

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1322*
Committee Substitute Favorable 5/12/09
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Short Title: Probationary Teacher Appeals.

(Public)

Sponsors:

Referred to:

April 9, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE HEARING PROCESS APPLICABLE TO PROBATIONARY
3 TEACHERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 115C-325 reads as rewritten:

6 "§ 115C-325. System of employment for public school teachers.

7 ...

8 (c) (1) Election of a Teacher to Career Status. – Except as otherwise provided in
9 subdivision (3) of this subsection, when a teacher has been employed by a
10 North Carolina public school system for four consecutive years, the board,
11 near the end of the fourth year, shall vote upon whether to grant the teacher
12 career status. The teacher has a right to notice and hearing prior to the
13 board's vote as provided in G.S. 115C-325(m)(7). The board shall give the
14 teacher written notice of that decision by ~~June 15.~~ June 15 or such later date
15 as provided in G.S. 115C-325(m)(7). If a majority of the board votes to grant
16 career status to the teacher, and if it has notified the teacher of the decision,
17 it may not rescind that action but must proceed under the provisions of this
18 section for the demotion or dismissal of a teacher if it decides to terminate
19 the teacher's employment. If a majority of the board votes against granting
20 career status, the teacher shall not teach beyond the current school term. If
21 the board fails to vote on granting career status:

22 a. ~~It shall not reemploy the teacher for a fifth consecutive year;~~

23 b. ~~As of June 16, the teacher shall be entitled to one month's pay as~~
24 ~~compensation for the board's failure to vote upon the issue of~~
25 ~~granting career status; and~~

26 e. ~~The~~ status, the teacher shall be entitled to an additional month's pay
27 for every 30 days or portion thereof after June 16 ~~that the board fails~~
28 ~~to vote upon the issue of granting career status.~~ or such later date as
29 provided in G.S. 115C-325(m)(7) if a majority of the board belatedly
30 votes against granting career status.

31 ...

32 (m) Probationary Teacher.

33 (1) The board of any local school administrative unit may not discharge a
34 probationary teacher during the school year except for the reasons for and by



- 1 the procedures by which a career employee may be dismissed as set forth in
2 subsections (e), (f), (f1), and (h) to (j3) above.
- 3 (2) The board, upon recommendation of the superintendent, may refuse to renew
4 the contract of any probationary teacher or to reemploy any teacher who is
5 not under contract for any cause it deems sufficient: Provided, however, that
6 the cause may not be arbitrary, capricious, discriminatory or for personal or
7 political reasons.
- 8 (3) The superintendent shall provide written notice to a probationary teacher no
9 later than May 15 of the superintendent's intent to recommend nonrenewal
10 and the teacher's right, within 10 days of receipt of the superintendent's
11 recommendation, to (i) request and receive written notice of the reasons for
12 the superintendent's recommendation for nonrenewal and the information
13 that the superintendent may share with the board to support the
14 recommendation for nonrenewal; and (ii) request a hearing for those teachers
15 eligible for a hearing under G.S 115C-325(m)(4). The failure to file a timely
16 request within the 10 days shall result in a waiver of the right to this
17 information and any right to a hearing. If a teacher files a timely request, the
18 superintendent shall provide the requested information and arrange for a
19 hearing, if allowed, and the teacher shall be permitted to submit
20 supplemental information to the superintendent and board prior to the board
21 making a decision or holding a hearing as provided in this section. The board
22 shall adopt a policy to provide for the orderly exchange of information prior
23 to the board's decision on the superintendent's recommendation for
24 nonrenewal.
- 25 (4) If the probationary teacher is eligible for career status pursuant to
26 G.S. 115C-325(c)(1) and (2) and the superintendent recommends not to give
27 the probationary teacher career status, the probationary teacher has the right
28 to a hearing before the board unless the reason is a justifiable board- or
29 superintendent-approved decrease in the number of positions due to district
30 reorganization, decreased enrollment, or decreased funding.
- 31 (5) For probationary contracts that are not in the final year before the
32 probationary teacher is eligible for career status, the probationary teacher
33 shall have the right to petition the local board of education for a hearing, and
34 the local board may grant a hearing regarding the superintendent's
35 recommendation for nonrenewal. The local board of education shall notify
36 the probationary teacher making the petition of its decision whether to grant
37 a hearing.
- 38 (6) Any hearing held according to this subsection shall be pursuant to the
39 provisions of G.S. 115C-45(c).
- 40 (7) The board shall notify a probationary teacher whose contract will not be
41 renewed for the next school year of its decision by June 15; provided,
42 however, if a teacher submits a request for information or a hearing, the
43 board shall provide the nonrenewal notification by July 1 or such later date
44 upon the written consent of the superintendent and teacher.
- 45 (8) All final board decisions to nonrenew a probationary teacher shall be subject
46 to judicial review pursuant to Article 4 of Chapter 150B of the General
47 Statutes.
- 48 ...
- 49 (o) ~~Resignation; Nonrenewal of Contract.~~Resignation. – A teacher, career or
50 probationary, should not resign without the consent of the superintendent unless he has given at
51 least 30 days' notice. If the teacher does resign without giving at least 30 days' notice, the board

1 may request that the State Board of Education revoke the teacher's certificate for the remainder
2 of that school year. A copy of the request shall be placed in the teacher's personnel file.

3 ~~A probationary teacher whose contract will not be renewed for the next school year shall be~~
4 ~~notified of this fact by June 15.~~

5"

6 **SECTION 2.** This act is effective when it becomes law. G.S. 115C-325(m)(4), as
7 enacted by Section 1 of this act, applies to proceedings initiated after August 31, 2010. The
8 remainder of this act applies to proceedings initiated after August 31, 2009.