Board's facilities guidelines, (ii) submitted these plans to the State Board for its review and comments, and (iii) reviewed the plans based upon a consideration of the comments it receives from the State Board.

(c1) No local board of education shall apply for a certificate of occupancy for any new middle or high school building until the plans for the science laboratory areas of the building have been reviewed and approved to meet accepted safety standards for school science laboratories and related preparation rooms and stockrooms. The review and approval of the plans may be done by the State Board of Education or by any other entity that is licensed or authorized by the State Board to do so.

(d) Local boards of education shall make no contract for the erection of any school building unless the site upon which it is located is owned in fee simple by the board: Provided, that the board of education of a local school administrative unit, with the approval of the board of county commissioners, may appropriate funds to aid in the establishment of a school facility and the operation thereof in an adjoining local school

administrative unit when a written agreement between the boards of education of the administrative units involved has been reached and the same recorded in the minutes of the boards, whereby children from the administrative unit making the appropriations shall be entitled to attend the school so established.

In all cases where title to property has been vested in the trustees of a special charter district which has been abolished and has not been reorganized, title to the property shall be vested in the local board of education of the county embracing the former special charter district.

(e) The State Board of Education shall establish within the Department of Public Instruction a central clearinghouse for access by local boards of education that may want to use a prototype design in the construction of school facilities. The State Board shall compile necessary publications and a computer database to distribute information on prototype designs to local school administrative units. All architects and engineers registered in North Carolina may submit plans for inclusion in the computer database and these plans may be accessed by any person. The original architect of record or engineer of record shall retain ownership and liability for a prototype design. The State Board may adopt rules it considers necessary to implement this subsection.

(f) A local board of education may use prototype designs from the clearinghouse established under subsection (e) of this section that is a previously approved and constructed project by the School Planning Division of the Department of Public Instruction and other appropriate review agencies. The local board of education may contract with the architect of record to make changes and upgrades as necessary for regulatory approval.

(g) For prototype schools under this section, local boards of education shall be exempt from the designer selection procedure in Article 3D of Chapter 143 of the General Statutes and may enter into an agreement with the original design professional of the prototype to supply design services for future construction of the prototype school.

(h) Each local board of education shall adopt a policy governing change orders to any construction or repair work for which a contract has been awarded in accordance with G.S. 143-128, 143-128.1, 143-128.1A, 143-128.1B, 143-128.1C, or 143-129. The policy shall address, at a minimum, all of the following:

(1) The process by which a proposed change order is submitted by the contractor for approval, including any request for expedited review.

(2) The individual or individuals with responsible authority for approving change orders of a particular category of work or amount, or a combination thereof, and the corresponding descriptions and dollar limits.

(3) The process by which any change order that must be reviewed and approved by the local board is submitted to the local board.

(4) The process by which the local board is notified of all change orders submitted to the individual or individuals identified with responsible authority to approve those orders, and the resulting actions taken. (1955, c. 1372, art. 15, ss. 5-7; 1969, c. 1022, s. 1; 1981, c. 423, s. 1; c. 638, s.

1; 1983, c. 761, s. 93; 1985, c. 783, s. 3; 1987, c. 622, s. 14; 1993, c. 416, s. 1; c. 465, s. 1; 1993 (Reg. Sess., 1994), c. 775, s. 6; 1995, c. 8, s. 1; 1996, 2nd Ex. Sess., c. 18, ss. 18.17(c), (d); 1997-222, s. 3; 1997-236, s. 1; 2009-59, s. 3; 2013-401, s. 7; 2016-58, s. 1; 2016-126, 4th Ex. Sess., s. 24.)

§ 115C-521.1. Building standards for preschool students.

A public school that voluntarily applies for a child care facility license may use an existing or newly constructed classroom in a public school for three- and four-year-old preschool students without modifications to the classroom or building if the classroom:

(1) Has at least one toilet and one sink for hand washing;
(2) Meets kindergarten standards for overhead light fixtures;
(3) Meets kindergarten standards for floors, walls, and ceilings; and
(4) Has floors, walls, and ceilings that are free from mold, mildew, and lead hazards.

A public school that voluntarily applies for a child care facility license shall meet all other requirements for child care facility licensure. (2009-123, s. 1.)

§ 115C-521.2: Repealed by Session Laws 2017-4, s. 1, effective March 30, 2017.

§ 115C-522. Provision of equipment for buildings.

(a) It shall be the duty of local boards of education to purchase or exchange all supplies, equipment, and materials, and these purchases shall be made in accordance with Article 8 of Chapter 143 of the General Statutes. These purchases may be made from contracts made by the Department of Administration. Title to instructional supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense fund budget and purchased out of State funds, shall be taken in the name of the local board of education which shall be responsible for the custody and replacement: Provided, that no contracts shall be made by any local school administrative unit for purchases unless provision has been made in the budget of the unit to pay for the purchases, unless surplus funds are on hand to pay for the purchases, or unless the contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-528 and adequate funds are available to pay in the current fiscal year the sums obligated for the current fiscal year. The State Board of Education shall adopt rules regarding equipment standards for supplies, equipment, and materials related to student transportation. The State Board may adopt guidelines for any commodity that needs safety features. If a commodity that needs safety features is available on statewide term contract, any guidelines adopted by the State Board must at a minimum meet the safety standards of the statewide term contract. Compliance with Article 8 of Chapter 143 of the General Statutes is not mandatory for the purchase of published books, manuscripts, maps, pamphlets, and periodicals.

(1) Where competition is available, local school administrative units may utilize the:

a. E-Quote service of the NC E-Procurement system as one means of solicitation in seeking informal bids for purchases subject to the bidding requirements of G.S. 143-131; and

b. Division of Purchase and Contract's electronic Interactive Purchasing System as one means of advertising formal bids on purchases subject to the bidding requirements of G.S. 143-129 and applicable rules regarding advertising. This sub-subdivision does not prohibit a local school administrative unit from using other methods of advertising.

(2) In order to provide an efficient transition of purchasing procedures, the Secretary of the Department of Administration and the local school administrative units shall establish a local school administrative unit purchasing user group. The user group shall be comprised of a proportionate number of representatives from the Department of Administration and local school administrative unit purchasing and finance officers. The user group shall examine any issues that may arise between the Department of Administration and local school administrative units, including the new relationship between the Department and the local school administrative units, the appropriate exchange of information, the continued efficient use of E-Procurement, appropriate bid procedures, and any other technical assistance that may be necessary for the purchase of supplies and materials.

(b) It shall be the duty of the local boards of education to provide suitable school furniture and apparatus, as provided in G.S. 115C-521(b).

(c) It shall be the duty of local boards of education and tax-levying authorities to provide suitable supplies for the school buildings under their jurisdictions. These shall include, in addition to the necessary instructional supplies, proper window shades, blackboards, reference books, library equipment, maps, and equipment for teaching the sciences.

Likewise, it shall be the duty of said boards of education and boards of county commissioners to provide every school with a good supply of water, approved by the Department of Environmental Quality, and where such school cannot be connected to water-carried sewerage facilities, there shall be provided sanitary privies for the boys and for the girls according to specifications of the Commission for Public Health. Such water supply and sanitary privies shall be considered an essential and necessary part of the equipment of each public school and may be paid for in the same manner as desks and other essential equipment of the school are paid for. (1955, c. 1352, art. 5, s. 35; art. 15, s. 8; 1965, c. 840; 1973, c. 476, s. 128; 1981, c. 423, s. 1; 1985, c. 436, s. 2; 1989, c. 727, s. 219(33); 1995 (Reg. Sess., 1996), c. 716, s. 13; 1997-443, s. 11A.51; 1998-194, s. 2; 2003-147, s. 1; 2004-199, s. 29(a); 2004-203, s. 72(b); 2007-182, s. 2; 2015-241, s. 14.30(u).)

§ 115C-522.1: Repealed by Session Laws 2003-147, s. 2, effective for a local school administrative unit when the unit is certified as being E-Procurement compliant, or April 1, 2004, whichever is first.

§ 115C-523. Care of school property.

It shall be the duty of every teacher and principal in charge of school buildings to instruct the children in the proper care of public property, and it is their duty to exercise due care in the protection of school property against damage, either by defacement of the walls and doors or any breakage on the part of the pupils, and if they shall fail to exercise a reasonable care in the protection of property during the day, they may be held financially responsible for all such damage, and if the damage is due to carelessness or negligence on the part of the teachers or principal, the superintendent may hold those in charge of the building responsible for the damage, and if it is not repaired before the close of a term, a sufficient amount may be deducted from their final vouchers to repair the damage for which they are responsible.

Notwithstanding any other provision of law, the parents or legal guardians of any minor are liable for any gross negligence or willful damage or destruction of school property by that minor to the extent of five thousand dollars ($5,000). The Board of Education shall make written demand upon the parent or legal guardian as a prerequisite to bringing suit.

It shall be the duty of all principals to report immediately to their respective superintendents any unsanitary condition, damage to school property or needed repair. (1955, c. 1372, art. 17, s. 7; 1981, c. 423, s. 1; 1985, c. 581, s. 4.)

§ 115C-524. Repair of school property; use of buildings for other than school purposes.

(a) Repair of school buildings is subject to the provisions of G.S. 115C-521(c) and (d).

(a1) Local boards of education may employ personnel who are licensed to perform maintenance and repairs on school property for plumbing, heating, and fire sprinklers pursuant to Article 2 of Chapter 87 of the General Statutes.

(b) It shall be the duty of local boards of education and tax-levying authorities, in order to safeguard the investment made in public schools, to keep all school buildings in good repair to the end that all public school property shall be taken care of and be at all times in proper condition for use. It shall be the duty of all principals, teachers, and janitors to report to their respective boards of education immediately any unsanitary condition, damage to school property, or needed repair. All principals, teachers, and janitors shall be held responsible for the safekeeping of the buildings during the school session and all breakage and damage shall be repaired by those responsible for same, and where any principal or teacher shall permit damage to the public school buildings by lack of proper discipline of pupils, such principal or teacher shall be held responsible for such damage: Provided, principals and teachers shall not be held responsible for damage that they could not have prevented by reasonable supervision in the performance of their duties.

(c) Notwithstanding the provisions of G.S. 115C-263 and 115C-264, local boards of education may adopt rules and regulations under which they may enter into agreements permitting non-school groups to use school real and personal property, except for school buses, for other than school purposes so long as such use is consistent with the proper preservation and care of the public school property. No liability shall attach to any board

of education or to any individual board member for personal injury suffered by reason of the use of such school property pursuant to such agreements.

(d) Local boards of education may make outdoor school property available to the public for recreational purposes, subject to any terms and conditions each board deems appropriate, (i) when not otherwise being used for school purposes and (ii) so long as such use is consistent with the proper preservation and care of the outdoor school property. No liability shall attach to any board of education or to any individual board member for personal injury suffered by reason of the use of such school property. (1955, c. 1372, art. 15, s. 9; 1957, c. 684; 1963, c. 253; 1981, c. 423, s. 1; 1985 (Reg. Sess., 1986), c. 975, s. 23; 1991 (Reg. Sess., 1992), c. 900, s. 79(a); 2015-64, s. 1; 2016-105, s. 4.)

§ 115C-525. Fire prevention.

(a) Duty of Principal Regarding Fire Hazards. – The principal of every public school in the State shall have the following duties regarding fire hazards during periods when he is in control of a school:

(1) Every principal shall make certain that all corridors, halls, and tower stairways which are used for exits shall always be kept clear and that nothing shall be permitted to be stored or kept in corridors or halls, or in, on or under stairways that could in any way interfere with the orderly exodus of occupants. The principal shall make certain that all doors used for exits shall be kept in good working condition. During the occupancy of the building or any portion thereof by the public or for school purposes, the principal shall make certain that all doors necessary for prompt and orderly exodus of the occupants are kept unlocked.

(2) Every principal shall make certain that no electrical wiring shall be installed within any school building or structure or upon the premises and that no alteration or addition shall be made in any existing wiring, except with the authorization of the superintendent. Any such work shall be performed by a licensed electrical contractor, or by a maintenance electrician regularly employed by the board of education and approved by the Commissioner of Insurance.

(3) Every principal shall make certain that combustible materials necessary to the curriculum and for the operation of the school shall be stored in a safe and orderly manner.

(4) Every principal shall make certain that all supplies, such as oily rags, mops, etc., which may cause spontaneous combustion, shall be stored in an orderly manner in a well-ventilated place.

(5) Every principal shall make certain that all trash and rubbish shall be removed from the school building daily. No trash or rubbish shall be permitted to accumulate in a school attic, basement or other place on the premises.

(6) Every principal shall cooperate in every way with the authorized building inspector, electrical inspector, county fire marshal or other designated person making the inspections required by G.S. 115C-525(b).

It shall further be the duty of the principal to bring to the attention of the local superintendent of schools the failure of the building inspector, electrical inspector, county fire marshal, or other person to make the inspections required by G.S. 115C-525(b). It shall further be the duty of the principal to call to the attention of the superintendent of schools all recommendations growing out of the inspections, in order that the proper authorities can take steps to bring about the necessary corrections.

(b) Inspection of Schools for Fire Hazards; Removal of Hazards. – Every public school building in the State shall be inspected a minimum of two times during the year in accordance with the following plan: Provided, that the periodic inspections herein required shall be at least 120 days apart:

(1) Each school building shall be inspected to make certain that none of the fire hazards enumerated in G.S. 115C-525(a)(1) through (5) exist, and to ensure that the building and all heating, mechanical, electrical, gas, and other equipment and appliances are properly installed and maintained in a safe and serviceable manner as prescribed by the North Carolina Building Code. Following each inspection, the persons making the inspection shall furnish to the principal of the school a written report of conditions found during inspection, upon forms furnished by the Commissioner of Insurance, and the persons making the inspection shall also furnish a copy of the report to the superintendent of schools; the superintendent shall keep such copy on file for a period of three years. In addition to the periodic inspections herein required, any alterations or additions to existing school buildings or to school building utilities or appliances shall be inspected immediately following completion.

(2) The board of county commissioners of each county shall designate the persons to make the inspections and reports required by subdivision (1) of this subsection. The board may designate any city or county building inspector, any city or county fire prevention bureau, any city or county electrical inspector, the county fire marshal, or any other qualified persons, but no person shall make any inspection unless he shall be qualified as required by G.S. 153A-351.1 and Section 7 of Chapter 531 of the 1977 Session Laws. Nothing in this section shall be construed as prohibiting two or more counties from designating the same persons to make the inspections and reports required by subdivision (1) of this subsection. The board of county commissioners shall compensate or provide for the compensation of the persons designated to make all such inspections and reports. The board of county commissioners may make appropriations in the general fund of the county to meet the costs of such inspections, or in the alternative the board may add appropriations to the school current expense fund to meet the costs thereof: Provided, that if appropriations are added to the school current expense fund, such

appropriations shall be in addition to and not in substitution of existing school current expense appropriations.

(3) It shall be the duty of the Commissioner of Insurance, the Superintendent of Public Instruction, and the State Board of Education to prescribe any additional rules and regulations which they may deem necessary in connection with such inspections and reports for the reduction of fire hazards and protection of life and property in public schools.

(4) It shall be the duty of each principal to make certain that all fire hazards called to his attention in the course of the inspections and reports required by subdivision (1) of this subsection are immediately removed or corrected, if such removal or correction can be accomplished by the principal. If such removal or correction cannot be accomplished by the principal, it shall be the duty of the principal to bring the matter to the attention of the superintendent.

(5) It shall be the duty of each superintendent of schools to make certain that all fire hazards called to his attention in the course of the inspections and reports required by subdivision (1) of this subsection and not removed or corrected by the principals as required by subdivision (4) of this subsection are removed or corrected, if such removal or correction can be brought about within the current appropriations available to the superintendent. Where any removal or correction of a hazard will require the expenditure of funds in excess of current appropriations, it shall be the duty of the superintendent to bring the matter to the attention of the appropriate board of education, and the board of education in turn shall bring the same to the attention of the board of county commissioners, in order that immediate steps be taken, within the framework of existing law, to remove or correct the hazard.

(c) Liability for Failure to Perform Duties Imposed by G.S. 115C-288(d) and 115C-525(a) or 115C-525(b). – Any person willfully failing to perform any of the duties imposed by G.S. 115C-288(d), 115C-525(a) or 115C-525(b) shall be guilty of a Class 3 misdemeanor and shall only be fined not more than five hundred dollars ($500.00) in the discretion of the court. (1957, c. 844; 1959, c. 573, s. 14; 1981, c. 423, s. 1; 1989, c. 681, s. 12; 1993, c. 539, s. 892; 1994, Ex. Sess., c. 24, s. 14(c); 2009-570, s. 40.)

§ 115C-526. Reward for information leading to arrest of persons damaging school property.

Local boards of education are authorized and empowered to offer and pay rewards in an amount not exceeding three hundred dollars ($300.00) for information leading to the arrest and conviction of any persons who willfully deface, damage, destroy or commit acts of vandalism or larceny of, the property belonging to the public school system under the jurisdiction of and administered by any local board of education. (1967, c. 369; 1973, c. 1216; 1975, c. 437, s. 7; 1981, c. 423, s. 1.)

§ 115C-527. Use of schools and other public buildings for political meetings.

The governing authority having control over schools or other public buildings which have facilities for group meetings, or where polling places are located, is hereby authorized and directed to permit the use of such buildings without charge, except custodial and utility fees, by political parties, as defined in G.S. 163A-950, for the express purpose of annual or biennial precinct meetings and county and district conventions: Provided, that the use of such buildings by political parties shall not be permitted at times when school is in session or which would interfere with normal school activities or functions normally carried on in such school buildings, and such use shall be subject to reasonable rules and regulations of the school boards and other governing authorities. (1975, c. 465; 1981, c. 423, s. 1; 1983, c. 519, ss. 1, 2; 2017-6, s. 3.)

§ 115C-528. Lease purchase and installment purchase contracts for certain equipment.

(a) Local boards of education may purchase or finance the purchase of automobiles; school buses; mobile classroom units; food service equipment, photocopiers; athletic lighting; and computers, computer hardware, computer software, and related support services by lease purchase contracts and installment purchase contracts as provided in this section. Computers, computer hardware, computer software, and related support services purchased under this section shall meet the technical standards specified in the North Carolina Instructional Technology Plan as developed and approved under G.S. 115C-102.6A and G.S. 115C-102.6B.

(b) A lease purchase contract under this section creates in the local board the right to possess and use the property for a specified period of time in exchange for periodic payments and shall include either an obligation or an option to purchase the property during the term of the contract. The contract may include an option to upgrade the property during the term. A local board may exercise an option to upgrade without rebidding the contract.

(c) An installment purchase contract under this section creates in the property purchased a security interest to secure payment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(d) The term of a contract entered into under this section shall not exceed the useful life of the property purchased. An option to upgrade shall be considered in determining the useful life of the property.

(e) A contract entered into under this section shall be considered a continuing contract for capital outlay and subject to G.S. 115C-441(c1).

(f) A contract entered into under this section is subject to Article 8 of Chapter 159 of the General Statutes, except for G.S. 159-148(a)(4) and (b)(2). For purposes of determining whether the standards set out in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar ($500,000) threshold shall apply.

(g) Subsections (e) and (f) of this section shall not apply to contracts entered into under this section so long as the term of each contract does not exceed three years and the total amount financed during any three-year period is no greater than two hundred fifty thousand dollars ($250,000) or is no greater than three times the local board's annual State allocation for classroom materials, equipment, and instructional supplies, whichever is less.

The local board shall submit information, including the principal and interest paid and the amount of outstanding obligation, concerning these contracts as part of the annual budget it submits to its board of county commissioners under Article 31 of this Chapter.

(h) No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a local board to:

(1) Continue to provide a service or activity; or

(2) Replace or provide a substitute for any property financed or purchased by the contract.

(i) No deficiency judgment may be rendered against any local board of education or any unit of local government, as defined in G.S. 160A-20(h), in any action for breach of a contractual obligation authorized by this section, and the taxing power of a unit of local government is not and may not be pledged directly or indirectly to secure any moneys due under a contract authorized by this section. (1995 (Reg. Sess., 1996), c. 716, s. 14; 1997-236, s. 4; 2007-519, s. 1; 2014-100, s. 8.38.)

§ 115C-529. Useful life guidelines.

The Department of Information Technology shall develop and annually revise guidelines for determining the useful life of computers purchased under G.S. 115C-528. The Division of Purchase and Contract shall develop and periodically revise guidelines for determining the useful life of automobiles, school buses, and photocopiers purchased under G.S. 115C-528. The Local Government Commission shall develop and periodically revise guidelines for determining the useful life of mobile classroom units purchased under G.S. 115C-528. Guidelines for computers and photocopiers shall include provisions for upgrades during the term of the contract. The Department of Information Technology, the Division of Purchase and Contract, and the Local Government Commission shall provide their respective guidelines to the State Board of Education by November 1, 1996. The State Board of Education shall provide the guidelines to local boards of education by January 1, 1997. (1995 (Reg. Sess., 1996), c. 716, s. 15; 2004-129, s. 34; 2015-241, s. 7A.4(i).)

§ 115C-530. Operational leases of school buildings and school facilities.

(a) Local boards of education may enter into operational leases of real or personal property for use as school buildings or school facilities. Operational leases for terms of less than three years shall not be subject to the approval of the board of county commissioners. Operational leases for terms of three years or longer, including periods that may be added to the original term through the exercise of options to renew or extend, are permitted if all of the following conditions are met:

(1) The budget resolution includes an appropriation authorizing the current fiscal year's portion of the obligation.

(2) An unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the lease for the current fiscal year.

(3) The leases are approved by a resolution adopted by the board of county commissioners. If an operational lease is approved by the board of county

commissioners, in each year the county commissioners shall appropriate sufficient funds to meet the amounts to be paid during the fiscal year under the lease.

(4) Any construction, repair, or renovation of the property is in compliance with the requirements of G.S. 115C-521(c) relating to energy guidelines.

For purposes of this section, an operational lease is defined according to generally accepted accounting principles and may be for new or existing buildings.

(b) Local boards of education may enter into contracts for the construction, repair, or renovation of leased property if (i) the budget resolution includes an appropriation authorizing the obligation, (ii) an unencumbered balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current fiscal year, and (iii) the construction, repair, or renovation is in compliance with the requirements of G.S. 115C-521(c) relating to energy guidelines. Construction, repair, or renovation work undertaken or contracted by a private developer is subject to the requirements of Article 8 of Chapter 143 of the General Statutes. Contracts for new construction and renovation that are subject to the bidding requirements of G.S. 143-129(a) and which do not constitute continuing contracts for capital outlay must be approved by the board of county commissioners.

(c) Operational leases and contracts entered into under this section are subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if they meet the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and 159-148(a)(3). For purposes of determining whether the standards set out in G.S. 159-148(a)(3) have been met, only the five hundred thousand dollar ($500,000) threshold shall apply. (1997-236, s. 2; 2010-196, s. 3.)

§ 115C-531. Repealed by Session Laws 2006-232, s. 3, as amended by Session Laws 2011-234, s. 1, effective July 1, 2015.

§ 115C-532: Repealed by Session Laws 2006-232, s. 3, as amended by Session Laws 2011-234, s. 1, effective July 1, 2015.

Article 38.

State Insurance of Public School Property.

§ 115C-533. Duty of State Board to operate insurance system.

The State Board of Education shall have the duty to manage and operate a system of insurance for public school property. The State Board may offer a system of property insurance to any charter schools approved pursuant to G.S. 115C-218.5. (1955, c. 1372, art. 2, s. 2; 1957, c. 541, s. 11; 1961, c. 969; 1963, c. 448, ss. 24, 27; c. 688, ss. 1, 2; c. 1223, s. 1; 1965, c. 1185, s. 2; 1967, c. 643, s. 1; 1969, c. 517, s. 1; 1971, c. 704, s. 4; c. 745; 1973, c. 476, s. 138; c. 675; 1975, c. 699, s. 2; c. 975; 1979, c. 300, s. 1; c. 935; 1981, c. 423, s. 1; 2014-100, s. 8.10; 2014-101, s. 7.)

§ 115C-534. Duty to insure property.

(a) The board of every local school administrative unit in the public school system of this State, in order to safeguard the investment made in public schools, shall:

(1) Insure and keep insured to the extent of not less than seventy-five percent (75%) of the current insurable value as determined by the insurer and the insured of each of its insurable buildings against fire, lightning and the perils embraced in extended coverage.

(2) Insure and keep insured adequately the equipment and contents of said building.

(b) The tax-levying authority for each local school administrative unit shall appropriate funds necessary for compliance with the provisions of subsection (a).

(c) Willful failure to comply with the provisions of (a) and (b) above, is declared a Class 3 misdemeanor. Every 24 hours without such insurance constitutes a separate offense. (1957, c. 1040; 1981, c. 423, s. 1; 1993, c. 539, s. 893; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 115C-535. Authority and rules for organization of system.

The Superintendent of Public Instruction is hereby authorized, directed and empowered to establish a division to manage and operate a system of insurance for public school property in accordance with all needed rules and regulations adopted by the State Board of Education. The Board shall adopt such rules and regulations as, in its discretion, may be necessary to provide all details inherent in the insurance of public school property. The Superintendent of Public Instruction shall employ a director, safety inspectors, engineers and other personnel with suitable training and experience, which in his or her opinion is necessary to insure and protect effectively public school property, and he or she shall fix their compensation consistent with the policies of the State Human Resources Commission. (1955, c. 1372, art. 16, s. 1; 1981, c. 423, s. 1; 2016-126, 4th Ex. Sess., s. 25.)

§ 115C-536. Public School Insurance Fund; decrease of premiums when fund reaches five percent of total insurance in force.

There shall be set up in the books of the State Treasurer a fund to be known and designated as the "Public School Insurance Fund," which fund hereafter in G.S. 115C-535 to 115C-542 is referred to as "the Fund." In order to provide adequate reserves against losses which may be incurred on account of the risks insured against as provided in G.S. 115C-535 to 115C-542 and to provide payment for such losses as may be incurred therein, there is hereby appropriated to the Fund the sum of two million dollars ($2,000,000), which shall be paid from and charged to the State Literary Fund as set up and defined in this Chapter. When the reserves in the Fund shall be increased by the payment of premiums by the governing boards of local school administrative school units, or otherwise, to the extent of one million dollars ($1,000,000), there shall be transferred from the Fund back to the State Literary Fund the sum of one million dollars ($1,000,000) and when the Fund shall again be increased to the extent of another one million dollars ($1,000,000), there shall be transferred therefrom back to the State Literary Fund an additional sum of one million dollars ($1,000,000) in full reimbursement of the sum of two million dollars ($2,000,000),

which is authorized to be transferred from the State Literary Fund by the provisions hereof. All funds paid over to the State Treasurer for premiums on insurance by the governing boards of local school administrative units and all money received from interest or from loans and deposits and from any other source connected with the insurance of the property hereinafter referred to shall be held by the State Treasurer in the Fund for the purpose of paying all fire, lightning, windstorm, hail and explosion losses for which the said Fund shall be liable and the expenses necessary for the proper conduct of the insurance of said property, together with such premiums for reinsurance of such part of said insurance as the State Board of Education may deem necessary to reinsure, as provided for in G.S. 115C-535 to 115C-542. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and 147-69.3.

When the Fund herein provided for reaches the sum of five percent (5%) of the total insurance in force, then annually thereafter the State Board of Education shall proportionately decrease the premiums on insurance to an amount which will be sufficient to maintain the Fund at five percent (5%) of the total insurance in force, and in the event in the judgment of the State Board of Education the income from the investments of the Fund are sufficient to maintain the same at five percent (5%) of the total insurance in force, no premium shall be charged for the ensuing year: Provided, that no building or property insured shall cease to pay premiums until five annual payments of premiums have been made whether or not through such payments the Fund shall be increased beyond five percent (5%) of the total insurance in force, unless such building or property shall cease to be insurable within the meaning of G.S. 115C-535 to 115C-542 within such five-year period. (1955, c. 1372, art. 16, s. 2; 1981, c. 423, s. 1.)

§ 115C-537. Insurance of property by local boards; notice of election to insure and information to be furnished; outstanding policies.

All local boards of education may insure all property within their units against the direct loss or damage by fire, lightning, windstorm, hail or explosions resulting by reason of defects in equipment in public school buildings and other public school properties in the Fund hereinbefore set up and provided for. Any property covered by an insurance policy in effect on the date when the property of a unit is insured in the Fund shall be insured by the Fund as of the expiration of the policy. Each local board shall give notice of its election to insure in the Fund at least 30 days prior to such insurance becoming effective and shall furnish to the State Board of Education a full and complete list of all outstanding fire insurance policies, giving in complete detail the name of the insurers, the amount of the insurance and expirations thereof. While the said insurance policies remain in effect, the Fund shall act as coinsurer of the properties covered by such insurance to the same extent and in the same manner as is provided for coinsurance under the provisions of the standard form of fire insurance as provided by law, and in the event of loss shall have the same rights and duties as required by participating insurance companies. (1955, c. 1372, art. 16, s. 3; 1957, c. 686, s. 3; 1981, c. 423, s. 1.)

§ 115C-538. Inspections of insured public school properties.

The State Board of Education shall provide for periodic inspections of all public school properties in the State of North Carolina insured under the provisions hereof, the said inspections for safety of buildings and particularly school buildings, against the loss or damage from fire and explosions. The inspections shall be the basis for offering such engineering advice as may be thought to be necessary to safeguard the children in the public schools from death and injury from school fires or explosions and to protect said school properties from loss, and the local boards of education shall be required so far as possible, and reasonable, to carry out and put into effect such recommendations in respect thereto as may be made by the State Board of Education. (1955, c. 1372, art. 16, s. 4; 1981, c. 423, s. 1.)

§ 115C-539. Information to be furnished prior to insuring in Fund; providing for payment of premiums.

Local boards of education shall at least 30 days before insuring in the Fund, furnish to the State Board of Education a complete and detailed list of all school buildings and contents thereof and other insurable school property, together with an estimate of the present value of the said property. Valuation for purposes of insuring in the Fund shall be reached by agreement in accordance with the procedure hereinafter set up for adjustment of losses. Local boards of education and the tax-levying authority shall be required to provide for the payment of premiums for insurance on the school properties of each local school administrative unit, respectively, to the extent of not less than seventy-five percent (75%) of the current insurable value of the said properties, including the insurance in fire insurance companies and the insurance provided by the Fund as set out herein. (1955, c. 1372, art. 16, s. 5; 1981, c. 423, s. 1.)

§ 115C-540. Determination and adjustment of premium rates; certificate as to insurance carried; no lapse; notice as to premiums required, and payment thereof.

The State Board of Education shall determine the annual premium rate to be charged for insurance of school properties as herein provided, which said rate shall not, however, be in excess of the rates fixed by law for insurance of such properties in effect on May 31, 1948, and such rates shall be adjusted from time to time so as to provide insurance against damage or loss resulting from fires, lightning, windstorm, hail or explosions resulting from defects in equipment in public school buildings and properties for the local school administrative units at the lowest cost possible in keeping with the payment of cost of administration of G.S. 115C-535 to 115C-542, and the creation of adequate reserves to pay losses which may be incurred. The State Board of Education shall furnish to each local school administrative unit annually and, at such times as changes may require, a certificate showing the amount of insurance carried on each item of insurable property. The said insurance shall not lapse but shall remain in force until the local board of education requests that said insurance be canceled or until such property becomes uninsurable in the manner set out in G.S. 115C-542. From time to time the local board of education shall be notified as to the amount of the premiums required to be paid for said insurance and the amounts

thereof shall be provided for in the annual budget of such schools. The tax-levying authorities shall provide by taxation or otherwise a sum sufficient to pay the required premiums thereon.

The local board of education shall within 30 days from notice thereof pay to the State Board of Education the premiums on such insurance, and in the event that there are no funds on hand at such time with which to make said payment, the same shall be paid out of the first funds available to such school board. Delayed payments shall bear interest at the rate of six percent (6%) per annum. (1955, c. 1372, art. 16, s. 6; 1981, c. 423, s. 1.)

§ 115C-541. Adjustment of losses; determination and report of appraisers; payment of amounts to treasurers of local school administrative units; disbursement of funds.

In the event of loss or damage by fire, lightning, windstorm, hail, or explosions resulting from defects in equipment in public school buildings and properties for the local school administrative units, the Fund shall pay the loss in the same proportion as the amount of insurance carried bore to the valuation of the property at the time it was insured, but not exceeding the amount which it would cost to repair or replace the property with material of like quality within a reasonable time after such loss, not in excess of the amount of insurance provided for said property, and not in excess of the amount of such loss which the Fund is required to pay in participation with fire insurance companies having policies of insurance in force on said properties at the time of the loss or damage, and the Fund shall not be liable for a greater proportion of any loss than the amount of insurance thereon shall bear to the whole insurance covering the property against the peril involved.

In the event of loss or damage by fire, lightning, windstorm, hail, or explosions resulting from defects in equipment in public school buildings and properties of the local school administrative units, to the property insured, when an agreement as to the extent of such loss or damage cannot be arrived at between the State Board of Education and the local officials having charge of the said property, the amount of such loss or damage shall be determined by three appraisers; one to be named by the State Board of Education, one by the local board of education having charge of the property, and the two so appointed shall select a third, all of whom shall be disinterested persons, and qualified from experience to appraise and value such property: Provided, however, if the appraisers appointed by the State Board of Education and the local board of education shall fail for 15 days to agree upon the third appraiser, then, on request of the State Board of Education or the local board of education having charge of the property, such third appraiser shall be selected by any regular resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 in which the property is located. The appraisers so named shall file their written report with the State Board of Education and with the local board of education having such property in charge. The costs of the appraisal shall be paid by the Fund. Upon the determination of the loss by the appraisers, the State Board of Education shall pay the amount of such loss or damage to school property in the control of the local school administrative unit to its treasurer, upon proper warrant of the State Board of Education. Said funds shall be paid out by the treasurer of said units, as provided by this

Chapter for the disbursement of the funds of such unit. (1955, c. 1372, art. 16, s. 7; 1981, c. 423, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 110.)

§ 115C-542. Maintenance of inspection and engineering service; cancellation of insurance.

The State Board of Education is authorized and empowered to maintain an inspection and engineering service deemed by it appropriate and necessary to reduce the hazards of fire in public school buildings insured in the Fund as hereinbefore provided, and to expend for such purpose not in excess of ten percent (10%) of the annual premiums collected from the local school authorities. The State Board of Education is hereby authorized and empowered to cancel any insurance on any school property when, in its opinion, because of dilapidation and depreciation such property is no longer insurable. Before cancellation, the local board of education shall be given at least 30 days notice, and in the event said property can be restored to insurable condition, the State Board of Education may make such orders with respect to the continuance of such coverage as may be deemed proper: Provided, that the findings and results of the inspection of local school property by the agents of the Board shall be reported to local boards of education and to the board of county commissioners of such units as carry insurance with the State 30 days before budget-making time in order that all school property shall be properly taken care of and made safe from fire hazards. (1955, c. 1372, art. 16, s. 8; 1981, c. 423, s. 1.)

§ 115C-543. Other property insurance.

The State Board of Education may adopt rules for providing property insurance on property insured by the Fund against all risks of direct physical loss not otherwise insured against pursuant to this Article. Losses covered by this additional insurance shall be paid out of the Fund in the same manner as fire and extended coverage losses.

Each local school administrative unit that elects to purchase this additional insurance shall pay a premium in accordance with rates fixed by the Board. This additional insurance shall be subject to the provisions and stipulations on policy forms approved by the State Board. (1987, c. 312, s. 1.)

§§ 115C-544 through 115C-546. Reserved for future codification purposes.

Article 38A.

Public School Building Capital Fund.

§ 115C-546.1. Creation of Fund; administration.

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs.

(b) Repealed by Session Laws 2013-316, s. 2.4(a), effective July 23, 2013.

(c) The Fund shall be administered by the Department of Public Instruction. (1987, c. 622, s. 12; c. 813, s. 20; 1989 (Reg. Sess., 1990), c. 1066, s. 28(b); 1991, c. 689, s. 260;

1995 (Reg. Sess., 1996), c. 631, s. 15; 1996, 2nd Ex. Sess. c. 13, s. 2.2; 1997-221, s. 26; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2003-284, s. 7.33(b); 2013-316, s. 2.4(a); 2013-360, s. 6.11(a).)

§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General Fund; matching requirements.

(a) Repealed by Session Laws 2013-316, s. 2.4(b), effective July 23, 2013, and Session Laws 2017-206, s. 7(a), effective August 30, 2017.

(b) Counties shall use monies previously credited to the Fund by the Secretary of Revenue pursuant to G.S. 115C-546.1(b) for capital outlay projects including the planning, construction, reconstruction, enlargement, improvement, repair, or renovation of public school buildings and for the purchase of land for public school buildings; for equipment to implement a local school technology plan; or for both. Monies used to implement a local school technology plan shall be transferred to the State School Technology Fund and allocated by that Fund to the local school administrative unit for equipment.

As used in this section, "public school buildings" only includes facilities for individual schools that are used for instructional and related purposes and does not include centralized administration, maintenance, or other facilities.

In the event a county finds that it does not need all or part of the funds allocated to it for capital outlay projects including the planning, construction, reconstruction, enlargement, improvement, repair, or renovation of public school buildings, for the purchase of land for public school buildings, or for equipment to implement a local school technology plan, the unneeded funds allocated to that county may be used to retire any indebtedness incurred by the county for public school facilities.

In the event a county finds that its public school building needs and its school technology needs can be met in a more timely fashion through the allocation of financial resources previously allocated for purposes other than school building needs or school technology needs and not restricted for use in meeting public school building needs or school technology needs, the county commissioners may, with the concurrence of the affected local Board of Education, use those financial resources to meet school building needs and school technology needs and may allocate the funds it receives under this Article for purposes other than school building needs or school technology needs to the extent that financial resources were redirected from such purposes. The concurrence described herein shall be secured in advance of the allocation of the previously unrestricted financial resources and shall be on a form prescribed by the Local Government Commission.

(c) Monies in the Fund previously credited to the Fund by the Secretary of Revenue pursuant to G.S. 115C-546.1(b) allocated for capital projects shall be matched on the basis of one dollar of local funds for every three dollars of State funds. Such monies in the Fund transferred to the State Technology Fund do not require a local match.

Revenue received from local sales and use taxes that is restricted for public school capital outlay purposes pursuant to G.S. 105-502 or G.S. 105-487 may be used to meet the local matching requirement. Funds expended by a county after July 1, 1986, for land acquisition, engineering fees, architectural fees, or other directly related costs for a public

school building capital project that was not completed prior to July 1, 1987, may be used to meet the local match requirement.

(d) If funds are appropriated from the Education Lottery Fund to the Public School Building Capital Fund, such funds shall be allocated for school capital construction projects on a per average daily membership basis according to the average daily membership for the budget year as determined and certified by the State Board of Education.

(1), (2) Repealed by Session Laws 2013-360, s. 6.11(b), effective July 1, 2013.

(3) No county shall have to provide matching funds required under subsection (c) of this section.

(4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects.

(5) A county may not use monies in this Fund to pay for school technology needs.

(e) The State Board of Education may use up to one million five hundred thousand dollars ($1,500,000) each year of monies in the Fund to support positions in the Department of Public Instruction's Support Services Division.

(f) If a county has received a grant fund award from the Needs-Based Public School Capital Fund, that county shall be ineligible to receive allocations from the Public School Building Capital Fund for a period of five years from the date the grant funds were awarded. (1987, c. 622, s. 12; c. 813, ss. 18.1, 19.1, 21; 1991 (Reg. Sess., 1992), c. 1030, s. 30; 1997-221, s. 27; 2005-276, s. 31.1(hh); 2005-344, s. 15.2; 2006-66, s. 7.15; 2006-259, s. 8(i); 2008-107, s. 7.18(a), (b); 2011-145, s. 5.4(h); 2011-391, s. 4; 2013-316, s. 2.4(b); 2013-360, s. 6.11(b); 2017-57, s. 5.3(f); 2017-206, s. 7(a).)

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 G.S. 7B-500. (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.)

§ 115C-549. Standardized testing requirements.

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. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. 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).)

§ 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.

Any such 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. (1979, c. 505; 1981, c. 423, s. 1.)

§ 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, Article 41 of this Chapter, or Part 1H of Article 9 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).)

§ 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 G.S. 7B-500. (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.)

§ 115C-557. Standardized testing requirements.

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. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. 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).)

§ 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.

Any such 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. (1979, c. 506; 1981, c. 423, s. 1.)

§ 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 full-time student (i) assigned to and attending a public school pursuant to G.S. 115C-366 or (ii) enrolled in a Department of Defense Elementary and Secondary School, established pursuant to 10 U.S.C. § 2164 and located in North Carolina, during the previous semester.

2. Received a scholarship grant during the previous school year.

3. Is entering either kindergarten or the first grade.

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 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.

a1. Has not enrolled in a postsecondary institution in a matriculated status eligible for enrollment for 12 hours of academic credit.

b. Resides in a household with an income level not in excess of one hundred thirty-three percent (133%) 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-subdivision.

(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.

(5a) 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, ss. 11A.3(a), (d); 2018-97, s. 2.12(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 during the previous school year 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. No more than forty percent (40%) of the remaining funds shall be used to award scholarship grants to eligible students entering either kindergarten or first grade.

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 for amounts of up to four thousand two hundred dollars ($4,200) per 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 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 four thousand two hundred dollars ($4,200) per year per eligible student, and no scholarship grant shall exceed the required tuition and fees for the nonpublic school the eligible student will attend.

(b1) Beginning with the 2017-2018 school year, within the funds appropriated by the General Assembly to award scholarship grants to eligible students under this Part, the Authority may award scholarship grants to at least 2,000 more eligible students each school year than were served in the prior school year.

(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 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, ss. 8.25(a), (b); 2016-94, ss. 11A.3(b), (e).)

§ 115C-562.3. Verification of eligibility.

(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. (2013-360, s. 8.29(a); 2014-100, s. 8.25(c).)

§ 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, to ensure that person has not been convicted of any crime listed in G.S. 115C-332.

(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. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling, and mathematics. 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 accepts students receiving more than three hundred thousand dollars ($300,000) in scholarship grants awarded under this Part.

(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) A nonpublic school accepting students receiving scholarship grants that fails to comply with the requirements of this section shall be ineligible to receive future scholarship grants if the Authority determines that the nonpublic school is not in compliance with the requirements of this section. 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. A nonpublic school may appeal for reconsideration of eligibility after one year. (2013-360, s. 8.29(a); 2014-100, ss. 8.25(d), (d1).)

§ 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 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 of at least ten million dollars ($10,000,000) each fiscal year for 10 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:

Fiscal Year	**Appropriation**

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	$104,840,000
2024-2025	$114,840,000
2025-2026	$124,840,000
2026-2027	$134,840,000

For the 2027-2028 fiscal year and each fiscal year thereafter, there is appropriated from the General Fund to the Reserve the sum of one hundred forty-four million eight hundred forty thousand dollars ($144,840,000) 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 the lesser of up to four percent (4%) of the funds appropriated or one million five hundred thousand dollars ($1,500,000) each fiscal year for administrative costs associated with the scholarship grant program. (2016-94, ss. 11A.3(f), (g); 2017-57, ss. 6.6(b), (g).)

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 G.S. 7B-500. 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.)

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.

Article 40.

Proprietary Schools.

§§ 115C-568 through 115C-583: Recodified as §§ 115D-87 through 115D-97 by Session Laws 1987, c. 442, s. 2.

Article 41.

Personal Education Savings Accounts.

§ 115C-590. North Carolina Personal Education Savings Account Program established.

There is established the North Carolina Personal Education Savings Accounts Program to provide the option for a parent to better meet the individual educational needs of the parent's child. (2017-57, s. 10A.4(a).)

§ 115C-591. Definitions.

The following definitions apply in this Article:

(1) Authority. – Defined in G.S. 116-201.

(2) Division. – The Division of Nonpublic Education, Department of Administration.

(3) Eligible student. – A student residing in North Carolina who has not yet received a high school diploma and who meets all of the following requirements:

a. Is eligible to attend a North Carolina public school pursuant to G.S. 115C-366.

b. Has not enrolled in a postsecondary institution in a matriculated status eligible for enrollment for 12 hours of academic credit.

c. Is a child with a disability, as defined in G.S. 115C-106.3(1), including, for example, intellectual disability, hearing impairment, speech or language impairment, visual impairment, serious emotional disturbance, orthopedic impairment, autism, traumatic brain injury, other health impairments, specific learning disability, or disability as may be required to be included under IDEA.

d. Has not been placed in a nonpublic school or facility by a public agency at public expense.

(4) Nonpublic school. – A school that meets the requirements of Part 1, 2, or 3 of Article 39 of this Chapter, as identified by the Division.

(5) Parent. – A parent, legal guardian, or legal custodian of an eligible student.

(5a) Part-time student. – A child enrolled part time in a public school and part time in a nonpublic school that exclusively provides services for children with disabilities.

(6) Personal Education Savings Account or PESA. – A bank account provided to a parent for the purpose of holding scholarship funds awarded by the Authority for an eligible student to be used for qualifying education expenses under G.S. 115C-595. (2017-57, s. 10A.4(a); 2018-2, s. 6(a), (b).)

§ 115C-592. Award of scholarship funds for a personal education savings account.

(a) Application Selection. – The Authority shall make available no later than February 1 of each year applications to eligible students for the award of scholarship funds for a personal education savings account to be used for qualifying education expenses to attend a nonpublic school. Information about scholarship funds and the application process shall be made available on the Authority's Web site. Applications shall be submitted

electronically. Beginning March 15, the Authority shall begin selecting recipients for scholarships according to the following criteria:

(1) First priority shall be given to eligible students who were awarded scholarship funds for a PESA during the previous school year if those students have applied by March 1.

(2) After funds have been awarded to prior recipients as provided in subdivision (1) of this subsection, any remaining funds shall be used to award scholarship funds for a PESA for all other eligible students.

(b) Scholarship Awards. – Scholarships shall be awarded each year for an amount not to exceed nine thousand dollars ($9,000) per eligible student for the fiscal year in which the application is received, except for eligible part-time students, who shall be awarded scholarships each year for an amount not to exceed four thousand five hundred dollars ($4,500) per eligible student for the fiscal year in which the application is received. Recipients shall receive scholarship funds deposited in equal amounts to a PESA in each quarter of the fiscal year. The first deposit of funds to a PESA shall be subject to the execution of the parental agreement required by G.S. 115C-595. The parent shall then receive a debit card or an electronic account with the prepaid funds loaded on the card or in the electronic account at the beginning of the fiscal year. After the initial disbursement of funds, each subsequent, quarterly disbursement of funds shall be subject to the submission by the parent of an expense report. The expense report shall be submitted electronically and shall include documentation that the student received an education, as described in G.S. 115C-595(a)(1), for no less than 35 days of the applicable quarter. The debit card or the electronic account shall be renewed upon the receipt of the parental agreement under G.S. 115C-595 for recipients awarded scholarship funds in subsequent fiscal years. Any funds remaining on the card or in the electronic account at the end of the fiscal year may be carried forward to the next fiscal year if the card or electronic account is renewed. Any funds remaining on the card or in the electronic account if an agreement is not renewed shall be returned to the Authority.

(c) Eligibility for the other scholarship programs is provided for as follows:

(1) An eligible student under this Article may receive, in addition to a PESA, a scholarship under Part 2A of Article 39 of this Chapter.

(2) An eligible student under this Article may receive, in addition to a PESA and a scholarship under Part 2A of Article 39 of this Chapter, a scholarship under the special education scholarship program for children with disabilities pursuant to Part 1H of Article 9 of this Chapter, only if that student has one or more of the following disabilities:

a. Autism.

b. Developmental disability.

c. Hearing impairment.

d. Moderate or severe intellectual disability.

e. Multiple, permanent orthopedic impairments.

f. Visual impairment.

(d) Applications Not Public Records. – Applications for scholarship funds and personally identifiable information related to eligible students receiving funds 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, or any other information or identification number that would provide information about a specific student or members of a specific student's household.

(e) Establishment of Initial Eligibility. – An applicant may demonstrate for initial eligibility that the applicant is a child with a disability, as required by G.S. 115C-591(3)c., in either of the following ways:

(1) The child has been assessed by a local education agency and determined to be a child with a disability and that outcome is verified by the local education agency on a form provided to the Authority.

(2) The child was initially assessed by a local education agency and determined to be a child with a disability and, following receipt of a scholarship awarded pursuant to Part 1H of Article 9 of this Chapter, was determined to have continuing eligibility, as provided in G.S. 115C-112.6(c)(2), by the assessing psychologist or psychiatrist. Both the initial verification from the local education agency and the continuing verification by the assessing psychologist or psychiatrist shall be provided on a form to the Authority. (2017-57, s. 10A.4(a); 2018-2, s. 6(c); 2018-5, s. 10A.1(f).)

§ 115C-593. Student continuing eligibility.

After the initial disbursement of funds, the Authority shall ensure that the student's continuing eligibility is assessed at least every three years by one of the following:

(1) The local education agency. – The local education agency shall assess if the student continues to be a child with a disability and verify the outcome on a form to be provided to the Authority.

(2) A licensed psychologist with a school psychology focus or a psychiatrist. – The psychologist or psychiatrist shall assess, after review of appropriate medical and educational records, if the education and related services received by the student in the nonpublic school setting have improved the child's educational performance and if the student would continue to benefit from placement in the nonpublic school setting. The psychologist or psychiatrist shall verify the outcome of the assessment on a form to be provided to the Authority. (2017-57, s. 10A.4(a).)

§ 115C-594. Verification of eligibility.

(a) Verification of Information. – The Authority may seek verification of information on any application for the award of scholarship funds for a personal education savings account. 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. If a household fails to cooperate with verification efforts, the Authority shall revoke the award of scholarship funds for a PESA for the eligible student.

(b) Access to Information. – Household members of applicants for the award of scholarship funds for a PESA shall authorize the Authority to access information needed for verification efforts held by other State agencies, including the Department of Health and Human Services and the Department of Public Instruction. (2017-57, s. 10A.4(a).)

§ 115C-595. Parental agreement; use of funds.

(a) Parental Agreement. – The Authority shall provide the parent of a scholarship recipient with a written agreement, applicable for each year the eligible student receives scholarship funds under this Article, to be signed and returned to the Authority prior to receiving the scholarship funds. The agreement shall be submitted to the Authority electronically. The parent shall not designate any entity or individual to execute the agreement on the parent's behalf. A parent or eligible student's failure to comply with this section shall result in a forfeit of scholarship funds and those funds may be awarded to another eligible student. The parent shall agree to the following conditions in order to receive scholarship funds under this Article:

(1) Use at least a portion of the scholarship funds to provide an education to the eligible student in, at a minimum, the subjects of English language arts, mathematics, social studies, and science.

(2) Unless the student is a part-time eligible student, release a local education agency in which 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 scholarship funds under this Article. A parent of a student, other than a part-time eligible student, who decides to enroll the student into the local education agency or other North Carolina public school during the term of the agreement shall notify the Authority to request a release from the agreement and shall return any unexpended funds to the Authority.

(3) Use the scholarship funds deposited into a personal education savings account only for the following qualifying education expenses of the eligible student:

a. Tuition and fees for a nonpublic school that meets the requirements of Part 1 or Part 2 of Article 39 of this Chapter and is subject to the requirements of G.S. 115C-562.5.

b. Textbooks required by a nonpublic school.

c. Tutoring and teaching services provided by an individual or facility accredited by a State, regional, or national accrediting organization.

d. Curricula.

e. Fees for nationally standardized norm-referenced achievement tests, advanced placement tests, or nationally recognized college entrance exams.

f. Fees charged to the account holder for the management of the PESA.

g. Fees for services provided by a public school, including individual classes and extracurricular programs.

h. Premiums charged to the account holder for any insurance or surety bonds required by the Authority.

i. Educational therapies from a licensed or accredited practitioner or provider.

j. Educational technology defined by the Authority as approved for use pursuant to Part 1H of Article 9 of this Chapter.

k. Student transportation, pursuant to a contract with an entity that regularly provides student transportation, to and from (i) a provider of education or related services or (ii) an education activity.

(4) Not use scholarship funds for any of the following purposes:

a. Computer hardware or other technological devices not defined by the Authority as educational technology approved for use pursuant to Part 1H of Article 9 of this Chapter.

b. Consumable educational supplies, including paper, pen, or markers.

c. Tuition and fees at an institution of higher education, as defined in G.S. 116-143.1, or a private postsecondary institution.

d. Tuition and fees for a nonpublic school that meets the requirements of Part 3 of Article 39 of this Chapter.

(b) No Refunds to an Account Holder. – A nonpublic school or a provider of services purchased under subsection (a) of this section shall not refund or rebate any scholarship funds to a parent or eligible student in any manner. The parent shall notify the Authority if such a refund is required.

(c) Repealed by Session Laws 2018-5, s. 38.10(m), effective for taxable years beginning on or after January 1, 2018. (2017-57, s. 10A.4(a); 2018-2, s. 6(d); 2018-5, s. 38.10(m).)

§ 115C-596. Identification of nonpublic schools and distribution of personal education savings account information.

(a) List of Nonpublic Schools. – 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, 2, or 3 of Article 39 of this Chapter.

(b) Information on PESAs to the Division. – The Authority shall provide information about personal education savings accounts to the Division. The Division shall provide information about PESAs to all qualified nonpublic schools on an annual basis. (2017-57, s. 10A.4(a).)

§ 115C-597. Administration.

(a) Rules and Regulations. – The Authority shall establish rules and regulations for the administration of the program, including the following:

(1) The administration and awarding of scholarship funds, including a lottery process for the selection of recipients within the criteria established by G.S. 115C-592(a), if necessary.

(2) Requiring a surety bond or insurance to be held by account holders.
(3) Use of the funds and the reporting of expenditures.
(4) Monitoring and control of spending scholarship funds deposited in a personal education savings account.

(b) Contract for Management of PESAs. – The Authority may contract with a private financial management firm or institution to manage PESAs in accordance with this Article.

(c) Annual Audits. – The Authority shall conduct annual audits of PESAs and may audit a random sampling of PESAs as needed to ensure compliance with the requirements of this Article. The Authority may contract with an independent entity to conduct these audits. The Authority may remove a parent or eligible student from the program and close a personal education savings account for failure to comply with the terms of the parental agreement, for failure to comply with applicable laws, or because the student is no longer an eligible student.

(d) Administration Costs. – Of the funds allocated to the Authority to award scholarship funds under this Article, the Authority may retain up to two hundred fifty thousand dollars ($250,000) each fiscal year for administrative costs associated with the program, including contracting with non-State entities for administration of certain components of the program. (2017-57, s. 10A.4(a).)

§ 115C-598. Reporting requirements.

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 funds.
(2) Total amount of scholarship funding awarded.
(3) Number of students previously enrolled in public schools in the prior semester by the previously attended local education agency.
(4) Nonpublic schools in which scholarship recipients are enrolled, including numbers of scholarship recipients at each nonpublic school.
(5) The number of substantiated cases of fraud by recipients and the number of parents or students removed from the program for noncompliance with the provisions of this Article. (2017-57, s. 10A.4(a); 2018-5, s. 10A.1(g).)