

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SENATE BILL 1124
RATIFIED BILL**

**AN ACT TO IMPOSE A PENALTY FOR BREACHING THE CONFIDENTIALITY
OF SCHOOL EMPLOYEE PERSONNEL FILES.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-321 reads as rewritten:

"§ 115C-321. Confidential information in personnel files; access to information.

(a) All information contained in a personnel file, except as otherwise provided in this Chapter, is confidential and shall not be open for inspection and examination except to any of the following persons:

- (1) The employee, applicant for employment, former employee, or his properly authorized agent, who may examine his own personnel file at all reasonable times in its entirety except for letters of reference solicited prior to ~~employment;~~employment.
- (2) The superintendent and other supervisory ~~personnel;~~personnel.
- (3) Members of the local board of education and the board's ~~attorney;~~attorney.
- (4) A party by authority of a subpoena or proper court order may inspect and examine a particular confidential portion of an employee's personnel file.

(b) Notwithstanding any other provision of this Chapter, any superintendent may, in his discretion, or shall at the direction of the Board of Education, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to the local board of education or whose personnel file is maintained by the board and the reasons therefor and may allow the personnel file of the person or any portion to be inspected and examined by any person or corporation provided that the board has determined that the release of the information or the inspection and examination of the file or any portion is essential to maintaining the integrity of the board or to maintaining the level or quality of services provided by the board; provided, that prior to releasing the information or making the file or any portion available as provided herein, the superintendent shall prepare a memorandum setting forth the circumstances which he and the board deem to require the disclosure and the information to be disclosed. The memorandum shall be retained in the files of the superintendent and shall be a public record.

(c) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as permitted by this section, is guilty of a Class 3 misdemeanor and upon conviction shall only be fined an amount not in excess of five hundred dollars (\$500.00).

(d) Any person, not specifically authorized by this section to have access to a personnel file, who shall knowingly and willfully examine in its official filing place, remove, or copy any portion of a personnel file shall be guilty of a Class 3 misdemeanor and upon conviction shall only be fined not in excess of five hundred dollars (\$500.00)."

SECTION 2. This act becomes effective December 1, 2005, and applies to offenses committed on or after that date.

In the General Assembly read three times and ratified this the 16th day of August, 2005.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2005