

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06G .0508

DEADLINE FOR RECEIPT: Tuesday, November 8, 2022.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In your introductory sentence, please change “proposed for adoption” to “proposed for amendment”.

Also in the introductory sentence, please correct the citation to the Register. Your Rule was published in Volume 37, Issue 03, on page 230-31.

Any changes made to the adopted rule after publication in the Register should be highlighted along with the cross-outs and underlines. Please see the templates on OAH's website at <https://www.oah.nc.gov/rules-division/information-rulemaking-coordinators>

In (a), line 4, delete the two commas.

In (a), consider a change in the verbiage of “shall be received by”. This language is passive and does not require any action by applicants. Use a more direct action verb targeting the regulated public (charter school applicants), such as “shall be submitted to”.

In (a), unless this is specified in another rule, please specify where, how, and to whom the applicant must submit the application.

In (a), is there a time requirement to file the application on “last Friday in April”? For example, by close of business (5:00 p.m.)? Or just by 11:59 p.m.?

In (b), line 6, is “the deadline specified by the Office of Charter Schools” different from the deadline specified in (a)? If you're referring to the deadline in (a), please use the same terms, as to avoid confusion.

In (b), line 7, what is an “applicant group”? This is the only place this language is used in G.S. 115C and Chapter 06G.

Brian Liebman
Commission Counsel

Date submitted to agency: October 25, 2022

In (c), are these factors in addition to the requirements in G.S. 115C-218.1(b)?

In (c), line 8-9, can you rephrase “academic, financial, and governance of the school”? This is ungrammatical as written. Consider “academic performance, financial performance, and the governance of the school”.

Is not (c)(2) duplicative of (c)(1), in that promoting innovative teaching methods is one of the purposes of a charter school listed in G.S. 115C-218(a)? Please delete (c)(2).

Regardless, with respect to (c)(2), how can an application promote the use of “different and innovative teaching methods”? If you keep this item, please rephrase.

In (c)(3), line 13, what are “educational issues”? Please define.

In (c)(3), lines 13-14, are “budgeting, financing, and accounting” examples of “educational issues” you specifically want the application to address, or are these issues that relate to “planning” and “research”? Please revise this item for clarity.

In (c)(9), line 23, the sentence lacks a verb. It reads “... the extent to which the application any other factor...”

In (c)(9), line 23, who makes the determination? The applicant or the Board?

In (c)(9), line 23, what are the purposes of the Charter School Act? Are these other than the purposes described in G.S. 115C-218(a)?

In your History Note, can you please explain the cited effective date of August 23, 2022? I did not remember seeing this Rule over the summer, and my review of RRC’s agendas from July and August indicate that the Rule was not submitted for review at either of those meetings. Was there another mechanism for making this Rule effective other than RRC review?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: October 25, 2022

1 16 NCAC 06G .0508 is proposed for adoption with changes as published in 35:23 NCR 2635 as follows:

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3 **16 NCAC 06G .0508 CHARTER SCHOOLS APPLICATION AND REVIEW PROCESS**

4 (a) Applications for charters, and the nonrefundable one thousand dollar (\$1,000) fee, shall be received by the Office
5 of Charter Schools no later than the last Friday in ~~July~~April.

6 (b) Applications and fees received after the deadline specified by the Office of Charter Schools will not be considered,
7 and any affected applicant groups will be notified in writing.

8 (c) When determining whether to award a charter, the SBE shall consider any factors relevant to academic, financial,
9 and governance of the school, including the extent to which the application:

- 10 (1) reflects the applicant's commitment to the purposes of the charter school law stated in G.S. 115C-
11 218(a);
- 12 (2) promotes the use of different and innovative teaching methods;
- 13 (3) reflects the applicant's planning, research, and understanding of educational issues, including
14 budgeting, financing, and accounting;
- 15 (4) describes a board whose size, diversity, and regional affiliations represent the community and are
16 likely to promote community support for the school;
- 17 (5) contains articles of incorporation and by-laws;
- 18 (6) contains a budget that reflects anticipated revenues and costs, including costs associated with
19 maintenance of the school facilities and projected growth;
- 20 (7) contains a plan for acquisition and utilization of a facility consistent with the proposed budget and
21 timeline for opening school;
- 22 (8) describes a five year marketing plan that promotes a diverse student population; and
- 23 (9) any other factor that it determines will promote the purposes of the Charter School Act, G.S. 115C-
24 218 et seq.

25 *History Note:* Authority G.S. 115C-12; 115C-218, 115C-218.1; 115C-218.5;
26 Emergency Adoption Eff. August 20, 2019;
27 Eff. August 23, ~~2022~~.2022;
28 Amended Eff. December 1, 2022.

29