

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 630
Education/Higher Education Committee Substitute Adopted 3/30/05

Short Title: Residential Schools Like Other Public Schools.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

1 AN ACT TO MODIFY THE STATUTES GOVERNING RESIDENTIAL SCHOOLS
2 TO MAKE THEIR ACCOUNTABILITY SYSTEM AND THEIR SCHOOL
3 IMPROVEMENT PLANS LIKE THOSE OF OTHER PUBLIC SCHOOLS, AND
4 TO MAKE OTHER TECHNICAL OR CONFORMING CHANGES TO THOSE
5 STATUTES.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 143B-146.1(b) reads as rewritten:

9 "(b) The following definitions apply in this Part:

- 10 (1) ABC's Program or Program. – The School-Based Management and
11 Accountability Program developed by the State Board.
12 (2) Department. – The Department of Health and Human Services.
13 (3) Instructional personnel. —~~Principals, assistant~~ Assistant principals,
14 teachers, instructional personnel, instructional support personnel, and
15 teacher assistants employed in a residential school.
16 (4) Participating school. – A residential school that is required to
17 participate in the ABC's Program.
18 (5) Residential school personnel. – The individuals included in
19 G.S. 143B-146.16(a)(2).
20 (6) Schools. – The residential schools under the control of the Secretary.
21 (7) Secretary. – The Secretary of Health and Human Services.
22 (8) State Board. – The State Board of Education.
23 (9) Superintendent. – ~~The individual designated by the Secretary to~~
24 administer a residential school. The Superintendent of the Office of
25 Education Services of the Department of Health and Human Services."

26 **SECTION 2.** G.S. 143B-146.2(a) reads as rewritten:

27 "(a) The Governor Morehead School and the schools for the deaf shall participate
28 in the ABC's Program. The Secretary, in consultation with the General Assembly and
29 the State Board, may designate other residential schools that must participate in the

1 ABC's Program. The primary goal of the ABC's Program is to improve student
2 performance. The Program is based upon an accountability, recognition, assistance, and
3 intervention process in order to hold each participating school, its ~~superintendent,~~
4 ~~principal,~~ and the instructional personnel accountable for improved student performance
5 in that school."

6 **SECTION 3.** G.S. 143B-146.4 reads as rewritten:

7 "**§ 143B-146.4. Performance recognition.**

8 (a) ~~The superintendent and instructional personnel assigned to participating~~
9 ~~schools that achieve or exceed a level of expected growth to be determined by the State~~
10 ~~Board are eligible for financial awards in amounts set by the State Board. Participating~~
11 ~~schools and personnel shall not be required to apply for these awards. The personnel in~~
12 participating schools that achieve a level of expected growth greater than one hundred
13 percent (100%) at a level to be determined by the State Board of Education are eligible
14 for financial awards in amounts set by the State Board. Schools and personnel shall not
15 be required to apply for these awards. For the purpose of this section, "personnel"
16 includes the principal and the instructional personnel (i) serving students in one or more
17 of the grades kindergarten through 12 or (ii) assigned to a prekindergarten program that
18 is located within the participating school and is designed to prepare students for
19 kindergarten at that school.

20 (b) The State Board shall establish a procedure to allocate the funds for these
21 awards. Funds shall become available for expenditure July 1 of each fiscal year. Funds
22 shall remain available until November 30 of the subsequent fiscal year for expenditure
23 ~~for:~~ for awards to personnel.

24 (1) ~~Awards to the personnel; or~~

25 (2) ~~The purposes authorized in a plan that has been:~~

- 26 a. ~~Developed and voted on by the superintendent and instructional~~
27 ~~personnel in the same manner that a school improvement plan is~~
28 ~~approved under G.S. 143B-146.12;~~
29 b. ~~Approved by a majority of the personnel who vote on the plan;~~
30 ~~and~~
31 c. ~~Submitted to and approved by the Secretary.~~

32 ~~The Secretary shall approve this plan unless the plan involves expenditures of funds~~
33 ~~that are not for a public purpose or that are otherwise unlawful.~~

34 The Secretary is encouraged to make these awards to each eligible person no later
35 than the first regular teacher payroll following receipt of the funds, and shall make these
36 awards to each eligible person no later than the second regular teacher payroll following
37 the receipt of the funds."

38 **SECTION 4.** G.S. 143B-146.6(b) reads as rewritten:

39 "(b) When assigned to an identified low-performing school, an assistance team
40 shall:

41 ...

- 42 (2) Evaluate at least semiannually the ~~superintendent~~ principal and
43 instructional personnel assigned to the school and make findings and
44 recommendations concerning their performance.

1 ..."

2 **SECTION 5.** G.S. 143B-146.7(a) reads as rewritten:

3 "(a) Within 30 days of the initial identification of a school as low-performing,
4 whether by the Secretary under G.S. 143B-146.5(b) or by the State Board under
5 G.S. 143B-146.5(a), the Secretary shall take one of the following actions concerning the
6 school's ~~superintendent-principal~~: (i) decide whether the ~~superintendent-principal~~
7 should be retained in the same position, (ii) decide whether the ~~superintendent-principal~~
8 should be retained in the same position and a plan of remediation should be developed,
9 (iii) decide whether the ~~superintendent-principal~~ should be transferred, or (iv) proceed
10 under the State Personnel Act to dismiss or demote the ~~superintendent-principal~~. The
11 ~~superintendent-principal~~ may be retained in the same position without a plan for
12 remediation only if the ~~superintendent-principal~~ was in that position for no more than
13 two years before the school is identified as low-performing. The ~~superintendent~~
14 ~~principal~~ shall not be transferred to another position unless (i) it is in a ~~superintendent~~
15 ~~principal~~ position in which the ~~superintendent-principal~~ previously demonstrated at least
16 two years of success, (ii) there is a plan to evaluate and provide remediation to the
17 ~~superintendent-principal~~ for at least one year following the transfer to assure the
18 ~~superintendent-principal~~ does not impede student performance at the school to which the
19 ~~superintendent-principal~~ is being transferred; and (iii) the parents of the students at the
20 school to which the ~~superintendent-principal~~ is being transferred are notified. The
21 ~~superintendent-principal~~ shall not be transferred to another low-performing school. The
22 Secretary may, at any time, proceed under the State Personnel Act for the dismissal of
23 any ~~superintendent-principal~~ who is assigned to a low-performing school to which an
24 assistance team has been assigned. The Secretary shall proceed under the State
25 Personnel Act for the dismissal of any ~~superintendent-principal~~ when the Secretary
26 receives from the assistance team assigned to that school two consecutive evaluations
27 that include written findings and recommendations regarding the ~~superintendent's~~
28 ~~principal's~~ inadequate performance. The Secretary shall order the dismissal of the
29 ~~superintendent-principal~~ if the Secretary determines from available information,
30 including the findings of the assistance team, that the low performance of the school is
31 due to the ~~superintendent's-principal's~~ inadequate performance. The Secretary may order
32 the dismissal of the ~~superintendent-principal~~ if (i) the Secretary determines that the
33 school has not made satisfactory improvement after the State Board assigned an
34 assistance team to that school; and (ii) the assistance team makes the recommendation
35 to dismiss the ~~superintendent-principal~~. The Secretary may order the dismissal of a
36 ~~superintendent-principal~~ before the assistance team assigned to the ~~superintendent's~~
37 ~~principal's~~ school has evaluated that ~~superintendent-principal~~ if the Secretary determines
38 from other available information that the low performance of the school is due to the
39 ~~superintendent's-principal's~~ inadequate performance. The burden of proof is on the
40 ~~superintendent-principal~~ to establish that the factors leading to the school's low
41 performance were not due to the ~~superintendent's-principal's~~ inadequate performance.
42 The burden of proof is on the Secretary to establish that the school failed to make
43 satisfactory improvement after an assistance team was assigned to the school. Two
44 consecutive evaluations that include written findings and recommendations regarding

1 that person's inadequate performance from the assistance team are substantial evidence
2 of the inadequate performance of the ~~superintendent~~-principal. Within 15 days of the
3 Secretary's decision concerning the ~~superintendent~~-principal, but no later than
4 September 30, the Secretary shall submit to the State Board a written notice of the
5 action taken and the basis for that action."

6 **SECTION 6.** G.S. 143B-146.8 reads as rewritten:

7 "**§ 143B-146.8. Evaluation of certificated personnel and ~~superintendents~~;**
8 **principals; action plans; State Board notification.**

9 (a) Annual Evaluations; Low-Performing Schools. – The ~~superintendent~~
10 principal shall evaluate at least once each year all certificated personnel assigned to a
11 participating school that has been identified as low-performing but has not received an
12 assistance team. The evaluation shall occur early enough during the school year to
13 provide adequate time for the development and implementation of an action plan if one
14 is recommended under subsection (b) of this section. If the employee is a teacher as
15 defined under G.S. 115C-325(a)(6), either the principal or an assessment team assigned
16 under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school
17 administrator as defined under G.S. 115C-287.1(a)(3), the ~~superintendent~~
18 Superintendent shall conduct the evaluation.

19 Notwithstanding this subsection or any other law, the principal shall observe at least
20 three times annually, a teacher shall observe at least once annually, and the principal
21 shall evaluate at least once annually, all teachers who have not attained career status. All
22 other employees defined as teachers under G.S. 115C-325(a)(6) who are assigned to
23 participating schools that are not designated as low-performing shall be evaluated
24 annually unless the Secretary adopts rules that allow specified categories of teachers
25 with career status to be evaluated more or less frequently. The Secretary also may adopt
26 rules requiring the annual evaluation of noncertificated personnel. This section shall not
27 be construed to limit the duties and authority of an assistance team assigned to a
28 low-performing school.

29 The Secretary shall use the State Board's performance standards and criteria unless
30 the Secretary develops an alternative evaluation that is properly validated and that
31 includes standards and criteria similar to those adopted by the State Board. All other
32 provisions of this section shall apply if an evaluation is used other than one adopted by
33 the State Board.

34 (b) Action Plans. – If a certificated employee in a participating school that has
35 been identified as low-performing receives an unsatisfactory or below standard rating
36 on any function of the evaluation that is related to the employee's instructional duties,
37 the individual or team that conducted the evaluation shall recommend to the
38 ~~superintendent~~-principal that: (i) the employee receive an action plan designed to
39 improve the employee's performance; or (ii) the ~~superintendent~~-principal recommend to
40 the Secretary that the employee be dismissed or demoted. The ~~superintendent~~-principal
41 shall determine whether to develop an action plan or to recommend a dismissal
42 proceeding. The person who evaluated the employee or the employee's supervisor shall
43 develop the action plan unless an assistance team or assessment team conducted the
44 evaluation. If an assistance team or assessment team conducted the evaluation, that team

1 shall develop the action plan in collaboration with the employee's supervisor. Action
2 plans shall be designed to be completed within 90 instructional days or before the
3 beginning of the next school year. The State Board, in consultation with the Secretary,
4 shall develop guidelines that include strategies to assist in evaluating certificated
5 personnel and developing effective action plans within the time allotted under this
6 section. The Secretary may adopt policies for the development and implementation of
7 action plans or professional development plans for personnel who do not require action
8 plans under this section.

9 (c) Reevaluation. – Upon completion of an action plan under subsection (b) of
10 this section, the ~~superintendent-principal~~ or the assessment team shall evaluate the
11 employee a second time. If on the second evaluation the employee receives one
12 unsatisfactory or more than one below standard rating on any function that is related to
13 the employee's instructional duties, the ~~superintendent-principal~~ shall recommend that
14 the employee be dismissed or demoted under G.S. 115C-325. The results of the second
15 evaluation shall constitute substantial evidence of the employee's inadequate
16 performance.

17 ...

18 (f) Evaluation of ~~Superintendents-Principals~~. – Each year the Secretary or the
19 Secretary's designee ~~Superintendent~~ shall evaluate the ~~superintendents-principals~~."

20 **SECTION 7.** G.S. 143B-146.9 reads as rewritten:

21 "**§ 143B-146.9. Assessment teams.**

22 The State Board shall develop guidelines for the Secretary to use to create
23 assessment teams. The Secretary shall assign an assessment team to every
24 low-performing school that has not received an assistance team. The Secretary shall
25 ensure that assessment team members are trained in the proper administration of the
26 employee evaluation used in the participating schools. If service on an assessment team
27 is an additional duty for an employee of a local school administrative unit or an
28 employee of a residential school, the Secretary may pay the employee for that additional
29 work.

30 Assessment teams shall:

- 31 (1) Conduct evaluations of certificated personnel in low-performing
32 schools;
- 33 (2) Provide technical assistance and training to principals ~~and~~
34 ~~superintendents~~ who conduct evaluations of certificated personnel;
- 35 (3) Develop action plans for certificated personnel; and
- 36 (4) Assist principals ~~and superintendents~~ in the development and
37 implementation of action plans."

38 **SECTION 8.** G.S. 143B-146.10 reads as rewritten:

39 "**§ 143B-146.10. Development of performance standards and criteria for
40 certificated personnel.**

41 The State Board, in consultation with the Secretary, shall revise and develop uniform
42 performance standards and criteria to be used in evaluating certificated personnel,
43 including school administrators. These standards and criteria shall include improving
44 student achievement, employee skills, and employee knowledge. The standards and

1 criteria for school administrators also shall include building-level gains in student
2 learning and effectiveness in providing for school safety and enforcing student
3 discipline. The Secretary shall develop guidelines for evaluating ~~superintendents-~~
4 ~~principals.~~ The guidelines shall include criteria for evaluating a
5 ~~superintendent's~~principal's effectiveness in providing safe schools and enforcing student
6 discipline."

7 **SECTION 9.** G.S. 143B-146.12 reads as rewritten:

8 **"§ 143B-146.12. Development and approval of school improvement plans.**

9 (a) In order to improve student performance, each ~~participating~~ school shall
10 develop a school improvement plan that takes into consideration the annual
11 performance goal for that school that is set by the State Board under G.S. 143B-146.3.
12 ~~The superintendent,~~principal of each school, instructional personnel, and residential life
13 personnel assigned to that school, and a minimum of five parents of children enrolled in
14 the school shall constitute a school improvement team to develop a school improvement
15 plan to improve student performance.

16 (a1) Representatives of the instructional and residential life personnel shall be
17 elected by their respective groups by secret ballot.

18 (b) Parents shall be elected by parents of children enrolled in the school in an
19 election conducted by the parent and teacher organization of the school or, if none
20 exists, by the largest organization of parents formed for this purpose. To the extent
21 possible, parents serving on school improvement teams shall reflect the composition of
22 the students enrolled in that school. No more than two parents may be employees of the
23 school. Parental involvement is a critical component of school success and positive
24 student achievement; therefore, it is the intent of the General Assembly that parents,
25 along with ~~teachers,~~instructional and residential life personnel, have a substantial role in
26 developing school improvement plans. To this end, school improvement team meetings
27 shall be held at a convenient time to assure substantial parent participation. Parents who
28 are elected to serve on school improvement teams and who are not employees of the
29 school shall receive travel and subsistence expenses in accordance with G.S. 138-5 and,
30 if appropriate, may receive a stipend.

31 (c) The strategies for improving student performance shall include the following:

32 (1) A plan for the use of staff development funds that may be made
33 available to the school ~~by the Secretary to meet the goals for that~~
34 ~~school under the ABC's Program and~~ to implement the school
35 improvement plan. The plan may provide that a portion of these funds
36 is used for mentor training and for release time and substitute teachers
37 while teachers are meeting with mentors;

38 (1a) A plan for preparing students to read at grade level by the time they
39 enter second grade. The plan shall require kindergarten and first grade
40 teachers to notify parents or guardians when a child is not reading at
41 grade level and is at risk of not reading at grade level by the time the
42 child enters second grade. The plan may include the use of
43 assessments to monitor students' progress in learning to read, strategies
44 for teachers and parents to implement that will help students improve

1 and expand their reading ability, and provide for the recognition of
2 teachers and strategies that appear to be effective at preparing students
3 to read at grade level.

4 (2) A comprehensive plan to encourage parent involvement.

5 (3) A safe school plan designed to provide that the school is safe, secure,
6 and orderly, that there is a climate of respect in the school, and that
7 appropriate personal conduct is a priority for all students and all
8 residential school personnel. This plan shall include components
9 similar to those listed in G.S. 115C-105.47(b).

10 (4) A plan that specifies the effective instructional practices and methods
11 to be used to improve the academic performance of students identified
12 as at risk of academic failure or at risk of dropping out of school.

13 (d) Support among affected staff members is essential to successful
14 implementation of a school improvement plan to address improved student performance
15 at that school. The ~~superintendent-principal~~ of the school shall present the proposed
16 school improvement plan to all of the instructional personnel assigned to the school for
17 their review and vote. The vote shall be by secret ballot. The ~~superintendent-principal~~
18 shall submit the school improvement plan to the Superintendent for presentation to the
19 Secretary only if the proposed school improvement plan has the approval of a majority
20 of the instructional personnel who voted on the plan.

21 (e) The Secretary shall accept or reject the school improvement plan. The
22 Secretary shall not make any substantive changes in any school improvement plan that
23 the Secretary accepts. If the Secretary rejects a school improvement plan, the Secretary
24 shall state with specificity the reasons for rejecting the ~~plan; plan to the Superintendent~~
25 to share with the principal; the school improvement team may then prepare another
26 plan, present it to the instructional personnel assigned to the school for a vote, and
27 submit it to the Superintendent for presentation to the Secretary to accept or reject.
28 Within 60 days after the initial submission of the school improvement plan to the
29 Secretary, the Secretary shall accept the plan or shall ~~designate a person to~~ direct that the
30 Superintendent work with the school improvement team to resolve the disagreements. If
31 there is no resolution within 30 days, then the Secretary may develop a school
32 improvement plan for the school; however, the General Assembly urges the Secretary to
33 utilize the school's proposed school improvement plan to the maximum extent possible
34 when developing this plan.

35 (f) A school improvement plan shall remain in effect for no more than three
36 years; however, the school improvement team may amend the plan as often as is
37 necessary or appropriate. If, at any time, any part of a school improvement plan
38 becomes unlawful or the Secretary finds that a school improvement plan is impeding
39 student performance at a school, the Secretary may vacate the relevant portion of the
40 plan and may direct the school to revise that portion. The procedures set out in this
41 section shall apply to amendments and revisions to school improvement plans.

42 (g) Any funds the Secretary makes available to a school to meet the goals for that
43 school under the ABC's Program and to implement the school improvement plan at that
44 school shall be used in accordance with those goals and the school improvement plan.

1 (h) The ~~Secretary, Superintendent,~~ in consultation with the State Board, shall
2 develop a list of recommended strategies that it determines to be effective which
3 building level committees may use to establish parent involvement programs designed
4 to meet the specific needs of their schools.

5 (i) Once developed, the ~~Secretary-principal~~ shall ensure the plan is available and
6 accessible to parents and the school community."

7 **SECTION 10.** G.S. 143B-146.15 reads as rewritten:

8 "**§ 143B-146.15. Duty to report certain acts to law enforcement.**

9 When the ~~superintendent-principal~~ has personal knowledge or actual notice from
10 residential school personnel or other reliable source that an act has occurred on school
11 property involving assault resulting in serious personal injury, sexual assault, sexual
12 offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a
13 weapon, possession of a firearm in violation of the law, possession of a weapon in
14 violation of the law, or possession of a controlled substance in violation of the law, the
15 ~~superintendent-principal~~ shall immediately report the act to the appropriate local law
16 enforcement agency. Failure to report under this section is a Class 3 misdemeanor. For
17 purposes of this section, "school property" shall include any building, bus, campus,
18 grounds, recreational area, or athletic field, in the charge of the ~~superintendent-principal~~
19 or while the student is under the supervision of school personnel. It is the intent of the
20 General Assembly that the ~~superintendent-principal~~ notify the Secretary or the
21 ~~Secretary's designee Superintendent~~ of any report made to law enforcement under this
22 section."

23 **SECTION 11.** This act becomes effective July 1, 2005.