

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 210
Committee Substitute Favorable 4/27/95

Short Title: Career Teacher Dismissals.

(Public)

Sponsors:

Referred to:

February 16, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW GOVERNING THE DISMISSAL AND DEMOTION
3 OF TEACHERS, TO IMPROVE THE EVALUATION OF TEACHER
4 PERFORMANCE, TO PROVIDE FOR A PROFESSIONAL IMPROVEMENT
5 PERIOD WHEN A TEACHER RECEIVES AN UNSATISFACTORY
6 EVALUATION, AND TO DIRECT THE STATE BOARD OF EDUCATION TO
7 DEVELOP AN INCENTIVE PLAN TO REWARD OUTSTANDING TEACHERS.

8 The General Assembly of North Carolina enacts:

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

10 **"§ 115C-325. System of employment for public school teachers.**

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

13 (1) ~~" Career teacher" means a teacher who has obtained career status as~~
14 ~~provided in G.S. 115C-325(e).~~

15 (2) ~~" Committee" means the Professional Review Committee created under~~
16 ~~G.S. 115C-325(g).~~

17 (3) 'Day' means calendar day. In computing any period of time, Rule 6 of
18 the North Carolina Rules of Civil Procedure shall apply.

1 (4) 'Demote' means to reduce the compensation of a person who is
2 classified or paid by the State Board of Education as a classroom
3 teacher, or to transfer him to a new position carrying a lower salary, or
4 to suspend him without pay to a maximum of 60 days; provided,
5 however, that a suspension without pay pursuant to the provisions of
6 G.S. 115C-325(f) shall not be considered a demotion. The word
7 'demote' does not include a reduction in compensation that results from
8 the elimination of a special duty, such as the duty of an athletic coach,
9 assistant principal, or a choral director.

10 (4a) 'Evaluation' and 'Annual Evaluation' mean an evaluation in accordance
11 with G.S. 115C-326.

12 (5) 'Probationary teacher' means a certificated person, other than a
13 superintendent, associate superintendent, or assistant superintendent,
14 who has not obtained contract teacher status and whose major
15 responsibility is to teach or to supervise teaching.

16 (5b) 'Professional contract teacher' means a teacher who has obtained
17 professional contract status as provided in G.S. 115C-325(c). Teachers
18 who obtained career teacher status before July 1, 1996, are considered
19 professional contract teachers.

20 (6) 'Teacher' means a person who holds at least a current, not expired, Class
21 A certificate or a regular, not provisional or expired, vocational
22 certificate issued by the Department of Public Instruction; whose major
23 responsibility is to teach or directly supervise teaching or who is
24 classified by the State Board of Education or is paid as a classroom
25 teacher; and who is employed to fill a full-time, permanent position.

26 (b) Personnel Files. – The superintendent shall maintain in his office a personnel
27 file for each teacher that contains any complaint, commendation, or suggestion for
28 correction or improvement about the teacher's professional conduct, except that the
29 superintendent may elect not to place in a teacher's file (i) a letter of complaint that
30 contains invalid, irrelevant, outdated, or false information or (ii) a letter of complaint
31 when there is no documentation of an attempt to resolve the issue. The complaint,
32 commendation, or suggestion shall be signed by the person who makes it and shall be
33 placed in the teacher's file only after five days' notice to the teacher. Any denial or
34 explanation relating to such complaint, commendation, or suggestion that the teacher
35 desires to make shall be placed in the file. Any teacher may petition the local board of
36 education to remove any information from his personnel file that he deems invalid,
37 irrelevant, or outdated. The board may order the superintendent to remove said
38 information if it finds the information is invalid, irrelevant, or outdated.

39 The personnel file shall be open for the teacher's inspection at all reasonable times but
40 shall be open to other persons only in accordance with such rules and regulations as the
41 board adopts. Any preemployment data or other information obtained about a teacher
42 before his employment by the board may be kept in a file separate from his personnel file

1 and need not be made available to him. No data placed in the preemployment file may be
2 introduced as evidence at a hearing on the dismissal or demotion of a teacher.

- 3 (c) (1) Election of a Teacher to ~~Career~~Professional Contract Status. –
4 Except as otherwise provided in subdivision (3) of this subsection,
5 when a teacher will have been employed by a North Carolina public
6 school system for three consecutive years, the board, near the end of
7 the third year, shall vote upon his employment for the next school
8 year. The board shall give him written notice of that decision by June
9 1 of his third year of employment. If a majority of the board votes to
10 reemploy the teacher, and if it has notified him of the decision, it may
11 not rescind that action but must proceed under the provisions of this
12 section for the demotion or dismissal of a teacher if it decides to
13 terminate his employment. If a majority of the board votes against
14 reemploying the teacher, he shall not teach beyond the current school
15 term. If the board fails to vote on granting ~~career~~professional contract
16 status but reemploys him for the next year, he automatically becomes
17 a ~~career~~professional contract teacher on the first day of the fourth year
18 of employment.

19 A year, for purposes of computing time as a probationary
20 teacher, shall be not less than 120 workdays performed as a full-
21 time, permanent teacher in a normal school year.

- 22 (2) Employment of a ~~Career~~Professional Contract Teacher. – A teacher
23 who has obtained ~~career~~professional contract status in any North
24 Carolina public school system need not serve another probationary
25 period of more than two years, and may, at the option of the board, be
26 employed immediately as a ~~career~~professional contract teacher. In any
27 event, if the teacher is reemployed for a third consecutive school year,
28 he shall automatically become a ~~career~~professional contract teacher. A
29 teacher with ~~career~~professional contract status who resigns and within
30 five years is reemployed by the same local school administrative unit
31 need not serve another probationary period of more than one school year
32 and may, at the option of the board, be reemployed as a ~~career~~
33 professional contract teacher. In any event, if he is reemployed for a
34 second consecutive school year, he shall automatically become a ~~career~~
35 professional contract teacher.

- 36 (3) Ineligible for ~~Career~~Professional Contract Status. – No superintendent,
37 associate superintendent, assistant superintendent or other school
38 employee who is not a teacher as defined by G.S. 115C-325(a)(6) is
39 eligible to obtain ~~career~~professional contract status or continue in a
40 ~~career~~professional contract status if he no longer performs the
41 responsibilities of a teacher as defined in G.S. 115C-325(a)(6). No
42 person who is promoted to or employed in a principal, director, or
43 supervisor position after July 1, 1995, is eligible to obtain career status

1 as an administrator. If the person acquired ~~career~~professional contract
2 status as a teacher in a local school administrative unit before being
3 promoted to or employed in a principal, director, or supervisor position,
4 the person shall retain ~~career~~professional contract status as a teacher and
5 the person has a right to reassignment to a teaching position in the event
6 the person is not continued in employment as a principal, supervisor, or
7 director.

8 (4) Leave of Absence. – A ~~career~~professional contract teacher who has
9 been granted a leave of absence by a board shall maintain his ~~career~~
10 professional contract status if he returns to his teaching position at the
11 end of the authorized leave.

12 (d) ~~Career~~Professional Contract Teachers.

13 (1) ~~A career teacher shall not be subjected to the requirement of annual~~
14 ~~appointment nor shall he~~ A professional contract teacher shall be
15 employed under a continuing contract that automatically renews at the
16 end of each school year. G. S. 115C-325, as it may be amended or
17 revised from time to time, shall constitute the continuing contract. A
18 professional contract teacher shall not be dismissed, demoted, or
19 employed on a part-time basis without his consent except as provided in
20 subsection (e).

21 (2) a. The provisions of this subdivision do not apply to a person who is
22 ineligible for ~~career~~professional contract status as provided by G.S.
23 115C-325(c)(3).

24 b. Whether or not he has previously attained ~~career~~professional
25 contract status as a teacher, a person who has performed the
26 duties of a principal in the school system for three consecutive
27 years or has performed the duties of a supervisor in the school
28 system for three consecutive years shall not be transferred from
29 that position to a lower paying administrative position or to a
30 lower paying nonadministrative position without his consent
31 except for the reasons given in G.S. 115C-325(e)(1) and in
32 accordance with the provisions for the dismissal of a ~~career~~
33 professional contract teacher set out in this section. Transfer of a
34 principal or a supervisor is not a transfer to a lower paying
35 position if the principal's or supervisor's salary is maintained at
36 the previous salary amount.

37 When a teacher has performed the duties of supervisor or
38 principal for three consecutive years, the board, near the end of
39 the third year, shall vote upon his employment for the next
40 school year. The board shall give him written notice of that
41 decision by June 1 of his third year of employment as a
42 supervisor or principal. If a majority of the board votes to
43 reemploy the teacher as a principal or supervisor, and it has

1 notified him of that decision, it may not rescind that action but
2 must proceed under the provisions of this section. If a majority
3 of the board votes not to reemploy the teacher as a principal or
4 supervisor, he shall retain ~~career~~-professional contract status as a
5 teacher if that status was attained prior to assuming the duties of
6 supervisor or principal. A supervisor or principal who has not
7 held that position for three years and whose contract will not be
8 renewed for the next school year shall be notified by June 1 and
9 shall retain ~~career~~-professional contract status as a teacher if that
10 status was attained prior to assuming the duties of supervisor or
11 principal.

12 A year, for purposes of computing time as a probationary
13 principal or supervisor, shall not be less than 145 workdays
14 performed as a full-time, permanent principal or supervisor in a
15 contract year.

16 A principal or supervisor who has obtained career status in
17 that position in any North Carolina public school system may be
18 required by the board of education in another school system to
19 serve an additional three-year probationary period in that position
20 before being eligible for career status. However, he may, at the
21 option of the board of education, be granted career status
22 immediately or after serving a probationary period of one or two
23 additional years. A principal or supervisor with career status
24 who resigns and within five years is reemployed by the same
25 school system need not serve another probationary period in that
26 position of more than two years and may, at the option of the
27 board, be reemployed immediately as a career principal or
28 supervisor or be given career status after only one year. In any
29 event, if he is reemployed for a third consecutive year, he shall
30 automatically become a career principal or supervisor.

- 31 (e) Grounds for Dismissal or Demotion of a ~~Career~~-Professional Contract Teacher.
- 32 (1) No ~~career~~-professional contract teacher shall be dismissed or demoted or
33 employed on a part-time basis except for just cause which shall include
34 one or more of the following:
- 35 a. Inadequate performance.
 - 36 b. Immorality.
 - 37 c. Insubordination.
 - 38 d. Neglect of duty.
 - 39 e. Physical or mental incapacity.
 - 40 f. Habitual or excessive use of alcohol or nonmedical use of a
41 controlled substance as defined in Article 5 of Chapter 90 of the
42 General Statutes.
 - 43 g. Conviction of a felony or a crime involving moral turpitude.

- 1 h. Advocating the overthrow of the government of the United States
2 or of the State of North Carolina by force, violence, or other
3 unlawful means.
- 4 i. Failure to fulfill the duties and responsibilities imposed upon
5 teachers by the General Statutes of this State.
- 6 j. Failure to comply with such reasonable requirements as the board
7 may prescribe.
- 8 k. Any cause which constitutes grounds for the revocation of such
9 career teacher's teaching certificate.
- 10 l. A justifiable decrease in the number of positions due to district
11 reorganization, decreased enrollment, or decreased funding,
12 provided that there is compliance with subdivision (2).
- 13 m. Failure to maintain his certificate in a current status.
- 14 n. Failure to repay money owed to the State in accordance with the
15 provisions of Article 60, Chapter 143 of the General Statutes.
- 16 o. Providing false information or knowingly omitting a material fact
17 on an application for employment or in response to a
18 preemployment inquiry.

19 (1a) No professional contract teacher shall be dismissed, demoted or
20 employed on a part-time basis for arbitrary, capricious, discriminatory
21 or for personal or political reasons.

22 (2) Before recommending to a board the dismissal or demotion of the ~~career~~
23 professional contract teacher pursuant to G.S. 115C-325(e)(1)l., the
24 superintendent shall give written notice to the ~~career~~professional
25 contract teacher by certified mail or personal delivery of his intention to
26 make such recommendation and shall set forth as part of his
27 recommendation the grounds upon which he believes such dismissal is
28 justified. The notice shall include a statement to the effect that if the
29 teacher within 15 days after receipt of the notice requests a review, he
30 shall be entitled to have the proposed recommendations of the
31 superintendent reviewed by the board. Within the 15-day period after
32 receipt of the notice, the ~~career~~professional contract teacher may file
33 with the superintendent a written request for a hearing before the board
34 within 10 days. If the teacher requests a hearing before the board, the
35 hearing procedures provided in G.S. 115C-325(j) shall be followed. If
36 no request is made within the 15-day period, the superintendent may file
37 his recommendation with the board. If, after considering the
38 recommendation of the superintendent and the evidence adduced at the
39 hearing if there is one, the board concludes that the grounds for the
40 recommendation are true and substantiated by a preponderance of the
41 evidence, the board, if it sees fit, may by resolution order such
42 dismissal. ~~Provisions of this section which permit appointment of, and~~
43 ~~investigation and review by, a panel of the Professional Review Committee~~

1 shall not apply to a dismissal or demotion recommended pursuant to G.S.
2 115C-325(e)(1)l.

3 When a ~~career~~ professional contract teacher is dismissed pursuant to
4 G.S. 115C-325(e)(1)l. above, his name shall be placed on a list of
5 available teachers to be maintained by the board. ~~Career-Professional~~
6 contract teachers whose names are placed on such a list shall have a
7 priority on all positions for which they are qualified which become
8 available in that system for the three consecutive years succeeding their
9 dismissal. However, if the local school administrative unit offers the
10 dismissed teacher a position for which he is certified and he refuses it,
11 his name shall be removed from the priority list.

12 (3) ~~In determining whether the professional performance of a career teacher~~
13 ~~is adequate, consideration shall be given to regular and special~~
14 ~~evaluation reports prepared in accordance with the published policy of~~
15 ~~the employing local school administrative unit and to any published~~
16 ~~standards of performance which shall have been adopted by the board.~~
17 ~~Failure to notify a career teacher of an inadequacy in his performance~~
18 ~~shall be conclusive evidence of satisfactory performance. It is prima~~
19 ~~facie evidence of just cause to dismiss a professional contract teacher~~
20 ~~when a professional contract teacher has received an overall~~
21 ~~unsatisfactory rating on the annual evaluation, undergone a period of~~
22 ~~professional improvement as provided under subsection (e1) of this~~
23 ~~section, and received an overall unsatisfactory evaluation at the end of~~
24 ~~the professional improvement period.~~

25 (4) Dismissal under subdivision (1) above, except paragraph g thereof, shall
26 not be based on conduct or actions which occurred more than three
27 years before the written notice of the superintendent's intention to
28 recommend dismissal is mailed to the teacher. The three-year limitation
29 shall not apply to dismissals or demotions pursuant to subdivision (1)b.
30 above when the charge of immorality is based upon a teacher's sexual
31 misconduct toward or sexual harassment of students or staff.

32 (e1) Professional Improvement Plan.

33 (1) Within 10 days after a professional contract teacher receives an overall
34 unsatisfactory rating on the annual evaluation, the principal and teacher
35 shall develop a written professional improvement plan. The
36 professional improvement plan shall include the minimum professional
37 improvement plan standards established by the State Board of
38 Education. The professional improvement plan may include additional
39 education and performance goals as adopted by the local board of
40 education.

41 (2) Within five work days after receiving the professional improvement
42 plan, the professional contract teacher may file with the superintendent a
43 written request that the superintendent designate a person other than the

1 principal to conduct the evaluation at the end of the professional
2 improvement period. The superintendent may consider this request and
3 may only designate an individual who has been trained to conduct
4 teacher observations and evaluations.

5 (3) The professional improvement plan shall last for a period of not less
6 than 60 and not more than 180 school days. For purposes of this
7 subdivision, 'school days' shall mean regularly scheduled teaching days.

8 (4) The principal shall consult periodically with the professional contract
9 teacher during the period of professional improvement. The principal
10 and the teacher may each choose one other person to be present during
11 the periodic consultations. The superintendent may assign other
12 appropriate personnel to consult with the professional contract teacher,
13 the principal, or both, during the period of professional improvement.

14 (5) A professional contract teacher has an obligation to attempt to meet the
15 standards and goals for improvement established under the professional
16 improvement plan. In the event the professional contract teacher is not
17 attempting to meet those standards and goals, the principal may
18 terminate the professional improvement plan and undertake procedures
19 to dismiss the professional contract teacher for any of the grounds
20 enumerated under G.S. 115C-325(e)(1).

21 (f) Suspension without Pay. – If a superintendent believes that cause exists for
22 dismissing a probationary or ~~career~~-professional contract teacher for any reason specified
23 in G.S. 115C-325(e)(1)a. through 115C-325(e)(1)j. and that immediate suspension of the
24 teacher is necessary, the superintendent may suspend him without pay. Before
25 suspending a teacher without pay, the superintendent shall meet with the teacher and give
26 him written notice of the charges against him, an explanation of the bases for the charges,
27 and an opportunity to respond. Within five days after a suspension under this paragraph,
28 the superintendent shall initiate a dismissal as provided in this section. If it is finally
29 determined that no grounds for dismissal exist, the teacher shall be reinstated
30 immediately and shall be paid for the period of suspension.

31 A teacher recommended for suspension without pay pursuant to G.S. 115C-325(a)(4)
32 may request a hearing before the board. If the teacher requests a hearing before the
33 board, the procedures provided in G.S. 115C-325(j) shall be followed. If no request is
34 made within 15 days, the superintendent may file his recommendation with the board. If,
35 after considering the recommendation of the superintendent and the evidence adduced at
36 the hearing if one is held, the board concludes that the grounds for the recommendation
37 are true and substantiated by a preponderance of the evidence, the board, if it sees fit,
38 may by resolution order such suspension. ~~Provisions of this section which permit~~
39 ~~appointment of, and investigation and review by, a panel of the Professional Review Committee~~
40 ~~shall not apply to a suspension without pay pursuant to G.S. 115C-325(a)(4).~~

41 (f1) Suspension with Pay. – If a superintendent believes that cause may exist for
42 dismissing or demoting a probationary or ~~career~~-professional contract teacher for any
43 reasons specified in G.S. 115C-325(e)(1)b through 115C-325(e)(1)j, but that additional

1 investigation of the facts is necessary and circumstances are such that the teacher should
2 be removed immediately from his duties, the superintendent may suspend the teacher
3 with pay for a reasonable period of time, not to exceed 90 days. The superintendent shall
4 immediately notify the board of education of his action. If the superintendent has not
5 initiated dismissal or demotion proceedings against the teacher within the 90-day period,
6 the teacher shall be reinstated to his duties immediately and all records of the suspension
7 with pay shall be removed from the teacher's personnel file at his request.

8 (g) ~~Professional Review Committee; Qualifications; Terms; Vacancy; Training.~~

9 (1) ~~There is hereby created a Professional Review Committee which shall~~
10 ~~consist of 132 citizens, 11 from each of the State's congressional~~
11 ~~districts, five of whom shall be lay persons and six of whom shall have~~
12 ~~been actively and continuously engaged in teaching or in supervision or~~
13 ~~administration of schools in this State for the five years preceding their~~
14 ~~appointment and who are broadly representative of the profession, to be~~
15 ~~appointed by the Superintendent of Public Instruction with the advice~~
16 ~~and consent of the State Board of Education. Each member shall be~~
17 ~~appointed for a term of three years. The initial terms of office of the~~
18 ~~persons appointed from the 12th Congressional District shall commence~~
19 ~~on January 3, 1993, and expire on June 30, 1995. The Superintendent of~~
20 ~~Public Instruction, with the advice and consent of the State Board of~~
21 ~~Education, shall fill any vacancy which may occur in the Committee.~~
22 ~~The person appointed to fill the vacancy shall serve for the unexpired~~
23 ~~portion of the term of the member of the Committee whom he is~~
24 ~~appointed to replace.~~

25 (2) ~~The Superintendent of Public Instruction shall provide for the~~
26 ~~Committee such training as he considers necessary or desirable for the~~
27 ~~purpose of enabling the members of the Committee to perform the~~
28 ~~functions required of them.~~

29 (3) ~~The compensation of committee members while serving as a member of~~
30 ~~a hearing panel shall be as for State boards and commissions pursuant to~~
31 ~~G.S. 138-5. The compensation shall be paid by the State Board of~~
32 ~~Education.~~

33 (h) Procedure for Dismissal or Demotion of Career Professional Contract Teacher.

34 (1) ~~A career-professional contract teacher may not be dismissed, demoted,~~
35 ~~or reduced to part-time employment except upon the superintendent's~~
36 ~~recommendation.~~

37 (2) ~~Before recommending to a board the dismissal or demotion of the career~~
38 ~~professional contract teacher, the superintendent shall give written~~
39 ~~notice to the career-professional contract teacher by certified mail or~~
40 ~~personal delivery of his intention to make such recommendation and~~
41 ~~shall set forth as part of his recommendation the grounds upon which he~~
42 ~~believes such dismissal is justified. The notice shall include a statement to~~
43 ~~the effect that if the teacher within 15 days after the date of receipt of the~~

1 notice requests a review, he shall be entitled to have the proposed
2 recommendations of the superintendent reviewed by a panel of the
3 Committee. A copy of G.S. 115C-325 and a current list of the members of the
4 Professional Review Committee shall also be sent to the career teacher. If the
5 teacher does not request a panel hearing within the 15 days provided, the
6 superintendent may submit his recommendation to the board.

7 (3) Within the 15-day period after receipt of the notice, the career
8 professional contract teacher may file with the superintendent a written
9 request for either (i) a review of the superintendent's proposed
10 recommendation by a panel of the Professional Review Committee or (ii) a
11 hearing before the board within 10 days. If the teacher requests an
12 immediate hearing before the board, he forfeits his right to a hearing by a
13 panel of the Professional Review Committee. A hearing conducted by the
14 board pursuant to under this subdivision shall be conducted pursuant to
15 G.S. 115C-325(j) and (l). under G.S. 115C-325(j). If no request is made
16 within that period, the superintendent may file his recommendation with
17 the board. The board, if it sees fit, may by resolution dismiss such
18 teacher. If a request for review is made, the superintendent shall not file his
19 recommendation for dismissal with the board until a report of a panel of the
20 Committee is filed with the superintendent.

21 (4) If a request for review is made, the superintendent, within five days of
22 filing such request for review, shall notify the Superintendent of Public
23 Instruction who, within seven days from the time of receipt of such
24 notice, shall designate a panel of five members of the Committee, at
25 least two of whom shall be lay persons, who shall not be employed in or
26 be residents of the county in which the request for review is made, to
27 review the proposed recommendations of the superintendent for the
28 purpose of determining whether in its opinion the grounds for the
29 recommendation are true and substantiated. The teacher or principal
30 making the request for review shall have the right to require that at least
31 two members of the panel shall be members of his professional peer
32 group.

33 (i) ~~Hearing by Panel of Professional Review Committee; Report; Action of~~
34 ~~Superintendent; Review by Board.~~

35 (1) The career teacher and superintendent will each have the right to
36 designate not more than 33 of the 132 members of the Professional
37 Review Committee as not acceptable to the teacher or superintendent
38 respectively. No person so designated shall be appointed to the panel.
39 The career teacher shall specify to the superintendent those Committee
40 members who are not acceptable in his request for a review of the
41 superintendent's proposed recommendations provided for in subdivision
42 (h)(3) above. The superintendent's notice to the Superintendent of
43 Public Instruction provided for in subdivision (h)(4) above shall contain
44 a list of those members of the Committee not acceptable to the

- 1 superintendent and the teacher respectively. Failure to designate
2 nonacceptable members in accordance with this subsection shall
3 constitute a waiver of that right.
- 4 (2) As soon as possible after the time of its designation, the panel shall elect
5 a chairman and shall conduct a hearing in accordance with G.S. 115C-
6 325(j) for the purpose of determining whether the grounds for the
7 recommendation are true and substantiated. The panel shall be furnished
8 assistance reasonably required to conduct its hearing and shall be
9 empowered to subpoena and swear witnesses and to require them to
10 give testimony and to produce books and papers relevant to its
11 investigation.
- 12 (3) The career teacher and superintendent involved shall each have the right
13 to meet with the panel accompanied by counsel or other person of his
14 choice and to present any evidence and arguments which he considers
15 pertinent to the considerations of the panel and to cross-examine
16 witnesses.
- 17 (4) When the panel has completed its hearing, it shall prepare a written
18 report and send it to the superintendent and teacher. The report shall
19 contain its findings as to whether or not the grounds for the
20 recommendation are true and substantiated by a preponderance of the
21 evidence, and a statement of the reasons for its findings. The panel shall
22 complete its hearing and prepare the report within 20 days from the time
23 of its designation, except in cases in which the panel finds that justice
24 requires that a greater time be spent in connection with the investigation
25 and the preparation of such report, and reports that finding to the
26 superintendent and the teacher. Provided, that such extension does not
27 exceed 10 days.
- 28 (5) Within five days after the superintendent receives the report of the
29 panel, the superintendent shall decide whether or not to submit a written
30 recommendation for dismissal to the board or to drop the charges
31 against the teacher and shall notify the teacher, in writing, of the
32 decision. Within five days after receiving the superintendent's notice of
33 his intent to recommend the teacher's dismissal to the board, the teacher
34 shall decide whether to request a hearing before the board and shall
35 notify the superintendent, in writing, of the decision. If the teacher
36 requests a hearing before the board, the superintendent shall submit his
37 written recommendation to the board with a copy to the teacher within
38 five days after receiving the teacher's request. The superintendent's
39 recommendation shall state the grounds for the recommendation and
40 shall be accompanied by a copy of the report of the panel of the
41 Committee.
- 42 (6) Within seven days after receiving the superintendent's recommendation
43 and before taking any formal action, the board shall set a time and place

1 for the hearing and notify the teacher by certified mail of the date, time
2 and place of the hearing. The time specified shall not be less than seven
3 nor more than 20 days after the board has notified the teacher. If the
4 teacher did not request a hearing, the board may, by resolution, dismiss
5 the teacher. If the teacher can show that his request for a hearing was
6 postmarked within the time provided, his right to a hearing is not
7 forfeited.

8 (j) Hearing Procedure. – The following provisions shall be applicable to any
9 hearing conducted pursuant to G.S. 115C-325(k) or (l) or to any hearing conducted by a board
10 pursuant to G.S. 115C-325(h)(3).

11 (1) The hearing shall be private.

12 (2) The hearing shall be conducted in accordance with such reasonable
13 rules and regulations as the board may adopt consistent with G.S. 115C-
14 325, or if no rules have been adopted, in accordance with reasonable
15 rules and regulations adopted by the State Board of Education to govern
16 such hearings.

17 (3) At the hearing the teacher and the superintendent shall have the right to
18 be present and to be heard, to be represented by counsel and to present
19 through witnesses any competent testimony relevant to the issue of
20 whether grounds for dismissal or demotion exist or whether the
21 procedures set forth in G.S. 115C-325 have been followed.

22 (4) Rules of evidence shall not apply to a hearing conducted pursuant to this
23 act and boards and panels of the Professional Review Committee may give
24 probative effect to evidence that is of a kind commonly relied on by
25 reasonably prudent persons in the conduct of serious affairs.

26 (5) At least five days before the hearing, the superintendent shall provide to
27 the teacher a list of witnesses the superintendent intends to present, a
28 brief statement of the nature of the testimony of each witness and a copy
29 of any documentary evidence he intends to present. At least three days
30 before the hearing, the teacher shall provide to the superintendent a list
31 of witnesses the teacher intends to present, a brief statement of the
32 nature of the testimony of each witness and a copy of any documentary
33 evidence he intends to present. Additional witnesses or documentary
34 evidence may not be presented except upon consent of both parties or
35 upon a majority vote of the board or panel.

36 (k) ~~Panel Finds Grounds for Superintendent's Recommendation True and~~
37 ~~Substantiated.~~

38 (1) ~~If the panel found that the grounds for the recommendation of the~~
39 ~~superintendent are true and substantiated, at the hearing the board shall~~
40 ~~consider the recommendation of the superintendent, the report of the~~
41 ~~panel, including any minority report, and any evidence which the~~
42 ~~teacher or the superintendent may wish to present with respect to the~~

- 1 question of whether the grounds for the recommendation are true and
2 substantiated. The hearing may be conducted in an informal manner.
- 3 (2) ~~If, after considering the recommendation of the superintendent, the~~
4 ~~report of the panel and the evidence adduced at the hearing, the board~~
5 ~~concludes that the grounds for the recommendation are true and~~
6 ~~substantiated, by a preponderance of the evidence, the board, if it sees~~
7 ~~fit, may by resolution order such dismissal.~~
- 8 (4) ~~Panel Does Not Find That the Grounds for Superintendent's Recommendation~~
9 ~~Are True and Substantiated.~~
- 10 (1) ~~If the panel does not find that the grounds for the recommendation of~~
11 ~~the superintendent are true and substantiated, at the hearing the board~~
12 ~~shall determine whether the grounds for the recommendation of the~~
13 ~~superintendent are true and substantiated upon the basis of competent~~
14 ~~evidence adduced at the hearing by witnesses who shall testify under~~
15 ~~oath or affirmation to be administered by any board member or the~~
16 ~~secretary of the board.~~
- 17 (2) ~~The procedure at the hearing shall be such as to permit and secure a full,~~
18 ~~fair and orderly hearing and to permit all relevant competent evidence to~~
19 ~~be received therein. The report of the panel of the committee shall be~~
20 ~~deemed to be competent evidence. A full record shall be kept of all~~
21 ~~evidence taken or offered at such hearing. Both counsel for the local~~
22 ~~school administrative unit and the career teacher or his counsel shall~~
23 ~~have the right to cross-examine witnesses.~~
- 24 (3) ~~At the request of either the superintendent or the teacher, the board shall~~
25 ~~issue subpoenas requiring the production of papers or records or the~~
26 ~~attendance of persons residing within the State before the board.~~
27 ~~Subpoenas for witnesses to testify at the hearing in support of the~~
28 ~~recommendation of the superintendent or on behalf of the career teacher~~
29 ~~shall, as requested, be issued in blank by the board over the signature of~~
30 ~~its chairman or secretary. The board shall pay witness fees for up to five~~
31 ~~witnesses subpoenaed on behalf of the teacher, except that it shall not~~
32 ~~pay for any witness who resides within the county in which the~~
33 ~~dismissal originates or who is an employee of the board. However, no~~
34 ~~employee of the board shall suffer any loss of compensation because he~~
35 ~~has been subpoenaed to testify at the hearing. These payments shall be~~
36 ~~as provided for witnesses in G.S. 7A-314.~~
- 37 (4) ~~At the conclusion of the hearing provided in this section, the board shall~~
38 ~~render its decision on the evidence submitted at such hearing and not~~
39 ~~otherwise. The board's decision shall be based on a preponderance of~~
40 ~~the evidence.~~
- 41 (5) ~~Within five days following the hearing, the board shall send a written~~
42 ~~copy of its findings and order to the teacher and superintendent. The~~
43 ~~board shall provide for making a transcript of its hearing. If the teacher~~

1 contemplates an appeal to a court of law, he may request and shall
2 receive at no charge a transcript of the proceedings.

3 (m) Probationary Teacher.

4 (1) The board of any local school administrative unit may not discharge a
5 probationary teacher during the school year except for the reasons for
6 and by the procedures by which a ~~career-professional contract~~ teacher
7 may be dismissed as set forth in subsections ~~(e) and (h) to (l) above: (e),~~
8 (h), and (j) of this section.

9 (2) The board, upon recommendation of the superintendent, may refuse to
10 renew the contract of any probationary teacher or to reemploy any
11 teacher who is not under contract for any cause it deems sufficient:
12 Provided, however, that the cause may not be arbitrary, capricious,
13 discriminatory or for personal or political reasons.

14 (n) Appeal. – Any teacher who has been dismissed or demoted pursuant to G.S.
15 ~~115C-325(e)(2), or pursuant to subsections (h), (k) or (l) of this section,~~ under G.S. 115C-
16 325(e)(2) or G.S. 115C-325(h), or who has been suspended without pay pursuant to G.S.
17 115C-325(a)(4), or any school administrator whose contract is not renewed in accordance
18 with G.S. 115C-287.1, shall have the right to appeal from the decision of the board to the
19 superior court for the superior court district or set of districts as defined in G.S. 7A-41.1
20 in which the teacher or school administrator is employed. This appeal shall be filed
21 within a period of 30 days after notification of the decision of the board. The cost of
22 preparing the transcript shall be borne by the board. A teacher who has been demoted or
23 dismissed, or a school administrator whose contract is not renewed, who has not
24 requested a hearing before the board of education pursuant to this section shall not be
25 entitled to judicial review of the board's action.

26 (o) Resignation; Nonrenewal of Contract. – A teacher, ~~career-professional contract~~
27 or probationary, should not resign without the consent of the superintendent unless he has
28 given at least 30 days' notice. If the teacher does resign without giving at least 30 days'
29 notice, the board may request that the State Board of Education revoke the teacher's
30 certificate for the remainder of that school year. A copy of the request shall be placed in
31 the teacher's personnel file.

32 A probationary teacher whose contract will not be renewed for the next school year
33 shall be notified of this fact by June 1.

34 (p) Section Applicable to Certain Institutions. – Notwithstanding any law or
35 regulation to the contrary, this section shall apply to all persons employed in teaching and
36 related educational classes in the schools and institutions of the Departments of Human
37 Resources and Correction regardless of the age of the students."

38 Sec. 2. G.S. 115C-287.1(c) reads as rewritten:

39 "(c) The term of employment shall be stated in a written contract that shall be
40 entered into between the board of education and the school administrator. The school
41 administrator shall not be dismissed or demoted during the term of the contract except for
42 the grounds and by the procedure by which a ~~career-professional contract~~ teacher may be
43 dismissed or demoted as set forth in G.S. 115C-325."

1 Sec. 3. G.S. 115C-287.1(g) reads as rewritten:

2 "(g) If the school administrator acquired ~~career~~-professional contract status as a
3 teacher prior to appointment as a school administrator, a school administrator whose
4 contract as a school administrator is not renewed or extended by the superintendent or the
5 board of education shall be entitled to reassignment and employment in a teaching
6 position."

7 Sec. 4. (a) The State Board of Education shall review and evaluate current
8 school unit teacher evaluation instruments including the Teacher Performance Appraisal
9 Instrument and evaluation procedures and policies and shall develop a plan to improve
10 evaluation instruments and evaluative practices. Evaluation instruments should include:
11 (i) core elements of best teaching practices; (ii) elements that accurately and fairly
12 evaluate student learning results; (iii) the capacity to allow for locally adopted education
13 goals; (iv) elements that provide a basis and plan for professional improvement; (v)
14 elements to accurately and fairly evaluate the performance of teachers who are not
15 employed in traditional classroom settings; and (vi) the capacity to produce clear and
16 consistent teacher performance ratings ranging from excellent to unsatisfactory.

17 (b) The State Board of Education shall develop a plan to train school
18 administrators in appropriate observation, evaluation and related supervision practices.
19 The State Board of Education shall also develop a plan to instruct teachers in the core
20 evaluative elements and process.

21 (c) The State Board shall use the improved evaluation instruments and evaluative
22 practices developed in subsection (a) of this section to establish guidelines for the
23 development of professional improvement plans under G.S. 115C-325(e1). These
24 guidelines must include professional standards that must be included in professional
25 improvement plans developed by principals and teachers after a teacher receives an
26 unsatisfactory rating on an annual evaluation.

27 (d) The State Board of Education shall study methods of providing incentives or
28 awards to teachers who consistently attain excellent ratings on annual evaluations. As
29 part of its study, the State Board should identify methods that this State, other states, or
30 businesses have used that reward and encourage outstanding teaching.

31 (e) The State Board of Education shall report its findings, recommendations,
32 plans, guidelines, and standards, including recommendations for resources or changes in
33 law necessary to implement this act to the Joint Legislative Education Oversight
34 Committee by March 1, 1996.

35 Sec. 5. Section 4 of this act is effective upon ratification. The remainder of
36 the act becomes effective July 1, 1996.