

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 878
PROPOSED COMMITTEE SUBSTITUTE H878-PCS40606-TC-36

Short Title: Schools for the Deaf/Administration.

(Public)

Sponsors:

Referred to:

May 5, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT THE EASTERN NORTH CAROLINA SCHOOL FOR THE
3 DEAF AND THE NORTH CAROLINA SCHOOL FOR THE DEAF ARE GOVERNED BY
4 BOARDS OF TRUSTEES AND FUNCTION SIMILARLY TO LOCAL SCHOOL
5 ADMINISTRATIVE UNITS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 9C of Chapter 115C of the General Statutes reads as rewritten:

8 "Article 9C.

9 "Schools for Students with Visual and Hearing Impairments.

10 "Part 1. Governor Morehead School for the Blind.

11 "**§ 115C-150.11. State Board of Education as governing ~~agency~~ agency over the Governor**
12 **Morehead School.**

13 The State Board of Education shall be the sole governing agency for the Governor Morehead
14 School for the ~~Blind, the Eastern North Carolina School for the Deaf, and the North Carolina~~
15 ~~School for the Deaf.~~ Blind. The Superintendent of Public Instruction through the Department of
16 Public Instruction shall be responsible for the administration, including appointment of staff, and
17 oversight of ~~a school governed by this Article.~~ the Governor Morehead School for the Blind.

18 "**§ 115C-150.12. Applicability of Chapter.**

19 Except as otherwise provided, the requirements of this Chapter shall apply to the ~~schools~~
20 ~~governed by this Article.~~ Governor Morehead School for the Blind.

21 "**§ 115C-150.13. ~~Rule making.~~ Rules and admission criteria.**

22 (a) The State Board of Education shall adopt rules necessary for the Department of Public
23 Instruction to implement this ~~Article,~~ Article for the Governor Morehead School for the Blind,
24 including, at a minimum, rules to address eligibility for admission criteria. In determining rules
25 for admission criteria, the State Board of Education shall take into account the following factors:

26 (1) State and federal laws.

27 (2) Optimal academic and communicative outcomes for the child.

28 (3) Parental input and choice.

29 (4) Recommendations in a child's Individualized Education Program (IEP).

30 (b) Rules for the Governor Morehead School for the Blind shall be adopted in accordance
31 with Chapter 150B of the General Statutes.

32 "**§ 115C-150.14. Tuition and room and board.**

33 (a) Only children who are residents of North Carolina are entitled to free tuition and room
34 and board at ~~a school governed by this Article.~~ the Governor Morehead School for the Blind.

35 (b) ~~A school governed by this Article.~~ The Governor Morehead School for the Blind may
36 enroll a foreign exchange student and shall charge the student the full, unsubsidized per capita



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1 cost of providing education at the school for the period of the student's attendance. ~~A school that~~
2 ~~seeks to enroll foreign exchange students under this section.~~ The School shall submit a plan prior
3 to enrolling any of those students to the State Board of Education for approval, including the
4 proposed costs to be charged to the students for attendance and information on compliance with
5 federal law requirements. For the purposes of this section, a foreign exchange student is a student
6 who is domiciled in a foreign country and has come to the United States on a valid, eligible
7 student visa.

8 (c) Notwithstanding subsection (b) of this section, foreign exchange students who have
9 obtained the status of nonimmigrants pursuant to the Immigration and Nationality Act, 8 U.S.C.
10 § 1101(a)(15)(F) may only be enrolled in ~~a school governed by this Article~~ the School in grades
11 nine through 12 for a maximum of 12 months at the ~~school.~~ School.

12 **"§ 115C-150.15. Reporting to residential schools on deaf and the Governor Morehead**
13 **School for the Blind on blind children.**

14 (a) Request for Consent. – Local superintendents shall require that the following request
15 for written consent be presented to parents, guardians, or custodians of any ~~hearing impaired or~~
16 ~~visually impaired~~ children no later than October 1 of each school year: "North Carolina provides
17 ~~three a~~ public residential schools serving visually ~~and hearing~~ impaired students: the Governor
18 Morehead School for the ~~Blind, the Eastern North Carolina School for the Deaf, and the North~~
19 ~~Carolina School for the Deaf.~~ Blind. Do you consent to the release of your contact information
20 and information regarding your child and his or her visual impairment to ~~these schools~~ this school
21 so that you can receive more information on services offered by ~~those campuses?~~ that campus?"

22 (b) Annual Report to ~~Residential Schools.~~ the Governor Morehead School for the Blind.
23 – Local superintendents shall report by November 30 each year the names and addresses of
24 parents, guardians, or custodians of any ~~hearing impaired or~~ visually impaired children who have
25 given written consent to the directors of the Governor Morehead School for the ~~Blind, the Eastern~~
26 ~~North Carolina School for the Deaf, and the North Carolina School for the Deaf.~~ Blind. The
27 report shall include ~~the type of disability of each child, including whether the hearing and~~ visual
28 impairments range from partial to total disability, and if the child has multiple disabilities with
29 the visual ~~or hearing~~ impairment not identified as the primary disability of the student. The report
30 shall also be made to the Department of Public Instruction.

31 (c) Confidentiality of Records. – The directors of the Governor Morehead School for the
32 ~~Blind, the Eastern North Carolina School for the Deaf, and the North Carolina School for the~~
33 ~~Deaf.~~ Blind shall treat any information reported to the ~~schools.~~ School by a local superintendent
34 under subsection (b) of this section as confidential, except that a director or the director's designee
35 may contact the parents, guardians, or custodians of any ~~hearing impaired or~~ visually impaired
36 children whose information was included in the report. The information shall not be considered
37 a public record under G.S. 132-1.

38 Part 2. Residential Schools for Students with Hearing Impairments.

39 **"§ 115C-150.30. Definitions.**

40 The following definitions apply in this Part:

41 (1) ENCSD. – The Eastern North Carolina School for the Deaf.

42 (2) NCSD. – North Carolina School for the Deaf.

43 (3) Residential school. – The schools for students with hearing impairments
44 located at the Eastern North Carolina School for the Deaf and the North
45 Carolina School for the Deaf.

46 **"§ 115C-150.31. General supervision over residential schools.**

47 The State Board of Education shall have general supervision over residential schools in
48 accordance with G.S. 115C-12. Except as otherwise provided for in this Part, the residential
49 schools shall be housed administratively within the Department of Public Instruction, but each
50 residential school shall operate independently with a board of trustees as the governing body.
51 Each board of trustees of the ENCSD and NCSD, respectively, shall appoint a director for the

1 school, who shall act as secretary to the board of trustees in accordance with G.S. 115C-150.32
2 and shall manage school personnel, day-to-day operations of the school, and the school's
3 operating budget at the direction of the board of trustees.

4 **"§ 115C-150.32. Board of trustees for each residential school.**

5 (a) Appointment. – Each residential school shall be governed by a separate board of
6 trustees. There shall be five voting members for each board of trustees to be appointed as follows:

7 (1) Two members appointed by the General Assembly upon the recommendation
8 of the Speaker of the House of Representatives.

9 (2) Two members appointed by the General Assembly upon the recommendation
10 of the President Pro Tempore of the Senate.

11 (3) One member appointed by the Governor.

12 (b) Ex Officio, Nonvoting Members. – The President of the Eastern North Carolina
13 School for the Deaf Alumni Association or the President's designee shall be a nonvoting, ex
14 officio member of the ENCSD Board of Trustees. The President of the North Carolina School
15 for the Deaf Alumni Association or the President's designee shall be a nonvoting, ex officio
16 member of the NCSD Board of Trustees.

17 (c) Terms of Members. – Members shall be appointed for six-year terms. Terms shall
18 commence July 1. Members shall serve until their successors are appointed and qualified. All
19 vacancies shall be filled by the appointing authority for the vacating member for the remainder
20 of the unexpired term.

21 (d) Declarations of Vacancies. – Whenever an appointed member of a board of trustees
22 shall fail, for any reason other than ill health or service in the interest of the State or nation, to be
23 present at three successive regular meetings of the board, his or her place as a member of the
24 board shall be deemed vacant.

25 (e) Chair; Director. –A board of trustees shall elect one of its members as chair and one
26 of its members as vice-chair, each for a two-year term, at the first meeting occurring after July 1
27 in even-numbered years. The director appointed in accordance with G.S. 115C-150.31 shall serve
28 as secretary of the board of trustees. The director shall recommend school personnel to the board
29 of trustees to be employed by the board.

30 (f) Meetings. – A board of trustees shall meet at least four times a year and also at such
31 other times as it may deem necessary. A majority of the Board shall constitute a quorum for the
32 transaction of business. All meetings shall be subject to Article 33C of Chapter 143 of the General
33 Statutes. The members shall receive per diem compensation and necessary travel and subsistence
34 expenses while engaged in the discharge of their official duties as is provided by law for members
35 of State boards and commissions.

36 (g) Procedures. – A board of trustees shall determine its own rules of procedure and may
37 delegate to committees that it creates any powers it deems appropriate.

38 **"§ 115C-150.33. Applicability of Chapter.**

39 Except as otherwise provided, the requirements of this Chapter shall apply to residential
40 schools. For the purposes of federal law and the administration of State law, each residential
41 school shall be considered a local school administrative unit.

42 **"§ 115C-150.34. Powers and duties.**

43 (a) Each board of trustees shall have the powers and duties of a local board of education,
44 including the powers and duties provided in G.S. 115C-47, except as otherwise provided in this
45 Part. A board of trustees shall adopt rules necessary for the administration of the residential
46 school to implement the requirements of this Part.

47 (b) Each board of trustees shall establish rules for determining admissions and
48 assignments for students to the school. The rules shall, at a minimum, establish the following:

49 (1) Admission criteria that include consideration of the following:

50 a. Evidence of hearing loss.

51 b. State and federal laws.

- 1 c. Optimal academic and communicative outcomes for the child.
2 d. Parental input and choice.
3 (2) An application process that may be directly made by a parent or legal guardian
4 or upon recommendation of a public school unit.
5 (3) An admissions committee to evaluate eligibility for admission and assignment
6 to the school. A written invitation shall be extended to a representative of the
7 applicant's current public school unit to attend and participate in the
8 evaluation. The admissions committee shall include, but is not limited to, the
9 following members:
10 a. A chair designated by the director of the residential school.
11 b. The applicant's parent or legal guardian.
12 c. Any professionals necessary to interpret the evaluation results.
13 (4) A process to allow temporary assignment for extended evaluations when an
14 applicant's eligibility for admission cannot be established through the initial
15 application.
16 (5) Consideration of multiple sources of information in determining admission
17 eligibility, including assessments, teacher recommendations, evidence of the
18 applicant's physical and emotional health, and indications of the applicant's
19 level of functioning, including adaptive behavior skills.
20 (c) Rules adopted by a board of trustees for a residential school are not required to be
21 adopted in accordance with Chapter 150B of the General Statutes.

22 (d) The board of trustees for a residential school shall be subject to rules adopted by the
23 State Board of Education in accordance with Chapter 150B of the General Statutes.

24 **"§ 115C-150.35. Tuition and room and board.**

25 (a) Only children who are residents of North Carolina are entitled to free tuition and room
26 and board at a residential school.

27 (b) A residential school may enroll a foreign exchange student and shall charge the
28 student the full, unsubsidized per capita cost of providing education at the school for the period
29 of the student's attendance. A residential school that seeks to enroll foreign exchange students
30 under this section shall submit a plan prior to enrolling any of those students to the board of
31 trustees for approval, including the proposed costs to be charged to the students for attendance
32 and information on compliance with federal law requirements. For the purposes of this section,
33 a foreign exchange student is a student who is domiciled in a foreign country and has come to
34 the United States on a valid, eligible student visa.

35 (c) Notwithstanding subsection (b) of this section, foreign exchange students who have
36 obtained the status of nonimmigrants pursuant to the Immigration and Nationality Act, 8 U.S.C.
37 § 1101(a)(15)(F) may only be enrolled in a residential school in grades nine through 12 for a
38 maximum of 12 months at the school.

39 **"§ 115C-150.36. Reporting to residential schools on hearing impaired children.**

40 (a) Request for Consent. – Local superintendents shall require that the following request
41 for written consent be presented to parents, guardians, or custodians of any hearing impaired
42 children no later than October 1 of each school year: "North Carolina provides two public
43 residential schools serving hearing impaired students: the Eastern North Carolina School for the
44 Deaf and the North Carolina School for the Deaf. Do you consent to the release of your contact
45 information and information regarding your child and his or her impairment to these schools so
46 that you can receive more information on services offered by those campuses?"

47 (b) Annual Report to Residential Schools. – Local superintendents shall report by
48 November 30 each year the names and addresses of parents, guardians, or custodians of any
49 hearing impaired children who have given written consent to the directors of the Eastern North
50 Carolina School for the Deaf and the North Carolina School for the Deaf. The report shall include
51 whether the hearing impairments range from partial to total disability and if the child has multiple

1 disabilities with the hearing impairment not identified as the primary disability of the student.
 2 The report shall also be made to the Department of Public Instruction.

3 (c) Confidentiality of Records. – The directors of the Eastern North Carolina School for
 4 the Deaf and the North Carolina School for the Deaf shall treat any information reported to the
 5 schools by a local superintendent under subsection (b) of this section as confidential, except that
 6 a director or the director's designee may contact the parents, guardians, or custodians of any
 7 hearing impaired children whose information was included in the report. The information shall
 8 not be considered a public record under G.S. 132-1.

9 (d) Transfer of Information. – The local superintendent, or if there is no superintendent,
 10 the staff member with the highest decision-making authority, shall share a copy of all current
 11 evaluation data and a copy of the current or proposed individualized education plan with the
 12 Eastern North Carolina School for the Deaf or the North Carolina School for the Deaf for any
 13 child enrolled in a public school unit who has been identified as a child with a disability with
 14 hearing impairment that has applied for admission to a residential school, upon the written
 15 request of a parent, guardian, or custodian of the student."

16 **SECTION 2.(a)** G.S. 115C-5 reads as rewritten:

17 **"§ 115C-5. Definitions.**

18 As used in this Chapter unless the context requires otherwise:

19 ...

20 (3a) The governing body of a public school unit is the following:

- 21 a. For a local school administrative unit, the local board of education.
- 22 b. For a charter school, the nonprofit corporation board of directors.
- 23 c. For a regional school, the regional school board of directors.
- 24 d. For a school operated under Article 7A and Part 1 of Article 9C of this
- 25 Chapter, the State Board of Education.
- 26 e. For a school operated under Article 29A of Chapter 116 of the General
- 27 Statutes, the chancellor of the constituent institution.
- 28 f. For a residential school, the board of trustees.

29 ...

30 (7a) Public school unit. – Any of the following:

- 31 a. A local school administrative unit.
- 32 b. A charter school.
- 33 c. A regional school.
- 34 d. A school providing elementary or secondary instruction operated by
- 35 one of the following:
 - 36 1. The State Board of Education, including schools operated
 - 37 under Article 7A and Part 1 of Article 9C of this Chapter.
 - 38 2. The University of North Carolina under Article 29A of Chapter
 - 39 116 of the General Statutes.
- 40 e. A residential school.

41"

42 **SECTION 2.(b)** G.S. 115C-105.51(g) reads as rewritten:

43 "(g) For the purposes of this section, a "public secondary school" is any of the following
 44 types of public school serving grades six or higher:

- 45 (1) A school under the control of a local school administrative unit.
- 46 (2) A school under the control of the State Board of Education, including schools
- 47 operated under Article 7A and Part 1 of Article 9C of this Chapter.
- 48 (3) A school under the control of The University of North Carolina.
- 49 (4) A charter school.
- 50 (5) A regional school.
- 51 (6) A residential school."

1 **SECTION 2.(c)** G.S. 150B-1(d) is amended by adding a new subdivision to read:

2 "(31) The Eastern North Carolina School for the Deaf and the North Carolina
3 School for the Deaf."

4 **SECTION 2.(d)** Section 10 of S.L. 2013-247 is repealed.

5 **SECTION 3.(a)** Section 8.15(b) of S.L. 2013-360 reads as rewritten:

6 "**SECTION 8.15.(b)** Notwithstanding G.S. 146-30 or any other provision of law, the
7 Department of Public Instruction shall only retain ~~all~~ proceeds generated from the rental of
8 building space on the residential school ~~campuses, campus of the Governor Morehead School for~~
9 ~~the Blind.~~ The Department of Public Instruction shall use all receipts generated from ~~these the~~
10 leases to staff and operate the ~~North Carolina School for the Deaf, the Eastern North Carolina~~
11 ~~School for the Deaf, and the Governor Morehead School.~~ These receipts shall not be used to
12 support administrative functions within the Department."

13 **SECTION 3.(b)** Notwithstanding G.S. 146-30 or any other provision of law,
14 beginning with the 2022-2023 fiscal year, the Department of Public Instruction shall retain all
15 proceeds generated from the rental of building space on the residential school campuses of the
16 Eastern North Carolina School for the Deaf and the North Carolina School for the Deaf to be
17 used in accordance with this subsection. The Department of Public Instruction shall allocate all
18 receipts generated from these leases to each board of trustees in the amount generated from the
19 individual school to supplement funds to staff and operate that school. These receipts shall not
20 be used to support administrative functions within the Department of Public Instruction.

21 **SECTION 4.** Notwithstanding Article 9C of Chapter 115C of the General Statutes,
22 as amended by this act, the Department of Public Instruction may continue its administrative
23 duties and responsibilities for the North Carolina School for the Deaf and the Eastern North
24 Carolina School for the Deaf subject to Article 9C of Chapter 115C of the General Statutes as of
25 June 30, 2022, until the board of trustees for each school has successfully transitioned into the
26 administrative role required by this act, but in no event later than October 1, 2022.

27 **SECTION 5.(a)** By May 1, 2022, the General Assembly and the Governor shall
28 appoint the initial members of the boards of trustees for the North Carolina School for the Deaf
29 and the Eastern North Carolina School for the Deaf to take office effective July 1, 2022.
30 Notwithstanding G.S. 115C-150.32, as enacted by this act, of the members appointed by the
31 General Assembly in 2022, the General Assembly shall appoint one of the members
32 recommended by the Speaker of the House of Representatives and one of the members
33 recommended by the President Pro Tempore of the Senate to a two-year term of office and one
34 of the members recommended by the Speaker of the House of Representatives and one of the
35 members recommended by the President Pro Tempore of the Senate to a four-year term of office.
36 The member appointed by the Governor in 2022 shall be appointed to a six-year term of office.
37 Upon the expiration of the initial terms appointed in 2022, all subsequent appointments by all
38 appointing entities shall be for a six-year term of office, as provided in G.S. 115C-150.32, as
39 enacted by this act.

40 **SECTION 5.(b)** Notwithstanding G.S. 115C-150.32(f), as enacted by this act,
41 following the appointment of a majority members of the boards of trustees of each residential
42 school as provided in subsection (a) of this section, the director of each residential school shall
43 call an initial meeting of each board.

44 **SECTION 6.** The Department of Public Instruction shall, in collaboration with the
45 personnel from the North Carolina School for the Deaf and the Eastern North Carolina School
46 for the Deaf, develop a transition plan for the change in administration of the residential schools
47 for students with hearing impairments in accordance with the requirements of this act to be
48 effective July 1, 2022. By December 15, 2021, the Department of Public Instruction shall report
49 to the Joint Legislative Education Oversight Committee on the plan for transition in
50 administration of the residential schools, including any legislative recommendations necessary
51 to effectuate the transition.

1 **SECTION 7.** Sections 1 through 4 of this act become effective July 1, 2022. The
2 remainder of this act is effective when it becomes law.