

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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HOUSE BILL 448  
Committee Substitute Favorable 5/12/05  
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Short Title: Complaints Against School Board Members.

(Public)

Sponsors:

Referred to:

March 2, 2005

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A FAIR AND ORDERLY PROCESS FOR THE  
DISPOSITION OF COMPLAINTS AGAINST LOCAL SCHOOL BOARD  
MEMBERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-39 reads as rewritten:

**"§ 115C-39. Removal of board members; suspension of duties by State Board.**

(a) ~~In case the State Board of Education has sufficient evidence that any member of a local board of education is not capable of discharging, or is not discharging, the duties of his office as required by law, or is guilty of immoral or disreputable conduct, the State Board of Education shall notify the chairman of such board of education, unless such chairman is the offending member, in which case all other members of such board shall be notified. Upon receipt of such notice there shall be a meeting of said board of education for the purpose of investigating the charges, and if the charges are found to be true, such board shall declare the office vacant: Provided, that the offending member shall be given proper notice of the hearing and that record of the findings of the other members shall be recorded in the minutes of such board of education.~~

(a) Policy. – The General Assembly finds that service on a local board of education is a public trust that requires each board member to demonstrate honesty, integrity, and ethical behavior and that the great majority of board members have demonstrated and continue to demonstrate these qualities. When board members do not display these qualities, public schools are hindered in their efforts to instill in students the moral and ethical values promoted under G.S. 115C-81(h).

It is the policy of the State of North Carolina that members of local boards of education must exhibit honesty, integrity, and ethical behavior in their personal lives as well as in the performance of their duties as board members.

(a1) Complaint Against a Board Member. – Any person may submit evidence to the State Board of Education that a member of a local board of education:

1           (1)    Is not capable of discharging, or is willfully failing to discharge, the  
2                   duties of the office as required by law, or

3           (2)    Is guilty of illegal, immoral, or disreputable conduct that substantially  
4                   impairs the member's ability to discharge the duties of the office. The  
5                   entry of a plea of guilty or nolo contendere to, or the conviction of, any  
6                   felony or any Class A1 misdemeanor or Class 1 misdemeanor shall be  
7                   presumptive evidence of illegal, immoral, or disreputable conduct.

8           (a2)   Review of Evidence. – Upon receipt of such evidence, the chair of the State  
9                   Board of Education shall, in his or her discretion, either (i) review the evidence to  
10                  determine whether, if taken as true, it would be sufficient to establish either of the  
11                  grounds set out in subsection (a1) of this section or (ii) refer the evidence to the entire  
12                  Board to make the determination. The chair or the Board may consider evidence of  
13                  illegal conduct that occurred prior to the person becoming a member of the local board  
14                  as evidence of illegal, immoral, or disreputable conduct that substantially impairs the  
15                  member's ability to discharge the duties of the office. The determination shall be based  
16                  solely upon the evidence that has been submitted pursuant to subsection (a1) of this  
17                  section.

18           If the chair or the Board find that, if taken as true, the evidence would be sufficient  
19           to establish either of the grounds set out in subsection (a1) of this section, the chair or  
20           the Board shall notify the member against whom the complaint has been made and all  
21           other members of the local board.

22           (a3)   Investigation and Determination by the Local Board. – Upon receipt of notice  
23                   under subsection (a2) of this section, the local board of education shall conduct a  
24                   hearing to determine the truthfulness of the charges and whether the conduct  
25                   substantially impairs the member's ability to perform the duties of the office. The local  
26                   board shall provide the member with proper notice of the hearing and the opportunity to  
27                   be represented by counsel, present evidence, and examine and cross-examine witnesses.  
28           If the local board finds the charges to be true and that the conduct substantially impairs  
29           the member's ability to perform the duties of the office, it shall declare the office vacant.  
30           The local board shall record its findings in the official minutes of the board.

31           (b)    Suspension of Powers and Duties. – In the event the State Board of Education  
32                   has appointed an interim superintendent under G.S. 115C-105.39 and the State Board  
33                   determines that the local board of education has failed to cooperate with the interim  
34                   superintendent, the State Board shall have the authority to suspend any of the powers  
35                   and duties of the local board and to act on its behalf under G.S. 115C-105.39."

36           **SECTION 2.** This act is effective when it becomes law.