

16 NCAC 6G .0314

ALTERNATIVE SCHOOLS' ACCOUNTABILITY MODELS

STATE BOARD OF EDUCATION RESPONSE TO STAFF OPINION

16 NCAC 6G .0314 permits local public school and charter school boards to select from three models for participating in the State-wide accountability system required under G.S. § 115C-83.15 and G.S. § 115C-105.35. The Staff Opinion states:

The State Board is granted authority to modify the system in G.S. 115C-83.15, but the Commission has not found authority for the agency to provide different accountability models.

Staff Opinion gives too narrow a reading to the State Board of Education's (SBE) authority to modify the accountability model for alternative schools.

G.S. § 115C-12(24) states:

As part of its evaluation of the effectiveness of these [alternative learning] 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.

As the Staff Opinion notes, the highlighted text gives the SBE authority to modify the accountability system for "these schools," i.e., alternative schools and programs. Pursuant to G.S. § 115C-83.15(a) the fundamental purpose of the accountability system is to measure both student growth and achievement over time and use those indicia to calculate the school's performance over time. Whether the 16 NCAC 6G .0314 calls the means of evaluating an alternative school an alternative "system" or "model," there is no material difference between the authority to modify the accountability "system" for alternative schools or modifying the "model" for alternative schools. In either case, G.S. § 115C-12(24) was intended to give the SBE the authority to hold alternative schools to different standards of accounting for student growth and achievement.

Evidence of the breadth of the General Assembly's grant of authority to adopt an distinct accountability system or model for alternative schools can be found in Session Laws 2020-3, AN ACT TO PROVIDE AID TO NORTH CAROLINIANS

IN RESPONSE TO THE CORONAVIRUS DISEASE 2019 (COVID-19) CRISIS. S.L. 2020-3, s. 2.2, entitled “Introduction” begins with this language:

The purpose of this Part is to clarify or modify certain requirements in consideration of actions and circumstances related to the COVID-19 emergency, including, but not limited to, the federal testing waiver and the closure of schools for in-person instruction during the 2019-2020 school year.

The reference to “federal testing waiver” is significant because pursuant to G.S. § 115C-174.11(c) limits the SBE’s authority to adopt tests to those “required by federal law.” Therefore, the SBE’s entire School-Based Accountability program is based on federally required tests.

Having stated that the purpose of S.L. 2020-3 is to clarify or modify requirements in the State’s Annual Testing Program, the General Assembly goes on to specifically address accountability in alternative learning programs and schools:

(c) Evaluation of Alternative Programs. -- Notwithstanding G.S. 115C-12(24), to the extent educational performance and growth of students in alternative schools and alternative programs are measured based on the accountability system developed under G.S. 115C-83.15 and G.S. 115C-105.35, educational performance and growth of students in alternative schools and alternative programs shall not be evaluated based on data from the 2019-2020 school year.

The highlighted language plainly acknowledges that the General Assembly’s understanding that the SBE has the authority to adopt and may have adopted an accountability system for alternative schools that is not based on the accountability system developed under G.S. §§ 115C-83.15 and G.S. 115C-105.35, i.e., the accountability system based on the federally required tests. In other words, S.L. 2020-2, s. 2.2, exempts alternative learning programs and schools from evaluation based on standard testing assessments but acknowledges that alternative schools could be evaluated under alternative accountability systems or models, such as those in Option B and C in 16 NCAC 6G .0314.

At the very least, S.L. 2020-3, s.2.2(c) explicitly recognizes that the SBE may establish an accountability system for alternative schools that includes data other than data from the assessments used in the G.S. § 115C-83.15 accountability system. Options A and B explicitly rely upon the results from the required federal

assessments. Option A is the standard assessment system. Option B includes the results from standard assessment in the Annual Testing Program but modifies the weights give those results, adds other measures of achievement and modifies the change rating. Therefore, those Options meet the requirements of even a narrow reading of the SBE's authority to modify the accountability system to evaluate alternative schools.

It is only 16 NCAC 6G .0314(c)(3) Option C that permits an alternative school to propose an accountability model to measure educational performance and growth of students that is not based on results from standardized tests in the State Annual Testing Program mandated in G.S. § 115C-174.11(c). But the adoption of valid and reliable accountability model under Option C is still within the SBE's broad authority under G.S. 115C-83.15 and G.S. 115C-105.35 to modify the accountability system to adapt to the specific characteristics of alternative schools.