

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

SENATE BILL 466
RATIFIED BILL

AN ACT TO MODIFY THE LAW RELATING TO CAREER STATUS FOR PUBLIC SCHOOL TEACHERS.

The General Assembly of North Carolina enacts:

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

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

(a) Definition of Terms. – As used in this section unless the context requires otherwise:

...
(1d) ~~"Case manager" means a person selected under G.S. 115C-325(h)(7).~~

...
(4c) "Hearing officer" means a person selected under G.S. 115C-325(h)(7).

...
(5) "Probationary teacher" means a ~~certificated~~ licensed person, other than a superintendent, associate superintendent, or assistant superintendent, who has not obtained career-teacher status and whose major responsibility is to teach or to supervise teaching.

...
(6) "Teacher" means a person who holds at least a current, not provisional or expired, Class A ~~certificate~~ license or a regular, not provisional or expired, vocational ~~certificate~~ license issued by the ~~Department of Public Instruction;~~ State Board of Education; whose major responsibility is to teach or directly supervises teaching or who is classified by the State Board of Education or is paid either as a classroom teacher or instructional support personnel; and who is employed to fill a full-time, permanent position.

...
(e) Grounds for Dismissal or Demotion of a Career Employee.

(1) Grounds. – No career employee shall be dismissed or demoted or employed on a part-time basis except for one or more of the following:

...
k. Any cause which constitutes grounds for the revocation of the career teacher's teaching ~~certificate~~ license or the career school administrator's administrator ~~certificate~~ license.

...
m. Failure to maintain ~~his certificate~~ his or her license in a current status.

...
(3) Inadequate Performance. – In determining whether the professional performance of a career employee is adequate, consideration shall be given to regular and special evaluation reports prepared in accordance with the published policy of the employing local school administrative unit and to any published standards of performance which shall have been adopted by the board. Failure to notify a career employee of an inadequacy or deficiency in his performance shall be conclusive evidence of satisfactory performance. Inadequate performance for a teacher shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard. However, for a probationary teacher, a performance rating below proficient may or may not be deemed adequate at that stage of development by a superintendent or



designee. For a career teacher, a performance rating below proficient shall constitute inadequate performance unless the principal noted on the instrument that the teacher is making adequate progress toward proficiency given the circumstances.

- ...
- (f) (1) Suspension without Pay. – If a superintendent believes that cause exists for dismissing a career employee for any reason specified in G.S. 115C-325(e)(1) and that immediate suspension of the career employee is necessary, the superintendent may suspend the career employee without pay. Before suspending a career employee without pay, the superintendent shall meet with the career employee and give him written notice of the charges against him, an explanation of the bases for the charges, and an opportunity to respond. Within five days after a suspension under this paragraph, the superintendent shall initiate a dismissal, demotion, or disciplinary suspension without pay as provided in this section. If it is finally determined that no grounds for dismissal, demotion, or disciplinary suspension without pay exist, the career employee shall be reinstated immediately, shall be paid for the period of suspension, and all records of the suspension shall be removed from the career employee's personnel file.
- (2) Disciplinary Suspension Without Pay. – A career employee recommended for suspension without pay pursuant to G.S. 115C-325(a)(4a) may request a hearing before the board. If no request is made within 15 days, the superintendent may file his recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if one is held, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such suspension.
- a. Board hearing for disciplinary suspensions for more than 10 days or for certain types of intentional misconduct. – The procedures for a board hearing under G.S. 115C-325(j3) shall apply if any of the following circumstances exist:
1. The recommended disciplinary suspension without pay is for more than 10 days; or
 2. The disciplinary suspension is for intentional misconduct, such as inappropriate sexual or physical conduct, immorality, insubordination, habitual or excessive alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes, any cause that constitutes grounds for the revocation of the teacher's or school administrator's ~~certificate,~~ license, or providing false information.
- b. Board hearing for disciplinary suspensions of no more that [than] 10 days. – The procedures for a board hearing under G.S. 115C-325(j2) shall apply to all disciplinary suspensions of no more than 10 days that are not for intentional misconduct as specified in G.S. 115C-325(f)(2)a.2.
- ...
- (h) Procedure for Dismissal or Demotion of Career Employee.
- (1) a. A career employee may not be dismissed, demoted, or reduced to part-time employment except upon the superintendent's recommendation.
- b. G.S. 115C-325(f2) shall apply to the demotion of a career school administrator.
- (2) Before recommending to a board the dismissal or demotion of the career employee, the superintendent shall give written notice to the career employee by certified mail or personal delivery of his or her intention to make such recommendation and shall set forth as part of his or her recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The superintendent also shall meet with the career

employee and ~~give him~~ provide written notice of the charges against ~~him, the career employee~~, an explanation of the basis for the charges, and an opportunity to respond if the career employee has not done so under G.S. 115C-325(f)(1). The notice shall include a statement to the effect that if the career employee within 14 days after the date of receipt of the notice requests a review, he or she ~~shall be entitled~~ may request to have the grounds for the proposed recommendations of the superintendent reviewed by ~~a case manager~~, an impartial hearing officer appointed by the Superintendent of Public Instruction as provided for in G.S. 115C-325(h)(7). A copy of G.S. 115C-325 and ~~a current list of case managers~~ shall also be sent to the career employee. If the career employee does not request a hearing ~~with a case manager~~ before a hearing officer within the 14 days provided, the superintendent may submit his or her recommendation to the board.

- (3) Within the 14-day period after receipt of the notice, the career employee may file with the superintendent a written request for either (i) a hearing on the grounds for the superintendent's proposed recommendation by a ~~case manager~~ hearing officer or (ii) a hearing within 10 days before the board on the superintendent's recommendation. If the career employee requests an immediate hearing before the board, he or she forfeits his or her right to a hearing by a ~~case manager~~ hearing officer. If no request is made within that period, the superintendent may file his or her recommendation with the board. The board, if it sees fit, may by resolution (i) reject the superintendent's recommendation or (ii) accept or modify the superintendent's recommendation and dismiss, demote, reinstate, or suspend the employee without pay. If a request for review is made, the superintendent shall not file ~~his~~ the recommendation for dismissal with the board until a report of the ~~case manager~~ hearing officer is filed with the superintendent. Failure of the hearing officer to submit the report as required by G.S. 115C-325(i1)(1) shall entitle the career employee to a hearing before the board under the same procedures as provided in G.S. 115C-325(j).
- (4) Repealed by Session Laws 1997, c. 221, s. 13(a).
- (5) ~~If the career employee elects to request a hearing by a case manager, the career employee and superintendent shall each have the right to eliminate up to one-third of the names on the approved list of case managers. The career employee shall specify those case managers who are not acceptable in the career employee's request for a review of the superintendent's proposed recommendation under G.S. 115C-325(h)(3). The superintendent and career employee may jointly select a person to serve as case manager. The person need not be on the master list of case managers maintained by the Superintendent of Public Instruction.~~
- (6) ~~If a career employee requests a review by a case manager, hearing officer, the superintendent shall notify the Superintendent of Public Instruction within two days' five days of his or her receipt of the request. The notice shall contain a list of the case managers the career employee and the superintendent have eliminated from the master list or the name of a person, if any, jointly selected. Failure to exercise the right to eliminate names from the master list shall constitute a waiver of that right.~~
- (7) ~~The~~ Within five days of being notified of the request for a hearing before a hearing officer, the Superintendent of Public Instruction shall select submit to both parties a list of hearing officers trained and approved by the State Board of Education. ~~case manager within three days of receiving notice from the superintendent. Within five days of receiving the list, the parties may jointly select a hearing officer from that list, or, if the parties cannot agree to a hearing officer, each party may strike up to one-third of the names on the list and submit its strikeout list to the Superintendent of Public Instruction. The Superintendent of Public Instruction shall then appoint a hearing officer from those individuals remaining on the list. designate the person jointly selected by the parties to serve as case manager provided the person agrees to serve as case manager and can meet the requirements for time frames for~~

~~the hearing and report as provided in G.S. 115C-325(i1)(1). If a case manager was not jointly selected or if the case manager is not available, the Superintendent of Public Instruction shall select a case manager from the master list. Further, the parties may jointly agree on another hearing officer not on the State Board of Education's list, provided that individual is available to proceed in a timely manner and is willing to accept the terms of appointment required by the State Board of Education. No person eliminated by the career employee or superintendent shall be designated case manager, as the hearing officer for that case.~~

- (8) ~~The superintendent and career employee shall provide each other serve a copy to the other party of all documents with copies of all documents submitted to the Superintendent of Public Instruction and/or to the designated case manager, hearing officer and include a signed certificate of service similar to that required in court pleadings.~~
- (h1) ~~Case Managers; Hearing Officers; Qualifications; Training; Compensation.~~
- (1) ~~Each year the The State Board of Education shall select and maintain a master list of no more than 42-15 qualified case managers-hearing officers. The State Board shall, except for good cause shown, remove a hearing officer from the list who has failed to conduct a hearing or prepare a report within the time specified in G.S. 115C-325(i1) or who has failed to submit a supplemental report in accordance with G.S. 115C-325(i1)(4) or (j1)(2). A hearing officer shall, except for good cause shown, also be removed from the list for failure to meet the terms and conditions of engagement established by the State Board. Additionally, if a hearing officer is not appointed to a case within a two-year period due to repeated strikes from the list by either party as provided in G.S. 115C-325(h)(7), the State Board may remove the hearing officer from the master list.~~
- (2) ~~Persons selected by the State Board as case managershearing officers shall be be: (i) certified as a North Carolina Superior Court mediator; (ii) a member of the American Arbitration Association's roster of arbitrators and mediators; or (iii) have comparable certification in alternative dispute resolution. Case managers-members in good standing of the North Carolina State Bar who have demonstrated experience and expertise in the areas of education law, due process, administrative law, or employment law within the last five years. The State Board shall give special consideration in its selection to persons jointly endorsed by the largest by membership of each statewide organization representing teachers, school administrators, and local boards of education. Following State Board selection, hearing officers must complete a special training course approved by the State Board of Education. Education that includes training on the teacher evaluation instrument and performance standards before they are qualified to hear teacher dismissal or demotion cases.~~
- (3) ~~The State Board of Education shall determine the compensation for a case manager, hearing officer. The State Board shall pay the hearing officer's case manager's compensation and reimbursement for authorized expenses.~~
- (i) ~~Repealed by Session Laws 1997, c. 221, s. 13(a).~~
- (i1) ~~Report of Case Manager; Hearing Officer; Superintendent's Recommendation.~~
- (1) ~~The case manager hearing officer shall complete the hearing held in accordance with G.S. 115C-325(j) and prepare the report within 10-90 days from the time of the designation. This time period may be extended only for extraordinary cause and upon written agreement by both parties. The case manager may extend the period of time by up to five additional days if the case manager informs the superintendent and the career employee that justice requires that a greater time be spent in connection with the investigation and the preparation of the report. Furthermore, the superintendent and the career employee may agree to an extension of more than five days. The State Board of Education shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely report to the superintendent within the maximum 90-day period set~~

forth in this subdivision, except upon a showing of good cause by the hearing officer.

- (2) The case manager hearing officer shall make all necessary findings of fact, based upon the preponderance of the evidence, on all issues related to each and every ground for dismissal and on all relevant matters related to the question of whether the superintendent's recommendation is justified. The hearing officer shall not make a recommendation as to conclusions of law or the disposition of the case. The case manager also shall make a recommendation as to whether the findings of fact substantiate the superintendent's grounds for dismissal. The case manager hearing officer shall deliver copies of the report to the superintendent and the career employee.
- (3) Within two five days after receiving the case manager's hearing officer's report, the superintendent shall decide whether to submit a written recommendation to the local board for dismissal, demotion, or disciplinary suspension without pay to the board or to drop the charges against the career employee. The superintendent shall notify the career employee, in writing, of the decision.
- (4) If the superintendent contends that the case manager's hearing officer's report fails to address a critical factual issue, the superintendent shall within three days five days' receipt of the case manager's hearing officer's report, request in writing with a copy to the career employee that the case manager hearing officer prepare a supplement to the report. The superintendent shall specify what critical factual issue the superintendent contends the case manager hearing officer failed to address. If the case manager hearing officer determines that the report failed to address a critical factual issue, the case manager may hearing officer shall prepare a supplement to the report to address the issue and deliver the supplement to both parties before the board hearing. In no event shall the hearing officer take more than 30 days to provide a supplemental report. If the hearing officer fails to submit a timely supplemental report, the superintendent shall report the hearing officer to the State Board. The State Board shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely supplemental report to both parties, except upon a showing of good cause by the hearing officer. The failure of the case manager hearing officer to prepare a supplemental report or to address a critical factual issue shall not constitute a basis for appeal.

(j) Hearing by a Case Manager Hearing Officer. – The following provisions shall apply to a hearing conducted by the case manager hearing officer.

- (1) The hearing shall be private.
- (2) The hearing shall be conducted in accordance with reasonable rules and regulations adopted by the State Board of Education to govern such case manager hearings.
- (3) At the hearing the career employee and the superintendent or the superintendent's designee shall have the right to be present and to be heard, to be represented by counsel and to present through witnesses any competent testimony relevant to the issue of whether grounds for dismissal or demotion exist or whether the procedures set forth in G.S. 115C-325 have been followed.
- (4) Rules of evidence shall not apply to a hearing conducted by a case manager and the case manager hearing officer. The hearing officer may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent persons in the conduct of serious affairs.
- (5) At least five days before the hearing, the superintendent shall provide to the career employee a list of witnesses the superintendent intends to present, a brief statement of the nature of the testimony of each witness and a copy of any documentary evidence the superintendent intends to present. At least three days before the hearing, the career employee shall provide to the superintendent a list of witnesses the career employee intends to present, a

brief statement of the nature of the testimony of each witness and a copy of any documentary evidence the career employee intends to present. Additional witnesses or documentary evidence may not be presented except upon a finding by the ~~ease manager~~ hearing officer that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence according to the schedule provided in this subdivision.

- (5a) The hearing shall be completed within three days after commencement, unless extended by the hearing officer on a showing of extraordinary cause. Neither party shall have more than eight hours to present its case in chief, which does not include cross-examination of witnesses, rebuttal evidence, or arguments of counsel.
- (6) The ~~ease manager~~ hearing officer may subpoena issue subpoenas, at his or her discretion or upon written application by either party, and swear witnesses and may require them to give testimony and to produce records and documents relevant to the grounds for dismissal.
- (7) The ~~ease manager~~ hearing officer shall decide all procedural issues, including limiting cumulative evidence, necessary for a fair and efficient hearing.
- (8) The superintendent shall provide for making a transcript of the hearing. If the career employee contemplates a hearing before the board or to appeal the board's decision to a court of law, the career employee may request and shall receive at no charge a transcript of the proceedings before the ~~ease manager~~ hearing officer.

(j1) Board Determination.

- (1) Within ~~two~~ five days after receiving the superintendent's notice of intent to recommend the career employee's dismissal to the board, the career employee shall decide whether to request a hearing before the board and shall notify the superintendent, in writing, of the decision. If the career employee can show that the request for a hearing was postmarked within the time provided, the career employee shall not forfeit the right to a board hearing. Within ~~two~~ five days after receiving the career employee's request for a board hearing, the superintendent shall request that a transcript of the ~~ease manager~~ hearing be made. Within ~~two~~ five days of receiving a copy of the transcript, the superintendent shall submit to the board the written recommendation and shall provide a copy of the recommendation to the career employee. The superintendent's recommendation shall state the grounds for the recommendation and shall be accompanied by a copy of the ~~ease manager's~~ hearing officer's report and a copy of the transcript of the ~~ease manager~~ hearing.
- (2) If the career employee contends that the ~~ease manager's~~ hearing officer's report fails to address a critical factual issue the career employee shall, at the same time he or she notifies the superintendent of a request for a board hearing pursuant to G.S. 115C-325(j1)(1), request in writing with a copy to the superintendent that the ~~ease manager~~ hearing officer prepare a supplement to the ~~ease manager's~~ hearing officer's report. The career employee shall specify the critical factual issue he or she contends the ~~ease manager~~ hearing officer failed to address. If the ~~ease manager~~ hearing officer determines that the report failed to address a critical factual issue, the ~~ease manager may~~ hearing officer shall prepare a supplement to the report to address the issue and shall deliver the supplement to both parties before the board hearing. In no event shall the hearing officer take more than 30 days to provide a supplemental report. If the hearing officer fails to submit a timely supplemental report, the superintendent shall report the hearing officer to the State Board. The State Board shall determine an appropriate reduction in compensation to the hearing officer for failure to submit a timely supplemental report to both parties, except upon a showing of good cause by the hearing officer. The failure of the ~~ease manager~~ hearing officer to

prepare a supplemental report or to address a critical factual issue shall not constitute a basis for appeal.

- (3) Within ~~two-five~~ days after receiving the superintendent's recommendation and before taking any formal action, the board shall set a time and place for the hearing and shall notify the career employee by certified mail or personal delivery of the date, time, and place of the hearing. The time specified shall not be less than ~~seven-10~~ nor ~~nor~~ more than ~~30-40~~ days after the board has notified the career employee, unless both parties agree to an extension. If the career employee did not request a hearing, the board may, by resolution, reject the superintendent's decision, or accept or modify the decision and dismiss, demote, reinstate, or suspend the career employee without pay.
- (4) If the career employee requests a board hearing, it shall be conducted in accordance with G.S. 115C-325(j2).
- (5) The board shall make a determination and may (i) reject the superintendent's recommendation or (ii) accept or modify the recommendation and dismiss, demote, reinstate, or suspend the employee without pay.
- (6) Within two days following the hearing, the board shall send a written copy of its findings and determination to the career employee and the superintendent.

(j2) Board Hearing. – The following procedures shall apply to a hearing conducted by the board:

- ...
- (2) If the career employee requested a hearing by a ~~case manager~~, hearing officer, the board shall receive the following:
 - a. The whole record from the hearing held by the ~~case manager~~, hearing officer, including a transcript of the hearing, as well as any other records, exhibits, and documentary evidence submitted to the case manager at the hearing.
 - b. The ~~case manager's~~ hearing officer's findings of fact, including any supplemental findings prepared by the ~~case manager~~ hearing officer under G.S. 115C-325 (i1)(4) or G.S. 115C-325(j1)(2).
 - e. ~~The case manager's recommendation as to whether the grounds in G.S. 115C-325(e) submitted by the superintendent are substantiated.~~
 - d. The superintendent's recommendation and the grounds for the recommendation.
- (3) If the career employee did not request a hearing by a ~~case manager~~, hearing officer, the board shall receive the following:
 - a. Any documentary evidence the superintendent intends to use to support the recommendation. The superintendent shall provide the documentary evidence to the career employee seven days before the hearing.
 - b. Any documentary evidence the career employee intends to use to rebut the superintendent's recommendation. The career employee shall provide the superintendent with the documentary evidence three days before the hearing.
 - c. The superintendent's recommendation and the grounds for the recommendation.
- ...
- (6) No new evidence may be presented at the hearing except upon a finding by the board that the new evidence is critical to the matter at issue and the party making the request could not, with reasonable diligence, have discovered and produced the evidence at the hearing before the ~~case manager~~, hearing officer.
- (7) The board shall accept the ~~case manager's~~ hearing officer's findings of fact unless a majority of the board determines that the findings of fact are not supported by substantial evidence when reviewing the record as a whole. In such an event, the board shall make alternative findings of fact. If a majority of the board determines that the ~~case manager~~ hearing officer did not address a critical factual issue, the board may remand the findings of fact to the ~~case~~

~~manager-hearing officer~~ to complete the report to the board. If the ~~ease~~ ~~manager-hearing officer~~ does not submit the report within seven days receipt of the board's request, the board may determine its own findings of fact regarding the critical factual issues not addressed by the ~~ease~~ ~~manager-hearing officer~~. The board's determination shall be based upon a preponderance of the evidence.

...
(o) Resignation. –

- (1) If a career employee has been recommended for dismissal under G.S. 115C-325(e)(1) and the employee chooses to resign without the written agreement of the superintendent, then:
 - a. The superintendent shall report the matter to the State Board of Education.
 - b. The employee shall be deemed to have consented to (i) the placement in the employee's personnel file of the written notice of the superintendent's intention to recommend dismissal and (ii) the release of the fact that the superintendent has reported this employee to the State Board of Education to prospective employers, upon request. The provisions of G.S. 115C-321 shall not apply to the release of this particular information.
 - c. The employee shall be deemed to have voluntarily surrendered his or her ~~certificate-license~~ pending an investigation by the State Board of Education in a determination whether or not to seek action against the employee's ~~certificate-license~~. This ~~certificate-license~~ surrender shall not exceed 45 days from the date of resignation. Provided further that the cessation of the ~~certificate-license~~ surrender shall not prevent the State Board of Education from taking any further action it deems appropriate. The State Board of Education shall initiate investigation within five working days of the written notice from the superintendent and shall make a final decision as to whether to revoke or suspend the employee's ~~certificate-license~~ within 45 days from the date of resignation.
- (2) A teacher, career or probationary, who is not recommended for dismissal should not resign without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's ~~certificate license~~ for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

...
(p1) Procedure for Dismissal of School Administrators and Teachers Employed in Low-Performing Residential Schools. –

- (1) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the dismissal by the Secretary of Health and Human Services of teachers, principals, assistant principals, directors, supervisors, and other ~~certificated-licensed~~ personnel assigned to a residential school that the State Board has identified as low-performing and to which the State Board has assigned an assistance team under Part 3A of Article 3 of Chapter 143B of the General Statutes. The Secretary shall dismiss a teacher, principal, assistant principal, director, supervisor, or other ~~certificated-licensed~~ personnel when the Secretary receives two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team. These findings and recommendations shall be substantial evidence of the inadequate performance of the teacher or school administrator.

The Secretary may dismiss a teacher, principal, assistant principal, director, supervisor, or other ~~certificated-licensed~~ personnel when:

- a. The Secretary determines that the school has failed to make satisfactory improvement after the State Board assigned an assistance

team to that school under Part 3A of Article 3 of Chapter 143B of the General Statutes; and

- b. That assistance team makes the recommendation to dismiss the teacher, principal, assistant principal, director, supervisor, or other ~~certificated-licensed~~ personnel for one or more grounds established in G.S. 115C-325(e)(1) for dismissal or demotion of a career employee.

Within 30 days of any dismissal under this subdivision, a teacher, principal, assistant principal, director, supervisor, or other ~~certificated-licensed~~ personnel may request a hearing before a panel of three members designated by the Secretary. The Secretary shall adopt procedures to ensure that due process rights are afforded to persons recommended for dismissal under this subdivision. Decisions of the panel may be appealed on the record to the Secretary, with further right of judicial review under Chapter 150B of the General Statutes.

- (2) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the dismissal by the Secretary of Health and Human Services of ~~certificated-licensed~~ staff members who have engaged in a remediation plan under G.S. 115C-105.38A(c) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the ~~certificated-licensed~~ staff member.

Within 30 days of any dismissal under this subdivision, a ~~certificated-licensed~~ staff member may request a hearing before a panel of three members designated by the Secretary of Health and Human Services. The Secretary shall adopt procedures to ensure that due process rights are afforded to ~~certificated-licensed~~ staff members recommended for dismissal under this subdivision. Decisions of the panel may be appealed on the record to the Secretary, with further right of judicial review under Chapter 150B of the General Statutes.

- ...
(q) Procedure for Dismissal of School Administrators and Teachers Employed in Low-Performing Schools.

- ...
(2a) Notwithstanding any other provision of this section or any other law, this subdivision shall govern the State Board's dismissal of ~~certificated-licensed~~ staff members who have engaged in a remediation plan under G.S. 115C-105.38A(a) but who, after one retest, fail to meet the general knowledge standard set by the State Board. The failure to meet the general knowledge standard after one retest shall be substantial evidence of the inadequate performance of the ~~certificated-licensed~~ staff member.

A ~~certificated-licensed~~ staff member may request a hearing before a panel of three members of the State Board within 30 days of any dismissal under this subdivision. The State Board shall adopt procedures to ensure that due process rights are afforded to ~~certificated-licensed~~ staff members recommended for dismissal under this subdivision. Decisions of the panel may be appealed on the record to the State Board, with further right of judicial review under Chapter 150B of the General Statutes.

...."
SECTION 2. G.S. 115C-333 reads as rewritten:
"§ 115C-333. **Evaluation of ~~certificated-licensed~~ employees including certain superintendents; ~~action- mandatory improvement plans~~; State board notification upon dismissal of employees.**

- (a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all ~~certificated-licensed~~ employees assigned to a school that has been identified as ~~low-performing, but has not received an assistance team.~~ low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of ~~an action-~~ a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under

G.S. 115C-325(a)(6), either the principal, the assistant principal who supervises the teacher, or an ~~assessment assistance team assigned under G.S. 115C-334~~ G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

~~Notwithstanding this subsection or any other law, all~~ All teachers in low-performing schools who have not attained career status shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. ~~All other employees defined as teachers under G.S. 115C-325(a)(6) who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow specified categories of teachers with career status to be evaluated more or less frequently. Local boards also may adopt rules requiring the annual evaluation of noncertified employees.~~ This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board ~~unless the board develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board.~~ and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Action Plans. –

(1) ~~If a certified employee in a low-performing school receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the superintendent that: (i) the employee receive an action plan designed to improve the employee's performance; or (ii) the superintendent recommend to the local board that the employee be dismissed or demoted. The superintendent shall determine whether to develop an action plan or to recommend a dismissal proceeding. Action plans shall be developed by the person who evaluated the employee or the employee's supervisor unless the evaluation was conducted by an assistance team or an assessment team. If the evaluation was conducted by an assistance team or an assessment team, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist local boards in evaluating certified employees and developing effective action plans within the time allotted under this section. Local boards may adopt policies for the development and implementation of action plans or professional development plans for employees who do not require action plans under this section.~~

(1a) A mandatory improvement plan is an instrument designed to improve a teacher's performance or the performance of any licensed employee in a low-performing school by providing the individual with notice of specific performance areas that have substantial deficiencies and a set of strategies, including the specific support to be provided to the individual, so that the individual, within a reasonable period of time, should satisfactorily resolve such deficiencies.

(2) ~~Local boards shall adopt policies to require action plans for all certified employees who receive a below standard or unsatisfactory rating on an evaluation in the event the superintendent does not recommend dismissal, demotion, or nonrenewal.~~

(2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the employee's performance or (ii) the superintendent recommend to the local

board that the employee be dismissed or demoted. If the individual or team that conducted the evaluation elects not to make either of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement plan or to recommend a dismissal proceeding.

(3) If at any time a licensed employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan.

(4) Mandatory improvement plans shall be developed by the person who evaluated the licensed employee or the employee's supervisor unless the evaluation was conducted by an assistance team. If the evaluation was conducted by an assistance team, that team shall develop the mandatory improvement plan in collaboration with the employee's supervisor. Mandatory improvement plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist local boards in evaluating licensed employees and developing effective mandatory improvement plans within the time allotted under this section. Local boards may adopt policies for the development and implementation of mandatory improvement plans and policies for the implementation of monitored and directed growth plans.

~~(c) Reevaluation. Reassessment of Employee in a Low-Performing School. – After the expiration of the time period for the mandatory improvement plan Upon completion of an action plan under subdivision (1) of subsection (b)(2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assessment assistance team shall evaluate assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, if on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the superintendent shall recommend that the employee be dismissed or demoted under G.S. 115C-325. The results of the second evaluation assessment shall constitute substantial evidence of the employee's inadequate performance.~~

~~(d) State Board Notification. – If a local board dismisses an employee of a low-performing school for any reason except a reduction in force under G.S. 115C-325(e)(1)H. G.S. 115C-325(e)(1)L., it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop an action a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the action mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, an unsatisfactory or below standard rating on any function that is related to the employee's instructional duties, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's certificate license under G.S. 115C-296(d). If on the this next evaluation the employee receives at least a satisfactory proficient rating on all of the performance standards functions that were identified as areas of concern on the mandatory improvement plan, related to the employee's instructional duties, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is subsequently dismissed under G.S. 115C-325 except for a reduction in force.~~

...."

SECTION 3. Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not attained career status shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers with career status who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers with career status to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans for Teachers. – If, in an observation report or year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents unsatisfactory or below standard performance on any standard that the teacher was expected to demonstrate, the principal may place the teacher on a mandatory improvement plan as defined in G.S. 115C-333(b)(1a). The mandatory improvement plan shall be utilized only if the superintendent or superintendent's designee determines that an individual, monitored, or directed growth plan will not satisfactorily address the deficiencies.

If at any time a teacher engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan. The mandatory improvement plan shall be developed by the principal in consultation with the teacher. The teacher shall have five instructional days from receipt of the proposed mandatory improvement plan to request a modification of such plan before it is implemented, and the principal shall consider such suggested modifications before finalizing the plan. The teacher shall have at least 60 instructional days to complete the mandatory improvement plan. The State Board shall develop guidelines that include strategies to assist local boards in evaluating teachers and developing effective mandatory improvement plans. Local boards may adopt policies for the implementation of mandatory improvement plans under this section.

(c) Observation by a Qualified Observer. –

- (1) The term "qualified observer" as used in this section is any administrator or teacher who is licensed by the State Board of Education and working in North Carolina; any employee of the North Carolina Department of Public Instruction who is trained in evaluating licensed employees; or any instructor or professor who teaches in an accredited North Carolina school of education and holds an educator's license.
- (2) The local board of education shall create a list of qualified observers who are employed by that board and available to do observations of employees on mandatory improvement plans. This list shall be limited to names of administrators and teachers selected by the school improvement teams in the school system. The school improvement teams shall strive to select administrators and teachers with excellent reputations for competence and fairness.
- (3) Any teacher, other than a teacher assigned to a school designated as low-performing, who has been placed on a mandatory improvement plan shall have a right to be observed by a qualified observer in the area or areas of concern identified in the mandatory improvement plan. The affected teacher and the principal shall jointly choose the qualified observer within 20 instructional days after the commencement of the mandatory improvement plan. If the teacher and the principal cannot agree on a qualified observer within this time period, they each shall designate a person

from the list of qualified observers created pursuant to subdivision (2) of this subsection, and these two designated persons shall choose a qualified observer within five instructional days of their designation. The qualified observer shall draft a written report assessing the teacher in the areas of concern identified in the mandatory improvement plan. The report shall be submitted to the principal before the end of the mandatory improvement plan period. If a teacher or administrator from the same local school administrative unit is selected to serve as the qualified observer, the administration of the local school administrative unit shall provide such qualified observer with the time necessary to conduct the observation and prepare a report. If someone who is not employed by the same local school administrative unit is selected to serve as the qualified observer, the teacher who is the subject of the mandatory improvement plan will be responsible for any expenses related to the observations and reports prepared by the qualified observer. The qualified observer shall not unduly disrupt the classroom when conducting an observation.

(4) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because of the employee's service or completion of a report as an objective observer pursuant to this subsection, unless the employee's report contained material information that the employee knew was false.

(d) Reassessment of the Teacher. – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that the teacher be dismissed or demoted under G.S. 115C-325. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) Dismissal Proceedings Without a Mandatory Improvement Plan. – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of G.S. 115C-325. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) State Board Notification. – If a local board dismisses a teacher for any reason except a reduction in force under G.S. 115C-325(e)(1)L., it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing, and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher is subsequently dismissed under G.S. 115C-325 except for a reduction in force. If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, the teacher shall have one more year to bring the rating to proficient. If, by the end of this

second year, the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

(g) Civil Immunity. – There shall be no liability for negligence on the part of the State Board of Education or a local board of education, or their employees, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

SECTION 4. G.S. 115C-276(s) reads as rewritten:

"(s) To Provide for Annual Evaluations and ~~Action~~ Mandatory Improvement Plans. – The superintendent shall provide for the annual evaluation of all ~~certified~~ licensed employees assigned to low-performing schools that did not receive an assistance team. The superintendent shall determine whether all principals and assistant principals who evaluate ~~certified~~ licensed employees are trained in the proper administration of the employee evaluations and the development of appropriate ~~action~~ mandatory improvement plans. The superintendent also shall arrange for principals and assistant principals who evaluate ~~certified~~ licensed employees to receive the appropriate training."

SECTION 5. G.S. 115C-288 reads as rewritten:

"§ 115C-288. Powers and duties of principal.

...
(i) To Evaluate ~~Certified~~ Licensed Employees and Develop ~~Action~~ Mandatory Improvement Plans. – Each school year, the principal assigned to a low-performing school that has not received an assistance team shall provide for the evaluation of all ~~certified~~ licensed employees assigned to the school. The principal also shall develop ~~action~~ mandatory improvement plans as provided under G.S. 115C-333(b) and G.S. 115C-333.1(b) and shall monitor an employee's progress under an ~~action~~ a mandatory improvement plan.
...."

SECTION 6. G.S. 115C-296 reads as rewritten:

"§ 115C-296. Board sets ~~certification~~ licensure requirements; reports; lateral entry and mentor programs.

(a) The State Board of Education shall have entire control of ~~certifying~~ licensing all applicants for teaching positions in all public elementary and high schools of North Carolina; and it shall prescribe the rules and regulations for the renewal and extension of all ~~certificates~~ licenses and shall determine and fix the salary for each grade and type of ~~certificate~~ license which it authorizes.

The State Board of Education may require an applicant for an initial bachelors degree certificate or graduate degree certificate to demonstrate the applicant's academic and professional preparation by achieving a prescribed minimum score on a standard examination appropriate and adequate for that purpose. The State Board of Education shall permit an applicant to fulfill any such testing requirement before or during the applicant's second year of teaching provided the applicant took the examination at least once during the first year of teaching. The State Board of Education shall make any required standard initial ~~certification~~ licensure exam sufficiently rigorous and raise the prescribed minimum score as necessary to ensure that each applicant has adequate academic and professional preparation to teach.

...
(a2) The State Board of Education shall impose the following schedule of fees for teacher ~~certification~~ licensure and administrative changes:

- (1) Application for demographic or administrative changes to a ~~certificate~~ license, \$30.00.
- (2) Application for a duplicate ~~certificate~~ license or for copies of documents in the ~~certification~~ licensure files, \$30.00.
- (3) Application for a renewal, extension, addition, upgrade, and variation to a ~~certificate~~ license, \$55.00.
- (4) Initial application for New, In-State Approved Program Graduate, \$55.00.

- (5) Initial application for Out-of-State ~~certificate, license~~, \$85.00.
- (6) All other applications, \$85.00.

The applicant must pay the fee at the time the application is submitted.

(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel ~~certified-licensed~~ in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several ~~certification-licensure~~ requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs. The ~~certification-licensure~~ program shall provide for initial ~~certification-licensure~~ after completion of preservice training, continuing ~~certification-licensure~~ after three years of teaching experience, and ~~certificate-license~~ renewal every five years thereafter, until the retirement of the teacher. The last ~~certificate-license~~ renewal received prior to retirement shall remain in effect for five years after retirement. The ~~certification-licensure~~ program shall also provide for lifetime ~~certification-licensure~~ after 50 years of teaching.

The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall evaluate and modify, as necessary, the academic requirements for students preparing to teach science in middle and high schools to ensure that there is adequate preparation in issues related to science laboratory safety.

The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing ~~certification-licensure~~. The new requirements shall reflect more rigorous standards for continuing ~~certification-licensure~~ and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement.

The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher ~~certificates-licenses~~. The State Board shall consider modifications in the ~~certificate-license~~ renewal achievement and to make it a mechanism for teachers to renew continually their knowledge and professional skills. The State Board shall adopt new standards for the renewal of teacher ~~certificates-licenses~~ by May 15, 1998.

The standards for approval of institutions of teacher education shall require that teacher education programs for all students include demonstrated competencies in (i) the identification and education of children with disabilities and (ii) positive management of student behavior and effective communication techniques for defusing and deescalating disruptive or dangerous behavior. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide performance reports to the State Board of Education. The performance reports shall follow a common format, shall be submitted according to a plan developed by the State Board, and shall include the information required under the plan developed by the State Board.

(b1) The State Board of Education shall develop a plan to provide a focused review of teacher education programs and the current process of accrediting these programs in order to ensure that the programs produce graduates that are well prepared to teach. The plan shall include the development and implementation of a school of education performance report for each teacher education program in North Carolina. The performance report shall include at least the following elements: (i) quality of students entering the schools of education, including the average grade point average and average score on preprofessional skills tests that assess reading, writing, math and other competencies; (ii) graduation rates; (iii) time-to-graduation rates; (iv) average scores of graduates on professional and content area examination for the

purpose of ~~certification; licensure~~; (v) percentage of graduates receiving initial ~~certification; licenses~~; (vi) percentage of graduates hired as teachers; (vii) percentage of graduates remaining in teaching for four years; (viii) graduate satisfaction based on a common survey; and (ix) employer satisfaction based on a common survey. The performance reports shall follow a common format. The performance reports shall be submitted annually. The State Board of Education shall develop a plan to be implemented beginning in the 1998-99 school year to reward and sanction approved teacher education programs and masters of education programs and to revoke approval of those programs based on the performance reports and other criteria established by the State Board of Education.

The State Board also shall develop and implement a plan for annual performance reports for all masters degree programs in education and school administration in North Carolina. To the extent it is appropriated, the performance report shall include similar indicators to those developed for the performance report for teacher education programs. The performance reports shall follow a common format.

Both plans for performance reports also shall include a method to provide the annual performance reports to the Board of Governors of The University of North Carolina, the State Board of Education, and the boards of trustees of the independent colleges. The State Board of Education shall review the schools of education performance reports and the performance reports for masters degree programs in education and school administration each year the performance reports are submitted. The State Board shall submit the performance report for the 1999-2000 school year to the Joint Legislative Education Oversight Committee by December 15, 2000. Subsequent performance reports shall be submitted to the Joint Legislative Education Oversight Committee on an annual basis by October 1.

...

(c) It is the policy of the State of North Carolina to encourage lateral entry into the profession of teaching by skilled individuals from the private sector. To this end, before the 1985-86 school year begins, the State Board of Education shall develop criteria and procedures to accomplish the employment of such individuals as classroom teachers. Beginning with the 2006-2007 school year, the criteria and procedures shall include preservice training in (i) the identification and education of children with disabilities and (ii) positive management of student behavior, effective communication for defusing and deescalating disruptive or dangerous behavior, and safe and appropriate use of seclusion and restraint. Skilled individuals who choose to enter the profession of teaching laterally may be granted a provisional teaching ~~certificate—license~~ for no more than three years and shall be required to obtain ~~certification; licensure~~ before contracting for a fourth year of service with any local administrative unit in this State.

(c1) The State Board of Community Colleges may provide a program of study for lateral entry teachers to complete the coursework necessary to earn a teaching ~~certificate—license~~. To this end, the State Board of Education, in consultation with the State Board of Community Colleges, shall establish a competency-based program of study for lateral entry teachers to be implemented within the Community College System no later than May 1, 2006. This program must meet standards set by the State Board of Education.

The State Board of Community Colleges and the State Board of Education shall jointly identify the community college courses and the teacher education program courses that are necessary and appropriate for inclusion in the community college program of study for lateral entry teachers. To the extent possible, any courses that must be completed through an approved teacher education program shall be taught on a community college campus or shall be available through distance learning.

In order to participate in the community college program of study for lateral entry teachers, an individual must hold at least a bachelors degree from a regionally accredited institution of higher education.

An individual who successfully completes this program of study and meets all other requirements of ~~certification—licensure~~ set by the State Board of Education shall be recommended for a North Carolina teaching ~~certificate—license~~.

...

(d) The State Board shall adopt rules to establish the reasons and procedures for the suspension and revocation of ~~certificates; licenses~~. The State Board shall revoke the ~~certificate—license~~ of a teacher or school administrator if the State Board receives notification from a local board or the Secretary of Health and Human Services that a teacher or school

administrator has received ~~an unsatisfactory or below standard rating~~ a rating on any standard that was identified as an area of concern on the mandatory improvement plan that was below proficient or otherwise represented unsatisfactory or below standard performance under G.S. 115C-333(d), 115C-333(d) and G.S. 115C-333.1(f). In addition, the State Board may revoke or refuse to renew a teacher's ~~certificate~~ license when:

- (1) The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
- (2) The State Board shall automatically revoke the ~~certificate~~ license of a teacher or school administrator without the right to a hearing upon receiving verification of the identity of the teacher or school administrator together with a certified copy of a criminal record showing that the teacher or school administrator has entered a plea of guilty or nolo contendere to or has been finally convicted of any of the following crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy or solicitation to commit murder, G.S. 14-18.1; Rape or sexual offense as defined in Article 7A of Chapter 14 of the General Statutes. Felonious assault with deadly weapon with intent to kill or inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist in offense against public morality and decency, G.S. 14-190.6; Dissemination to minors under the age of 16 years, G.S. 14-190.7; Dissemination to minors under the age of 13 years, G.S. 14-190.8; Displaying material harmful to minors, G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15; First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree sexual exploitation of a minor, G.S. 14-190.17; Third degree sexual exploitation of a minor, G.S. 14-190.17A; Promoting prostitution of a minor, G.S. 14-190.18; Participating in prostitution of a minor, G.S. 14-190.19; Taking indecent liberties with children, G.S. 14-202.1; Solicitation of child by computer to commit an unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4; Prostitution, G.S. 14-204; and child abuse under G.S. 14-318.4. The Board shall mail notice of its intent to act pursuant to this subdivision by certified mail, return receipt requested, directed to the teacher or school administrator at their last known address. The notice shall inform the teacher or school administrator that it will revoke the person's ~~certificate~~ license unless the teacher or school administrator notifies the Board in writing within 10 days after receipt of the notice that the defendant identified in the criminal record is not the same person as the teacher or school administrator. If the teacher or school administrator provides this written notice to the Board, the Board shall not revoke the ~~certificate~~ license unless it can establish as a fact that the defendant and the teacher or school administrator are the same person.
- (3) In addition, the State Board may revoke or refuse to renew a teacher's ~~certificate~~ license when:
 - a. The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
 - b. The assistance team assigned to that school makes the recommendation to revoke or refuse to renew the teacher's ~~certificate~~ license for one or more reasons established by the State Board in its rules for ~~certificate~~ license suspension or revocation.

The State Board may issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with proceedings to suspend or revoke ~~certificates~~ licenses. In addition, the Board shall have the authority to contract with individuals who are qualified to conduct investigations in order to obtain all information needed to assist the Board in the proper disposition of allegations of misconduct by ~~certificated~~ licensed persons.

(e) The State Board of Education shall develop a mentor program to provide ongoing support for teachers entering the profession. In developing the mentor program, the State Board shall conduct a comprehensive study of the needs of new teachers and how those needs can be

met through an orientation and mentor support program. For the purpose of helping local boards to support new teachers, the State Board shall develop and distribute guidelines which address optimum teaching load, extracurricular duties, student assignment, and other working condition considerations. These guidelines shall provide that initially ~~certified-licensed~~ teachers not be assigned extracurricular activities unless they request the assignments in writing and that other noninstructional duties of these teachers be minimized. The State Board shall develop and coordinate a mentor teacher training program. The State Board shall develop criteria for selecting excellent, experienced, and qualified teachers to be participants in the mentor teacher training program.

...
(f) The State Board of Education, after consultation with the Board of Governors of The University of North Carolina, shall develop a new category of teacher ~~certificate-licensure~~ known as the "Masters/Advanced Competencies" ~~certificate-license~~. To receive this ~~certificate-license~~, an applicant shall successfully complete a masters degree program that includes rigorous academic preparation in the subject area which the applicant will teach and in the skills and knowledge expected of a master teacher or the applicant shall demonstrate to the satisfaction of the State Board that the candidate has acquired the skills and knowledge expected of a master teacher.

Persons who qualify for a "G" certificate prior to September 1, 2000, shall be awarded a "Masters/Advanced Competencies" certificate without meeting additional requirements. On and after September 1, 2000, no additional "G" certificates shall be awarded."

SECTION 7. G.S. 115C-334 reads as rewritten:

"§ 115C-334. Assessment teams.

The State Board shall develop guidelines for local boards to use to create assessment teams. A local board shall assign an assessment team to every low-performing school in the local school administrative unit that has not received an assistance team. Local boards shall ensure that assessment team members are trained in the proper administration of the employee evaluation used by the local school administrative unit. If service on an assessment team is an additional duty for an employee of a local board, the board may pay the employee for that additional work.

Assessment teams shall have the following duties:

- (1) Conduct evaluations of ~~certified-licensed~~ employees in low-performing schools;
- (2) Provide technical assistance and training to principals, assistant principals, superintendents, and superintendents' designees who conduct evaluations of ~~certified-licensed~~ employees;
- (3) Develop ~~action-mandatory~~ improvement plans for ~~certified-licensed~~ employees; and
- (4) Assist principals, assistant principals, superintendents, and superintendents' designees in the development and implementation of ~~action-mandatory~~ improvement plans."

SECTION 8. G.S. 115C-335 reads as rewritten:

"§ 115C-335. Development of performance standards and criteria for certified licensed employees; training and remediation programs.

...
(b) Training. – The State Board, in collaboration with the Board of Governors of The University of North Carolina, shall develop programs designed to train principals and superintendents in the proper administration of the employee evaluations developed by the State Board. The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available to all principals and superintendents at locations that are geographically convenient to local school administrative units. The programs shall include methods to determine whether an employee's performance has improved student learning, the development and implementation of appropriate ~~action-professional growth and mandatory~~ improvement plans, the process for contract nonrenewal, and the dismissal process under G.S. 115C-325. The Board of Governors shall ensure that the subject matter of the training programs is incorporated into the masters in school administration programs offered by the constituent institutions. The State Board, in collaboration with the Board of Governors, also shall develop in-service programs for ~~certified licensed~~ public school employees that may be included in ~~an action-a mandatory~~ improvement

plan created under ~~G.S. 115C-333(b)~~, G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of Governors shall use the professional development programs for public school employees that are under its authority to make this training available at locations that are geographically convenient to local school administrative units."

SECTION 8.5.(a) If House Bill 200, 2011 Regular Session, becomes law, then G.S. 115C-325(e)(2), as amended by Section 7.23(b) of that act, reads as rewritten:

"(2) Reduction in Force. – Before recommending to a board the dismissal or demotion of the career employee pursuant to G.S. 115C-325(e)(1)l., the superintendent shall give written notice to the career employee by certified mail or personal delivery of his intention to make such recommendation and shall set forth as part of his or her recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The notice shall include a statement to the effect that if the career employee within 15 days after receipt of the notice requests a review, he or she shall be entitled to have the proposed recommendations of the superintendent reviewed by the board. Within the 15-day period after receipt of the notice, the career employee may file with the superintendent a written request for a hearing before the board within 10 days. If the career employee requests a hearing before the board, the hearing procedures provided in G.S. 115C-325(j3) shall be followed. If no request is made within the 15-day period, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if there is one, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such dismissal. Provisions of this section which permit a hearing by a ~~case manager hearing officer~~ shall not apply to a dismissal or demotion recommended pursuant to G.S. 115C-325(e)(1)l.

When a career employee is dismissed pursuant to G.S. 115C-325(e)(1)l. above, his or her name shall be placed on a list of available career employees to be maintained by the board."

SECTION 8.5.(b) If House Bill 200, 2011 Regular Session, does not become law, then G.S. 115C-325(e)(2) reads as rewritten:

"(2) Reduction in Force. – Before recommending to a board the dismissal or demotion of the career employee pursuant to G.S. 115C-325(e)(1)l., the superintendent shall give written notice to the career employee by certified mail or personal delivery of his intention to make such recommendation and shall set forth as part of his or her recommendation the grounds upon which he or she believes such dismissal or demotion is justified. The notice shall include a statement to the effect that if the career employee within 15 days after receipt of the notice requests a review, he or she shall be entitled to have the proposed recommendations of the superintendent reviewed by the board. Within the 15-day period after receipt of the notice, the career employee may file with the superintendent a written request for a hearing before the board within 10 days. If the career employee requests a hearing before the board, the hearing procedures provided in G.S. 115C-325(j3) shall be followed. If no request is made within the 15-day period, the superintendent may file his or her recommendation with the board. If, after considering the recommendation of the superintendent and the evidence adduced at the hearing if there is one, the board concludes that the grounds for the recommendation are true and substantiated by a preponderance of the evidence, the board, if it sees fit, may by resolution order such dismissal. Provisions of this section which permit a hearing by a ~~case manager hearing officer~~ shall not apply to a dismissal or demotion recommended pursuant to G.S. 115C-325(e)(1)l.

When a career employee is dismissed pursuant to G.S. 115C-325(e)(1)l. above, his or her name shall be placed on a list of available career employees to be maintained by the board. Career employees whose names are placed on such a list shall have a priority on all positions in which they acquired career

status and for which they are qualified which become available in that system for the three consecutive years succeeding their dismissal. However, if the local school administrative unit offers the dismissed career employee a position for which he or she is ~~certified-licensed~~ and he or she refuses it, his or her name shall be removed from the priority list."

SECTION 8.6. If House Bill 200, 2011 Regular Session, becomes law, then G.S. 115C-333.1(c)(2), as enacted in Section 3 of this act, reads as rewritten:

"(2) The local board of education shall create a list of qualified observers who are employed by that board and available to do observations of employees on mandatory improvement plans. This list shall be limited to names of administrators and teachers selected by the ~~school improvement teams in the school system. The school improvement teams~~ local board of education. The local board of education shall strive to select administrators and teachers with excellent reputations for competence and fairness."

SECTION 9. This act becomes effective July 1, 2011, and applies to persons recommended for dismissal or demotion on or after that date.

In the General Assembly read three times and ratified this the 17th day of June, 2011.

Walter H. Dalton
President of the Senate

Thom Tillis
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____m. this _____ day of _____, 2011