

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021**

**SESSION LAW 2021-130  
SENATE BILL 654**

AN ACT TO PROVIDE RELIEF TO PUBLIC SCHOOLS IN RESPONSE TO THE  
CORONAVIRUS DISEASE 2019 (COVID-19) PANDEMIC.

The General Assembly of North Carolina enacts:

**PART I. SCHOOL PERFORMANCE GRADES/ANNUAL REPORT CARDS**

**SECTION 1.1.** Display of School Performance Grades. – Notwithstanding G.S. 115C-12(9)c1. and G.S. 115C-83.15, the State Board of Education shall not calculate achievement, growth, and performance scores nor display performance scores, growth designations, and letter grades for schools for the 2021-2022 school year, based on data from the 2020-2021 school year, but shall display a brief explanation that achievement, growth, and performance scores and letter grades were not calculated and assigned for the 2021-2022 school year because assessment data was heavily impacted by COVID-19 during the 2020-2021 school year.

**SECTION 1.2.(a)** Annual Report Cards. – Notwithstanding G.S. 115C-12(9)c1. and Part 1B of Article 8 of Chapter 115C of the General Statutes, the State Board of Education shall issue an annual report card for public school units for the 2021-2022 school year, based on data from the 2020-2021 school year, that only meets the minimum accountability, school identification, and related reporting requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, required under the federal waiver granted by the United States Department of Education to the State of North Carolina for the 2020-2021 school year, dated March 26, 2021.

**SECTION 1.2.(b)** Notwithstanding G.S. 115C-47(58), 115C-75.8(d)(7), 115C-218.65, 115C-238.66(11), 116-239.8(b)(14), and subdivision 6(d)(2) of S.L. 2018-32, for the 2021-2022 school year, based on data from the 2020-2021 school year, public school units shall only be required to display the annual report card information issued by the State Board of Education pursuant to this Part.

**PART II. LOW-PERFORMING SCHOOLS**

**SECTION 2.1.** Low-Performing Schools. – Notwithstanding G.S. 115C-105.37 and G.S. 115C-218.94(a), for the 2021-2022 school year, the following apply:

- (1) The State Board shall not identify additional low-performing schools based on data from the 2020-2021 school year.
- (2) Schools previously identified as low-performing based on data from the 2018-2019 school year shall continue to be identified as low-performing.
- (3) Previously identified low-performing schools shall continue to carry out the final plan approved by the local board of education pursuant to G.S. 115C-105.37(a1).
- (4) The State Board and the local board of education shall continue to provide online access to each low-performing school's plan in accordance with G.S. 115C-105.37(a1)(5).



- (5) The written parental notice required by G.S. 115C-105.37(b) is not required to be provided again, but local boards of education of low-performing schools shall include with their online final plans a brief explanation that low-performing identification continues pending assessment data from the 2021-2022 school year.

**SECTION 2.2.** Continually Low-Performing Schools. – Notwithstanding G.S. 115C-105.37A and G.S. 115C-218.94(b), for the 2021-2022 school year, the following apply:

- (1) The State Board shall not identify additional continually low-performing schools based on data from the 2020-2021 school year.
- (2) Schools previously identified as continually low-performing based on data from the 2018-2019 school year shall continue to be identified as continually low-performing.
- (3) Previously identified continually low-performing schools shall continue to carry out the plan approved by the State Board pursuant to G.S. 115C-105.37A(a).
- (4) Assistance and intervention levels provided for the 2019-2020 school year based on designation as low-performing for two years under G.S. 115C-105.37A(b) or low-performing for three years under G.S. 115C-105.37A(c) shall continue.
- (5) Local boards of education may request to reform a continually low-performing school in accordance with G.S. 115C-105.37B.

**SECTION 2.3.** Low-Performing Local School Administrative Units. – Notwithstanding G.S. 115C-105.39A, for the 2021-2022 school year, the following apply:

- (1) The State Board shall not identify additional low-performing local school administrative units based on data from the 2020-2021 school year.
- (2) Local school administrative units previously identified as low-performing based on data from the 2018-2019 school year shall continue to be identified as low-performing.
- (3) Previously identified low-performing local school administrative units shall continue to carry out the final plan approved by the local board of education pursuant to G.S. 115C-105.39A(b).
- (4) The State Board and the local board of education shall continue to provide online access to each low-performing local school administrative unit's plan in accordance with G.S. 115C-105.39A(b)(5).
- (5) The written parental notice required by G.S. 115C-105.39A(c) is not required to be provided again, but the local board of education shall include with its online final plan a brief explanation that low-performing identification continues pending assessment data from the 2021-2022 school year.
- (6) The provisions of G.S. 115C-105.39(c) through (e) shall not apply.

### **PART III. PUBLIC SCHOOL UNIT CALENDARS FOR THE 2021-2022 SCHOOL YEAR**

**SECTION 3.(a)** Part 2 of Article 8 of Chapter 115C of the General Statutes is amended by adding a new section to read:

**"§ 115C-84.3. Remote instruction.**

**(a) Remote instruction means instruction delivered to students in a remote location outside of the school facility, whether synchronously or asynchronously. Instructional days or hours provided through any of the following shall not be considered remote instruction:**

- (1) North Carolina Virtual Public School courses.**
- (2) E-learning courses that meet the requirements of G.S. 115C-238.85.**

- (3) Institution of higher education courses, as provided in Article 16 of this Chapter or G.S. 115D-20(4).
- (4) Homebound instruction required for a student by an individualized education program, as defined in G.S. 115C-106.3(8), or a section 504 (29 U.S.C. § 794) plan.
- (5) Instruction provided to a student during a short- or long-term suspension.

(b) A public school unit in a county that has received a good cause waiver, as provided in G.S. 115C-84.2(d), for the school year may use up to 15 remote instruction days or 90 remote instruction hours when schools are unable to open due to severe weather conditions, energy shortages, power failures, or other emergency situations and may use that time towards the required instructional days or hours for the school calendar. All other public school units may use up to five remote instruction days or 30 remote instruction hours when schools are unable to open due to severe weather conditions, energy shortages, power failures, or other emergency situations and may use that time towards the required instructional days or hours for the school calendar.

(c) Except as provided in subsection (b) of this section, a public school unit shall not use remote instruction to satisfy the minimum required number of instructional days or hours for the school calendar.

(d) A governing board that chooses to use remote instruction as provided in subsection (b) of this section shall submit to the State Board, by July 1 annually, a remote instruction plan that provides a detailed framework for delivering quality remote instruction to students for the upcoming school year and information on the number of remote instruction days or hours used in the prior school year to satisfy instructional requirements, when applicable. At a minimum, the plans submitted by governing boards shall include the following:

- (1) Identification of the resources that will be used to facilitate remote instruction.
- (2) Communication with and training opportunities for teachers, administrators, instructional support staff, parents, and students on how to access and effectively use remote instruction resources, including regular opportunities for students to use those resources during nonremote instructional days to ensure student success during remote instruction.
- (3) Establishment of methods for tracking and reporting attendance during remote instruction, including protocols for determining attendance, the reporting system to be used, and how attendance procedures will be communicated to parents before remote instruction begins.
- (4) Establishment of staff roles and expectations for remote instruction days, including teacher workdays, teacher accessibility, and noncertified staff workdays and responsibilities.
- (5) Communication of learning targets to students on each remote instruction day and development of measures to ensure that remote instruction time, practice, and application components support learning growth that continues towards mastery of the standard course of study.
- (6) Development of remote instruction options appropriate for teachers and students with limited connectivity capability, including the opportunity for students to download remote instruction materials in advance when practicable.
- (7) Provision of remote instruction for students with disabilities in a manner consistent with each student's individualized education program (IEP), as defined in G.S. 115C-106.3, or section 504 (29 U.S.C. § 794) plan. Remote instruction supports shall be considered and included, as appropriate for the student, when an IEP or 504 plan is initially developed or at any subsequent review or revision of an IEP or 504 plan.

(e) The State Board of Education shall report by September 15 annually to the Joint Legislative Education Oversight Committee on the following information related to remote instruction:

- (1) A copy of each governing board's remote instruction plan.
- (2) A summary document of the following:
  - a. The number of remote instruction days or hours used by each public school unit in the prior school year.
  - b. Strengths, challenges, and trends noted by the State Board in its review of how governing boards implement remote instruction.
  - c. Any other data deemed by the State Board to be useful to the Joint Legislative Education Oversight Committee in evaluating the use and delivery of remote instruction in emergency circumstances."

**SECTION 3.(b)** G.S. 115C-84.2(a) reads as rewritten:

"(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.~~ weather, and may include the use of remote instruction in accordance with G.S. 115C-84.3.

...."

**SECTION 3.(c)** G.S. 115C-218.85(a)(1) reads as rewritten:

"(1) The school shall provide instruction each year for at least 185 days or 1,025 hours over nine calendar ~~months.~~ months, and may include the use of remote instruction in accordance with G.S. 115C-84.3."

**SECTION 3.(d)** G.S. 115C-238.53(d) reads as rewritten:

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

**SECTION 3.(e)** G.S. 115C-238.66(1)d. reads as rewritten:

"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.~~ months, and may include the use of remote instruction in accordance with G.S. 115C-84.3."

**SECTION 3.(f)** G.S. 116-239.8(b)(2)c. reads as rewritten:

"c. The chancellor shall adopt a school calendar consisting of a minimum of 185 days or 1,025 hours of instruction covering at least nine calendar ~~months-months~~, and may include the use of remote instruction in accordance with G.S. 115C-84.3."

**SECTION 3.(g)** Subdivision 6(e)(1) of S.L. 2018-32 reads as rewritten:

"(1) Provide instruction each year for at least 185 days or 1,025 hours over nine calendar ~~months-months~~, and may include the use of remote instruction in accordance with G.S. 115C-84.3."

**SECTION 3.(h)** Section 6(d) of S.L. 2018-32 is amended by adding a new subdivision to read:

"(5a) G.S. 115C-84.3, Remote Instruction."

**SECTION 3.(i)** This section is effective when it becomes law and applies to the 2021-2022 school year. This section is repealed June 30, 2022.

### **PART IIIA. REMOTE INSTRUCTION FOR COVID-19 EMERGENCIES**

**SECTION 3A.** Notwithstanding G.S. 115C-84.3, as enacted by this act, a public school unit shall have the authority to make day-to-day decisions for the 2021-2022 school year concerning whether shifting individual schools or individual classrooms that are providing in-person instruction to temporary remote instruction is necessary due to COVID-19 exposures that result in insufficient school personnel or required student quarantines. A public school unit shall report any shift by a school or classroom from in-person to temporary remote instruction as provided in this section to the Department of Public Instruction within 72 hours of the shift and shall return to in-person instruction as soon as personnel are available or the required quarantines are complete.

### **PART IIIB. PLANNED VIRTUAL INSTRUCTION**

**SECTION 3B.(a)** Notwithstanding G.S. 115C-84.3, as enacted by this act, public school units shall be authorized to provide virtual instruction during the 2021-2022 school year to a student with the consent of that student's parent or legal guardian in accordance with a virtual instruction plan providing the information required by this subsection, if submitted by the governing board to the Department of Public Instruction by October 1, 2021. The Department of Public Instruction shall make available a copy of each governing board's virtual instruction plan to the Joint Legislative Education Oversight Committee and the Working Group on Virtual Academies, as enacted by Section 3C of this act, by October 15, 2021.

**SECTION 3B.(b)** The virtual instruction plan required by subsection (a) of this section shall include the following:

- (1) The range of grades for which virtual instruction will be offered. The plan should note throughout the differences in delivery of virtual instruction for elementary, middle, and high school students.
- (2) The types of virtual instruction that will be made available, including whether virtual instruction will be full-time or blended instruction.
- (3) Whether the virtual instruction will be offered through a (i) school whose primary means of instruction is virtual instruction, (ii) school within a school, or (iii) customized offering unique to specific students.
- (4) The estimated numbers of students to be served with virtual instruction.
- (5) A means for identifying students participating in virtual instruction that will allow assessment of that subgroup's performance and EVAAS scores for students receiving virtual instruction in a school that does not exclusively provide virtual instruction.
- (6) Participation requirements, including student eligibility and agreements for participation from students and parents.

- (7) The methods by which enrollment, daily attendance, course credit accrual, progress toward graduation, and course completion will be monitored for students receiving virtual instruction.
- (8) Identification of the resources that will be used to facilitate virtual instruction.
- (9) The methods for communication with and training opportunities for teachers, administrators, instructional support staff, parents, and students engaged in virtual instruction.
- (10) Establishment of staff roles and expectations when providing virtual instruction, including teacher accessibility.
- (11) The measures used to ensure that both synchronous and asynchronous virtual instruction time, practice, and application components support learning growth that continues towards mastery of the standard course of study.
- (12) Any unique infrastructure necessary to support virtual instruction.
- (13) The methods for ensuring that virtual instruction for students with disabilities is delivered in a manner consistent with each student's individualized education program (IEP), as defined in G.S. 115C-106.3, or section 504 (29 U.S.C. § 794) plan. Remote instruction supports shall be considered and included, as appropriate for the student, when an IEP or 504 plan is initially developed or at any subsequent review or revision of an IEP or 504 plan.
- (14) Procedures to be used when making retention decisions for considering the appropriateness and effectiveness of continuing virtual instruction for students at risk of academic failure, including procedures for involving parents in these discussions.

**SECTION 3B.(c)** No public school unit shall use virtual instruction to satisfy the minimum required number of instructional days or hours after June 30, 2022, without express authorization from the General Assembly, except for local school administrative units that were assigned a school code to operate a school with virtual instruction as the primary means of instruction as of May 1, 2021.

### **PART IIIC. VIRTUAL ACADEMIES STUDY**

**SECTION 3C.** The Superintendent of Public Instruction shall establish a Working Group on Virtual Academies that includes interested stakeholders from, at a minimum, public school units, parents, and the State Board of Education to make recommendations related to virtual academies. The Working Group shall be chaired by the Superintendent or Superintendent's designee and shall review in its deliberations data and information gained from the 2020-2021 school year and from the virtual instruction plans submitted by public school units for the 2021-2022 school year. The Working Group shall report on the following to the Joint Legislative Education Oversight Committee no later than March 15, 2022:

- (1) Definitions of virtual instruction and virtual academies, including any differences in the definitions for charter schools and other public school units.
- (2) Requirements for authorization of virtual academies, including any differences in the requirements for charter schools and other public school units.
- (3) Additional requirements for virtual academies, including, but not limited to:
  - a. Infrastructure requirements, if any, such as access to internet connectivity, equipment, hardware, software, and technical support.
  - b. Instructional requirements, including student monitoring, attendance and testing requirements, measures for completion of instructional days and hours requirements, synchronous instruction minimums, and measures of course credit accrual, progress toward graduation, and course completion.

- c. Personnel requirements, including professional development.
- d. Participation requirements, including student eligibility and agreements for participation from students and parents.
- e. Special education requirements.
- f. Term of years for approval for a virtual academy and criteria for initial approval and renewal.
- g. Distinctions in requirements for different types of public school units.
- h. A means for identifying students participating in virtual instruction that will allow assessment of that subgroup's performance and EVAAS scores for students receiving virtual instruction in a school that does not exclusively provide virtual instruction.

#### **PART IV. PRINCIPAL RECRUITMENT SUPPLEMENT**

**SECTION 4.** Notwithstanding G.S. 115C-285.1, for purposes of administering the principal recruitment supplement in the 2021-2022 fiscal year, a school identified as an eligible school in the 2019-2020 and 2020-2021 school years pursuant to G.S. 115C-285.1(a)(2) and Section 2.13(a) of S.L. 2020-3, respectively, shall continue to be an eligible school in the 2021-2022 school year.

#### **PART V. NOTIFICATION REQUIREMENT FOR TEACHER PERFORMANCE DATA**

**SECTION 5.** Notwithstanding G.S. 115C-333.2, for the 2021-2022 school year, to the extent the Education Value-Added Assessment System (EVAAS) data regarding a teacher's performance includes data from more than one school year, when a principal notifies a teacher that the teacher's EVAAS data has been updated, the principal shall provide the teacher with additional context regarding the years on which the data is based and the extent to which the students on which the data is based were taught by another teacher.

#### **PART VI. TEACHER EFFECTIVENESS REPORTING REQUIREMENTS**

**SECTION 6.** Notwithstanding G.S. 115C-299.5, for the 2021-2022 school year, to the extent teacher effectiveness data reported pursuant to G.S. 115C-299.5 is based on more than one school year, local school administrative units and the State Board of Education shall contextualize that data by specifying the years on which it is based and the extent to which it is not reflective of teacher performance because the students on which the data is based were taught by more than one teacher.

#### **PART VII. TEMPORARILY EXTEND CPR GRADUATION REQUIREMENT CHANGES**

**SECTION 7.** Notwithstanding G.S. 115C-12(9d)a., for the 2020-2021 school year, any student in grade 12 who has not satisfied the requirement for completion of instruction in cardiopulmonary resuscitation shall be eligible to graduate if both of the following apply:

- (1) Instruction in cardiopulmonary resuscitation cannot be completed due to the COVID-19 emergency.
- (2) The student is eligible to graduate in all respects other than the statutory requirement described in this section, as determined by the principal of the school to which the student is assigned.

#### **PART VIII. TEACHER LICENSURE REQUIREMENTS**

**SECTION 8.(a)** Notwithstanding G.S. 115C-270.15 and G.S. 115C-270.20, applicants for a continuing professional license holding a current initial professional license, residency license, lateral entry license, or limited license expiring June 30, 2021, who have not

met the examination or coursework requirements established by the State Board as of June 30, 2021, shall be provided an extension until December 31, 2021.

**SECTION 8.(b)** G.S. 115C-270.20(a)(5) reads as rewritten:

- "(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.~~ at least one of the following:
      - I. A bachelor's degree.
      - II. An advanced 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."

#### **PART IX. CLARIFY THE DEFINITION OF YEAR-ROUND SCHOOL**

**SECTION 9.(a)** G.S. 115C-84.2(f)(5) reads as rewritten:

- "(5) Year-round school. – A school with a single- or multi-track instructional calendar to provide instructional days throughout the entire school calendar year, beginning July 1 and ending June 30, by utilizing at least one of the following plans:
- a. A plan dividing students into four groups and requiring each group to be in school for assigned and staggered quarters each school calendar year.
  - b. A plan providing students be scheduled to attend 45-four quarters of between 43 and 47 instructional days followed by 15 days of vacation, repeated throughout the each school calendar year-year, with vacation periods for students of between 14 and 18 days separating each quarter.
  - c. A plan dividing the school calendar year into five nine-week sessions of classes and requiring each student to attend four assigned and staggered sessions out of the five nine-week sessions to complete the student's instructional year.
  - d. In a local school administrative unit with both single- and multi-track instructional calendars, a plan for a single-track instructional calendar that is identical to at least one track of a multi-track instructional calendar adopted by the local board that meets the requirements of either sub-subdivision a. or sub-subdivision c. of this subdivision."

**SECTION 9.(b)** This section is effective when it becomes law and applies beginning with the 2021-2022 school year.

#### **PART X. LOCAL FACE COVERING POLICIES**

**SECTION 10.** For the 2021-2022 school year, all public school units shall adopt a policy regarding the use of face coverings by employees and students. The governing body of



the public school unit shall vote at least once a month on whether the face covering policy should be modified.

#### **PART XI. TEMPORARILY WAIVE CERTAIN REQUIREMENTS THAT RELATE TO DRIVING ELIGIBILITY CERTIFICATES**

**SECTION 11.(a)** Notwithstanding G.S. 20-11(n), 115C-12(28), 115C-218.70, 115C-288(k), 115C-566, and 115D-5(a3), a person required to sign a driving eligibility certificate shall issue the driving eligibility certificate without requiring the person to whom it is issued to be making progress toward obtaining a high school diploma or its equivalent, and no school authority shall notify the Division of Motor Vehicles that a person no longer meets the requirements for a driving eligibility certificate because the person is not making progress toward obtaining a high school diploma or its equivalent.

**SECTION 11.(b)** This section is effective when it becomes law and expires January 30, 2022.

#### **PART XII. RESTORE CERTAIN PERMITS AND PROVISIONAL LICENSES REVOKED DUE TO CERTIFICATE INELIGIBILITY**

**SECTION 12.(a)** Past Performance Revocation Restoration. – The Division of Motor Vehicles shall restore the permit or license of any person whose permit or license was revoked by the Division under G.S. 20-13.2(c1) due to ineligibility for a driving eligibility certificate under G.S. 20-11(n)(1). For restorations granted under this section, the Division shall not charge a restoration fee and the Division must expunge any record of revocation from the person's driving record.

**SECTION 12.(b)** This section is effective when it becomes law and applies to revocations resulting from notifications of ineligibility received by the Division dated on or after March 1, 2020, through the effective date of this section.

#### **PART XIII. EFFECTIVE DATE**

**SECTION 13.** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of August, 2021.

s/ Ralph Hise  
Presiding Officer of the Senate

s/ Donna McDowell White  
Presiding Officer of the House of Representatives

s/ Roy Cooper  
Governor

Approved 11:52 a.m. this 30<sup>th</sup> day of August, 2021