



# HOUSE BILL 219: Charter School Omnibus.

**This Bill Analysis  
reflects the contents  
of the bill as it was  
presented in  
committee.**

2023-2024 General Assembly

<b>Committee:</b>	Senate Education/Higher Education.	<b>If Date:</b>	June 27, 2023
	favorable, re-refer to Rules and Operations of the Senate		
<b>Introduced by:</b>	Reps. Torbett, Bradford, Willis, Saine	<b>Prepared by:</b>	Kara McCraw
<b>Analysis of:</b>	Third Edition		Staff Attorney

**OVERVIEW: HB 219 would make various changes to laws affecting charter schools, including:**

- Preventing LEA impacts from consideration in charter approvals and renewals, and requiring consideration of student subgroup performance in some renewals.
- Removing restrictions of growth for charters that are not low-performing, and allowing SBE consideration of growth greater than 20% for charter schools that are low-performing.
- Allow charter schools to admit out-of-state students and foreign exchange students.
- Allow pre-lottery admissions to charters for (i) certain preschools with agreements with the charter and (ii) children of active duty military.
- Prohibit local boards of education from discriminating against charter school students.
- Allow counties to appropriate property taxes to fund charter school capital needs.
- Require State funds for charters to be based on actual enrollment, rather than attendance.
- Require charter and nonpublic schools to be classified based on certain requirements for interscholastic athletics.

**CURRENT LAW AND BILL ANALYSIS:**

**PART I:** The State Board of Education (SBE) approves, renews, amends, and terminates charter schools after considering a number of factors. Section 1(a) would prohibit the SBE from considering any alleged impact of the charter school on the local school administrative units (LEAs) in its decisions.

The SBE is required to renew charters unless certain factors are found. One of those factors is that the charter's academic outcomes for the prior three years have not been comparable to the academic outcomes of the LEA in which the charter is located. Section 1(b) would require, if a charter provides services to certain targeted groups, that the SBE compare the charter's results for those subgroups with the same subgroups in the LEA.

**PART II:** Charter are allowed to increase enrollment as follows:

- Under planned growth approved in the charter.
- For charters that are not low-performing, up to 30% each year. Growth over 30% must be approved by the SBE after considering certain factors, including legal and financial compliance, level of commitment and enrollment, and capital expansions.

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- For charter that are low-performing, up to 20% each year. Low-performing charters are not eligible for additional growth.

Part II would revise these requirements to allow charter to increase enrollment as follows:

- Charters that are not low-performing could set their enrollment each year, with no supervision by the SBE.
- Charters that are low-performing would be permitted to ask the State Board for approval to grow more than 20%.

**PART III:** Any student who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school. Students are qualified for admission to North Carolina public schools if they are domiciled in this State. Local school administrative units (LEAs) have the authority to admit students who are not domiciliaries of the State and charge them tuition under G.S. 115C-366.1. LEAs cannot charge the out-of-State student more than the amount of the local per pupil funding.

Part III would allow a charter school to enroll out-of-state students who are not domiciliaries of North Carolina if the charter school has not filled its enrollment capacity. The charter school must charge the out-of-state students a tuition amount of at least 50% of the total of the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year but no more than 100% of the total of the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year. The number of out-of-state students cannot exceed ten percent of the total number of students enrolled in the charter school.

Part III would also allow charter schools to enroll foreign exchange students in grades 9-12 as follows:

- No more than 2 foreign exchange students per high school grades 9-12 can be enrolled in any given school year at the charter school.
- The charter school may charge the foreign exchange students a tuition amount of at least 50% of the total of the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year but no more than 100% of the total of the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year.
- Foreign exchange students would not count towards the enrollment capacity or cap for any program, class, building or grade levels for grades 9-12 and would not be subject to any lottery process used by the charter school for enrollment purposes.

The section would become effective when it becomes law and applies beginning with the admissions process for the 2024-2025 school year.

**PART IV:** Charter schools that receive more applications than available seats must conduct a lottery for student admissions. Charters are allowed to allow admissions prior to the lottery process for students meeting certain criteria. Part IV would allow two new pre-lottery admission groups:

- Capped at up to 10% of total student enrollment, a preschool student enrolled at least 75 days of the prior semester in a preschool program with a written enrollment articulation agreement with the charter school.
- A student whose parent is on active military duty.

**PART V:** Part V would prohibit local boards of education from discriminating against charter school students in applying for admission to any school or special program operated in the LEA.

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**PART VI:** Charter schools receive a per pupil share of local current expense funds from LEAs, but do not receive a share of local capital funding provided by county commissioners.

Part VI would allow counties to use property taxes to provide direct appropriations for capital funds to charter schools that could be used for real property, building construction and renovation, and furnishings and equipment. Counties would receive a security interest if charters used the funds to acquire or improve property, which the county could subordinate to other liens, and release if the charter paid back the capital funds provided. Counties could also lease real property to charters. If a charter dissolved, any assets purchased with county capital funds would be deemed the property of the contributing county or counties.

**PART VII:** Charter schools receive State funds equal to the average per pupil allocation for average daily membership for the LEA in which the charter is located for each child attending the charter schools, except for funding for children with disabilities and children with limited English proficiency. Additional funds for those groups are provided to charter schools for any students meeting those qualifications.

Part VII would make the following changes:

- State the General Assembly's intent to ensure approximately equal per-pupil funding for students in charter schools with students in other public school units.
- Require the SBE to allocate State funds based on the number of students actually enrolled in the charter school, up to the maximum authorized enrollment.

**PART VIII:** The SBE is required to adopt rules related to high school interscholastic athletics, including administrative rules governing classifications of divisions and conferences.

Part VIII would require that charter schools and nonpublic schools be classified for interscholastic athletics in the same division or conference as the school or schools in an LEA where the majority of students enrolled in the charter or nonpublic schools would have attended. Hardship waivers would be available. The SBE would be allowed to adopt emergency rules to implement this requirement for the 2023-2024 school year.

**EFFECTIVE DATE:** HB 219 would become effective when it becomes law and apply beginning with the 2023-2024 school year.