

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 466  
Education/Higher Education Committee Substitute Adopted 4/14/11

Short Title: Modify Teacher Career Status Law.

(Public)

Sponsors:

Referred to:

March 31, 2011

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE LAW RELATING TO CAREER STATUS FOR PUBLIC  
3 SCHOOL TEACHERS.

4 The General Assembly of North Carolina enacts:

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

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

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

8 ...

9 (1d) ~~"Case manager" means a person selected under G.S. 115C-325(h)(7).~~

10 ...

11 (4c) "Hearing officer" means a person selected under G.S. 115C-325(h)(7).

12 ...

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

17 ...

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

25 ...

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

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

29 ...

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

33 ...

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

36 ...



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

23 When a career employee is dismissed pursuant to G.S. 115C-325(e)(1)l.  
24 above, his or her name shall be placed on a list of available career employees  
25 to be maintained by the board. Career employees whose names are placed on  
26 such a list shall have a priority on all positions in which they acquired career  
27 status and for which they are qualified which become available in that  
28 system for the three consecutive years succeeding their dismissal. However,  
29 if the local school administrative unit offers the dismissed career employee a  
30 position for which he or she is ~~certified-licensed~~ and he or she refuses it, his  
31 or her name shall be removed from the priority list.

32 (3) Inadequate Performance. – In determining whether the professional  
33 performance of a career employee is adequate, consideration shall be given  
34 to regular and special evaluation reports prepared in accordance with the  
35 published policy of the employing local school administrative unit and to  
36 any published standards of performance which shall have been adopted by  
37 the board. Failure to notify a career employee of an inadequacy or deficiency  
38 in his-performance shall be conclusive evidence of satisfactory performance.  
39 Inadequate performance for a teacher shall mean (i) the failure to perform at  
40 a proficient level on any standard of the evaluation instrument or (ii)  
41 otherwise performing in a manner that is below standard. However, for a  
42 probationary teacher, a performance rating below proficient may or may not  
43 be deemed adequate at that stage of development by a superintendent or  
44 designee. For a career teacher, a performance rating below proficient shall  
45 constitute inadequate performance unless the principal noted on the  
46 instrument that the teacher is making adequate progress toward proficiency  
47 given the circumstances.

48 ...  
49 (f) (1) Suspension without Pay. – If a superintendent believes that cause exists for  
50 dismissing a career employee for any reason specified in  
51 G.S. 115C-325(e)(1) and that immediate suspension of the career employee

1 is necessary, the superintendent may suspend the career employee without  
2 pay. Before suspending a career employee without pay, the superintendent  
3 shall meet with the career employee and give him written notice of the  
4 charges against him, an explanation of the bases for the charges, and an  
5 opportunity to respond. Within five days after a suspension under this  
6 paragraph, the superintendent shall initiate a dismissal, demotion, or  
7 disciplinary suspension without pay as provided in this section. If it is finally  
8 determined that no grounds for dismissal, demotion, or disciplinary  
9 suspension without pay exist, the career employee shall be reinstated  
10 immediately, shall be paid for the period of suspension, and all records of  
11 the suspension shall be removed from the career employee's personnel file.

12 (2) Disciplinary Suspension Without Pay. – A career employee recommended  
13 for suspension without pay pursuant to G.S. 115C-325(a)(4a) may request a  
14 hearing before the board. If no request is made within 15 days, the  
15 superintendent may file his recommendation with the board. If, after  
16 considering the recommendation of the superintendent and the evidence  
17 adduced at the hearing if one is held, the board concludes that the grounds  
18 for the recommendation are true and substantiated by a preponderance of the  
19 evidence, the board, if it sees fit, may by resolution order such suspension.

20 a. Board hearing for disciplinary suspensions for more than 10 days or  
21 for certain types of intentional misconduct. – The procedures for a  
22 board hearing under G.S. 115C-325(j3) shall apply if any of the  
23 following circumstances exist:

- 24 1. The recommended disciplinary suspension without pay is for  
25 more than 10 days; or
- 26 2. The disciplinary suspension is for intentional misconduct,  
27 such as inappropriate sexual or physical conduct, immorality,  
28 insubordination, habitual or excessive alcohol or nonmedical  
29 use of a controlled substance as defined in Article 5 of  
30 Chapter 90 of the General Statutes, any cause that constitutes  
31 grounds for the revocation of the teacher's or school  
32 administrator's ~~certificate,~~ license, or providing false  
33 information.

34 b. Board hearing for disciplinary suspensions of no more that [than] 10  
35 days. – The procedures for a board hearing under G.S. 115C-325(j2)  
36 shall apply to all disciplinary suspensions of no more than 10 days  
37 that are not for intentional misconduct as specified in  
38 G.S. 115C-325(f)(2)a.2.

39 ...

40 (h) Procedure for Dismissal or Demotion of Career Employee.

41 (1) a. A career employee may not be dismissed, demoted, or reduced to  
42 part-time employment except upon the superintendent's  
43 recommendation.

44 b. G.S. 115C-325(f2) shall apply to the demotion of a career school  
45 administrator.

46 (2) Before recommending to a board the dismissal or demotion of the career  
47 employee, the superintendent shall give written notice to the career  
48 employee by certified mail or personal delivery of his or her intention to  
49 make such recommendation and shall set forth as part of his or her  
50 recommendation the grounds upon which he or she believes such dismissal  
51 or demotion is justified. The superintendent also shall meet with the career

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

14 (3) Within the 14-day period after receipt of the notice, the career employee  
15 may file with the superintendent a written request for either (i) a hearing on  
16 the grounds for the superintendent's proposed recommendation by a ~~case~~  
17 ~~manager~~ hearing officer or (ii) a hearing within 10 days before the board on  
18 the superintendent's recommendation. If the career employee requests an  
19 immediate hearing before the board, he ~~or she~~ forfeits his ~~or her~~ right to a  
20 hearing by a ~~case manager~~ hearing officer. If no request is made within that  
21 period, the superintendent may file his ~~or her~~ recommendation with the  
22 board. The board, if it sees fit, may by resolution (i) reject the  
23 superintendent's recommendation or (ii) accept or modify the  
24 superintendent's recommendation and dismiss, demote, reinstate, or suspend  
25 the employee without pay. If a request for review is made, the  
26 superintendent shall not file ~~his~~ the recommendation for dismissal with the  
27 board until a report of the ~~case manager~~ hearing officer is filed with the  
28 superintendent. Failure of the hearing officer to submit the report as required  
29 by G.S. 115C-325(i1)(1) shall entitle the career employee to a hearing before  
30 the board under the same procedures as provided in G.S. 115C-325(j).

31 (4) Repealed by Session Laws 1997, c. 221, s. 13(a).

32 (5) ~~If the career employee elects to request a hearing by a case manager, the~~  
33 ~~career employee and superintendent shall each have the right to eliminate up~~  
34 ~~to one third of the names on the approved list of case managers. The career~~  
35 ~~employee shall specify those case managers who are not acceptable in the~~  
36 ~~career employee's request for a review of the superintendent's proposed~~  
37 ~~recommendation under G.S. 115C-325(h)(3). The superintendent and career~~  
38 ~~employee may jointly select a person to serve as case manager. The person~~  
39 ~~need not be on the master list of case managers maintained by the~~  
40 ~~Superintendent of Public Instruction.~~

41 (6) If a career employee requests a review by a ~~case manager,~~ hearing officer,  
42 the superintendent shall notify the Superintendent of Public Instruction  
43 within ~~two days~~ five days of his ~~or her~~ receipt of the request. ~~The notice~~  
44 ~~shall contain a list of the case managers the career employee and the~~  
45 ~~superintendent have eliminated from the master list or the name of a person,~~  
46 ~~if any, jointly selected. Failure to exercise the right to eliminate names from~~  
47 ~~the master list shall constitute a waiver of that right.~~

48 (7) The Within five days of being notified of the request for a hearing before a  
49 hearing officer, the Superintendent of Public Instruction shall select submit to  
50 both parties a list of hearing officers trained and approved by the State Board  
51 of Education. ~~case manager within three days of receiving notice from the~~

1 ~~superintendent. Within five days of receiving the list, the parties may jointly~~  
2 ~~select a hearing officer from that list, or, if the parties cannot agree to a~~  
3 ~~hearing officer, each party may strike up to one-third of the names on the list~~  
4 ~~and submit its strikeout list to the Superintendent of Public Instruction. The~~  
5 ~~Superintendent of Public Instruction shall then appoint a hearing officer~~  
6 ~~from those individuals remaining on the list. designate the person jointly~~  
7 ~~selected by the parties to serve as case manager provided the person agrees~~  
8 ~~to serve as case manager and can meet the requirements for time frames for~~  
9 ~~the hearing and report as provided in G.S. 115C-325(i1)(1). If a case~~  
10 ~~manager was not jointly selected or if the case manager is not available, the~~  
11 ~~Superintendent of Public Instruction shall select a case manager from the~~  
12 ~~master list. Further, the parties may jointly agree on another hearing officer~~  
13 ~~not on the State Board of Education's list, provided that individual is available~~  
14 ~~to proceed in a timely manner and is willing to accept the terms of~~  
15 ~~appointment required by the State Board of Education. No person eliminated~~  
16 ~~by the career employee or superintendent shall be designated ease~~  
17 ~~manager, as the hearing officer for that case.~~

18 (8) ~~The superintendent and career employee shall provide each other serve a~~  
19 ~~copy to the other party of all documents with copies of all documents~~  
20 ~~submitted to the Superintendent of Public Instruction and/or to the designated~~  
21 ~~ease manager hearing officer and include a signed certificate of service~~  
22 ~~similar to that required in court pleadings.~~

23 (h1) ~~Case Managers; Hearing Officers; Qualifications; Training; Compensation.~~

24 (1) ~~Each year the~~ The State Board of Education shall select and maintain a  
25 master list of no more than 42-15 qualified ease managers hearing officers.  
26 The State Board shall, except for good cause shown, remove a hearing  
27 officer from the list who has failed to conduct a hearing or prepare a report  
28 within the time specified in G.S. 115C-325(i1) or who has failed to submit a  
29 supplemental report in accordance with G.S. 115C-325(i1)(4) or (j1)(2). A  
30 hearing officer shall, except for good cause shown, also be removed from the  
31 list for failure to meet the terms and conditions of engagement established by  
32 the State Board. Additionally, if a hearing officer is not appointed to a case  
33 within a two-year period due to repeated strikes from the list by either party  
34 as provided in G.S. 115C-325(h)(7), the State Board may remove the hearing  
35 officer from the master list.

36 (2) ~~Persons selected by the State Board as ease managers hearing officers shall~~  
37 ~~be be: (i) certified as a North Carolina Superior Court mediator; (ii) a~~  
38 ~~member of the American Arbitration Association's roster of arbitrators and~~  
39 ~~mediators; or (iii) have comparable certification in alternative dispute~~  
40 ~~resolution. Case managers members in good standing of the North Carolina~~  
41 ~~State Bar who have demonstrated experience and expertise in the areas of~~  
42 ~~education law, due process, administrative law, or employment law within~~  
43 ~~the last five years. The State Board shall give special consideration in its~~  
44 ~~selection to persons jointly endorsed by the largest by membership of each~~  
45 ~~statewide organization representing teachers, school administrators, and~~  
46 ~~local boards of education. Following State Board selection, hearing officers~~  
47 ~~must complete a special training course approved by the State Board of~~  
48 ~~Education. Education that includes training on the teacher evaluation~~  
49 ~~instrument and performance standards before they are qualified to hear~~  
50 ~~teacher dismissal or demotion cases.~~

- 1           (3)    The State Board of Education shall determine the compensation for a ~~ease~~  
2           ~~manager~~hearing officer. The State Board shall pay the hearing officer's ease  
3           ~~manager's~~ compensation and ~~reimbursement for~~authorized expenses.
- 4           (i)    Repealed by Session Laws 1997, c. 221, s. 13(a).
- 5           (i1)   Report of ~~Case Manager~~Hearing Officer; Superintendent's Recommendation.
- 6           (1)    The ~~ease manager~~hearing officer shall complete the hearing held in  
7           accordance with G.S. 115C-325(j) and prepare the report within ~~10~~90 days  
8           from the time of the designation. This time period may be extended only for  
9           extraordinary cause and upon written agreement by both parties. The ease  
10          ~~manager may extend the period of time by up to five additional days if the~~  
11          ~~ease manager informs the superintendent and the career employee that~~  
12          ~~justice requires that a greater time be spent in connection with the~~  
13          ~~investigation and the preparation of the report. Furthermore, the~~  
14          ~~superintendent and the career employee may agree to an extension of more~~  
15          ~~than five days.~~The State Board of Education shall determine an appropriate  
16          reduction in compensation to the hearing officer for failure to submit a  
17          timely report to the superintendent within the maximum 90-day period set  
18          forth in this subdivision, except upon a showing of good cause by the  
19          hearing officer.
- 20          (2)    The ~~ease manager~~hearing officer shall make all necessary findings of fact,  
21          based upon the preponderance of the evidence, on all issues related to each  
22          and every ground for dismissal and on all relevant matters related to the  
23          question of whether the superintendent's recommendation is justified. The  
24          hearing officer shall not make a recommendation as to conclusions of law or  
25          the disposition of the case. The ease manager also shall make a  
26          ~~recommendation as to whether the findings of fact substantiate the~~  
27          ~~superintendent's grounds for dismissal.~~The ease managerhearing officer  
28          shall deliver copies of the report to the superintendent and the career  
29          employee.
- 30          (3)    Within ~~two~~five days after receiving the ~~ease manager's~~hearing officer's  
31          report, the superintendent shall decide whether to submit a written  
32          recommendation to the local board for dismissal, demotion, or disciplinary  
33          suspension without pay to the board or to drop the charges against the career  
34          employee. The superintendent shall notify the career employee, in writing,  
35          of the decision.
- 36          (4)    If the superintendent contends that the ~~ease manager's~~hearing officer's  
37          report fails to address a critical factual issue, the superintendent shall within  
38          ~~three days~~five days' receipt of the ~~ease manager's~~hearing officer's report,  
39          request in writing with a copy to the career employee that the ~~ease manager~~  
40          hearing officer prepare a supplement to the report. The superintendent shall  
41          specify what critical factual issue the superintendent contends the ~~ease~~  
42          ~~manager~~hearing officer failed to address. If the ~~ease manager~~hearing officer  
43          determines that the report failed to address a critical factual issue, the ~~ease~~  
44          ~~manager may~~hearing officer shall prepare a supplement to the report to  
45          address the issue and deliver the supplement to both parties before the board  
46          hearing. In no event shall the hearing officer take more than 30 days to  
47          provide a supplemental report. If the hearing officer fails to submit a timely  
48          supplemental report, the superintendent shall report the hearing officer to the  
49          State Board. The State Board shall determine an appropriate reduction in  
50          compensation to the hearing officer for failure to submit a timely  
51          supplemental report to both parties, except upon a showing of good cause by

- 1                    ~~the hearing officer.~~ The failure of the ~~ease manager~~ hearing officer to  
2                    prepare a supplemental report or to address a critical factual issue shall not  
3                    constitute a basis for appeal.
- 4            (j)    ~~Hearing by a Case Manager.~~ Hearing Officer. – The following provisions shall apply  
5            to a hearing conducted by the ~~ease manager~~ hearing officer.
- 6            (1)    The hearing shall be private.
- 7            (2)    The hearing shall be conducted in accordance with reasonable rules and  
8            regulations adopted by the State Board of Education to govern such ease  
9            ~~manager~~ hearings.
- 10           (3)    At the hearing the career employee and the superintendent or the  
11           superintendent's designee shall have the right to be present and to be heard,  
12           to be represented by counsel and to present through witnesses any competent  
13           testimony relevant to the issue of whether grounds for dismissal or demotion  
14           exist or whether the procedures set forth in G.S. 115C-325 have been  
15           followed.
- 16           (4)    Rules of evidence shall not apply to a hearing conducted by a ~~ease manager~~  
17           ~~and the ease manager~~ hearing officer. The hearing officer may give  
18           probative effect to evidence that is of a kind commonly relied on by  
19           reasonably prudent persons in the conduct of serious affairs.
- 20           (5)    At least five days before the hearing, the superintendent shall provide to the  
21           career employee a list of witnesses the superintendent intends to present, a  
22           brief statement of the nature of the testimony of each witness and a copy of  
23           any documentary evidence the superintendent intends to present. At least  
24           three days before the hearing, the career employee shall provide to the  
25           superintendent a list of witnesses the career employee intends to present, a  
26           brief statement of the nature of the testimony of each witness and a copy of  
27           any documentary evidence the career employee intends to present.  
28           Additional witnesses or documentary evidence may not be presented except  
29           upon a finding by the ~~ease manager~~ hearing officer that the new evidence is  
30           critical to the matter at issue and the party making the request could not,  
31           with reasonable diligence, have discovered and produced the evidence  
32           according to the schedule provided in this subdivision.
- 33           (5a) The hearing shall be completed within three days after commencement,  
34           unless extended by the hearing officer on a showing of extraordinary cause.  
35           Neither party shall have more than eight hours to present its case in chief,  
36           which does not include cross examination of witnesses, rebuttal evidence, or  
37           arguments of counsel.
- 38           (6)    ~~The ease manager hearing officer may subpoena~~ issue subpoenas, at his or  
39           her discretion or upon written application by either party, and swear  
40           witnesses and may require them to give testimony and to produce records  
41           and documents relevant to the grounds for dismissal.
- 42           (7)    ~~The ease manager hearing officer~~ shall decide all procedural issues,  
43           including limiting cumulative evidence, necessary for a fair and efficient  
44           hearing.
- 45           (8)    The superintendent shall provide for making a transcript of the hearing. If  
46           the career employee contemplates a hearing before the board or to appeal the  
47           board's decision to a court of law, the career employee may request and shall  
48           receive at no charge a transcript of the proceedings before the ~~ease manager~~  
49           hearing officer.
- 50           (j1)   Board Determination.

- 1 (1) Within ~~two~~five days after receiving the superintendent's notice of intent to  
2 recommend the career employee's dismissal to the board, the career  
3 employee shall decide whether to request a hearing before the board and  
4 shall notify the superintendent, in writing, of the decision. If the career  
5 employee can show that the request for a hearing was postmarked within the  
6 time provided, the career employee shall not forfeit the right to a board  
7 hearing. Within ~~two~~five days after receiving the career employee's request  
8 for a board hearing, the superintendent shall request that a transcript of the  
9 ~~ease manager~~ hearing be made. Within ~~two~~five days of receiving a copy of  
10 the transcript, the superintendent shall submit to the board the written  
11 recommendation and shall provide a copy of the recommendation to the  
12 career employee. The superintendent's recommendation shall state the  
13 grounds for the recommendation and shall be accompanied by a copy of the  
14 ~~ease manager's~~ hearing officer's report and a copy of the transcript of the  
15 ~~ease manager~~ hearing.
- 16 (2) If the career employee contends that the ~~ease manager's~~ hearing officer's  
17 report fails to address a critical factual issue the career employee shall, at the  
18 same time he or she notifies the superintendent of a request for a board  
19 hearing pursuant to G.S. 115C-325(j1)(1), request in writing with a copy to  
20 the superintendent that the ~~ease manager~~ hearing officer prepare a  
21 supplement to the ~~ease manager's~~ hearing officer's report. The career  
22 employee shall specify the critical factual issue he or she contends the ~~ease~~  
23 ~~manager~~ hearing officer failed to address. If the ~~ease manager~~ hearing officer  
24 determines that the report failed to address a critical factual issue, the ~~ease~~  
25 ~~manager~~ may hearing officer shall prepare a supplement to the report to  
26 address the issue and shall deliver the supplement to both parties before the  
27 board hearing. In no event shall the hearing officer take more than 30 days to  
28 provide a supplemental report. If the hearing officer fails to submit a timely  
29 supplemental report, the superintendent shall report the hearing officer to the  
30 State Board. The State Board shall determine an appropriate reduction in  
31 compensation to the hearing officer for failure to submit a timely  
32 supplemental report to both parties, except upon a showing of good cause by  
33 the hearing officer. The failure of the ~~ease manager~~ hearing officer to  
34 prepare a supplemental report or to address a critical factual issue shall not  
35 constitute a basis for appeal.
- 36 (3) Within ~~two~~five days after receiving the superintendent's recommendation  
37 and before taking any formal action, the board shall set a time and place for  
38 the hearing and shall notify the career employee by certified mail or personal  
39 delivery of the date, time, and place of the hearing. The time specified shall  
40 not be less than ~~seven~~10 ~~nor~~ nor more than 30 ~~40~~ days after the board has  
41 notified the career employee, unless both parties agree to an extension. If the  
42 career employee did not request a hearing, the board may, by resolution,  
43 reject the superintendent's decision, or accept or modify the decision and  
44 dismiss, demote, reinstate, or suspend the career employee without pay.
- 45 (4) If the career employee requests a board hearing, it shall be conducted in  
46 accordance with G.S. 115C-325(j2).
- 47 (5) The board shall make a determination and may (i) reject the superintendent's  
48 recommendation or (ii) accept or modify the recommendation and dismiss,  
49 demote, reinstate, or suspend the employee without pay.



- 1 (6) Within two days following the hearing, the board shall send a written copy  
2 of its findings and determination to the career employee and the  
3 superintendent.
- 4 (j2) Board Hearing. – The following procedures shall apply to a hearing conducted by  
5 the board:
- 6 ...
- 7 (2) If the career employee requested a hearing by a ~~case manager~~hearing  
8 officer, the board shall receive the following:
- 9 a. The whole record from the hearing held by the ~~case manager~~hearing  
10 officer, including a transcript of the hearing, as well as any other  
11 records, exhibits, and documentary evidence submitted to the case  
12 manager at the hearing.
- 13 b. The ~~case manager's~~hearing officer's findings of fact, including any  
14 supplemental findings prepared by the ~~case manager~~hearing officer  
15 under G.S. 115C-325 (i1)(4) or G.S. 115C-325(j1)(2).
- 16 e. ~~The case manager's recommendation as to whether the grounds in~~  
17 ~~G.S. 115C 325(e) submitted by the superintendent are substantiated.~~
- 18 d. The superintendent's recommendation and the grounds for the  
19 recommendation.
- 20 (3) If the career employee did not request a hearing by a ~~case manager~~hearing  
21 officer, the board shall receive the following:
- 22 a. Any documentary evidence the superintendent intends to use to  
23 support the recommendation. The superintendent shall provide the  
24 documentary evidence to the career employee seven days before the  
25 hearing.
- 26 b. Any documentary evidence the career employee intends to use to  
27 rebut the superintendent's recommendation. The career employee  
28 shall provide the superintendent with the documentary evidence three  
29 days before the hearing.
- 30 c. The superintendent's recommendation and the grounds for the  
31 recommendation.
- 32 ...
- 33 (6) No new evidence may be presented at the hearing except upon a finding by  
34 the board that the new evidence is critical to the matter at issue and the party  
35 making the request could not, with reasonable diligence, have discovered  
36 and produced the evidence at the hearing before the ~~case manager~~hearing  
37 officer.
- 38 (7) The board shall accept the ~~case manager's~~hearing officer's findings of fact  
39 unless a majority of the board determines that the findings of fact are not  
40 supported by substantial evidence when reviewing the record as a whole. In  
41 such an event, the board shall make alternative findings of fact. If a majority  
42 of the board determines that the ~~case manager~~hearing officer did not address  
43 a critical factual issue, the board may remand the findings of fact to the ~~case~~  
44 ~~manager~~hearing officer to complete the report to the board. If the ~~case~~  
45 ~~manager~~hearing officer does not submit the report within seven days receipt  
46 of the board's request, the board may determine its own findings of fact  
47 regarding the critical factual issues not addressed by the ~~case~~  
48 ~~manager~~hearing officer. The board's determination shall be based upon a  
49 preponderance of the evidence.
- 50 ...
- 51 (o) Resignation. –

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

32 ...  
 33 (p1) Procedure for Dismissal of School Administrators and Teachers Employed in  
 34 Low-Performing Residential Schools. –

- 35 (1) Notwithstanding any other provision of this section or any other law, this  
 36 subdivision shall govern the dismissal by the Secretary of Health and Human  
 37 Services of teachers, principals, assistant principals, directors, supervisors,  
 38 and other ~~certificated-licensed~~ personnel assigned to a residential school that  
 39 the State Board has identified as low-performing and to which the State  
 40 Board has assigned an assistance team under Part 3A of Article 3 of Chapter  
 41 143B of the General Statutes. The Secretary shall dismiss a teacher,  
 42 principal, assistant principal, director, supervisor, or other  
 43 ~~certificated-licensed~~ personnel when the Secretary receives two consecutive  
 44 evaluations that include written findings and recommendations regarding  
 45 that person's inadequate performance from the assistance team. These  
 46 findings and recommendations shall be substantial evidence of the  
 47 inadequate performance of the teacher or school administrator.

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

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

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

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

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

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

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

31 ...  
 32 (q) Procedure for Dismissal of School Administrators and Teachers Employed in  
 33 Low-Performing Schools.

34 ...  
 35 (2a) Notwithstanding any other provision of this section or any other law, this  
 36 subdivision shall govern the State Board's dismissal of ~~certificated-licensed~~  
 37 staff members who have engaged in a remediation plan under  
 38 G.S. 115C-105.38A(a) but who, after one retest, fail to meet the general  
 39 knowledge standard set by the State Board. The failure to meet the general  
 40 knowledge standard after one retest shall be substantial evidence of the  
 41 inadequate performance of the ~~certificated-licensed~~ staff member.

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

49 ...."

50 **SECTION 2.** G.S. 115C-333 reads as rewritten:

1 "§ 115C-333. Evaluation of ~~certified—licensed~~ employees including certain  
2 superintendents; ~~action—mandatory improvement~~ plans; State board  
3 notification upon dismissal of employees.

4 (a) Annual Evaluations; Low-Performing Schools. – Local school administrative units  
5 shall evaluate at least once each year all ~~certified—licensed~~ employees assigned to a school that  
6 has been identified as ~~low performing, but has not received an assistance team.~~ low performing.  
7 The evaluation shall occur early enough during the school year to provide adequate time for the  
8 development and implementation of ~~an action—a mandatory improvement~~ plan if one is  
9 recommended under subsection (b) of this section. If the employee is a teacher as defined under  
10 G.S. 115C-325(a)(6), either the principal, the assistant principal who supervises the teacher, or  
11 an ~~assessment—assistance~~ team assigned under ~~G.S. 115C-334~~ G.S. 115C-105.38 shall conduct  
12 the evaluation. If the employee is a school administrator as defined under  
13 G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct  
14 the evaluation.

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

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

30 (b) Mandatory Improvement Action Plans. –

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

- 1           (1a) A mandatory improvement plan is an instrument designed to improve a  
2 teacher's performance or the performance of any licensed employee in a  
3 low-performing school by providing the individual with notice of specific  
4 performance areas that have substantial deficiencies and a set of strategies,  
5 including the specific support to be provided to the individual, so that the  
6 individual, within a reasonable period of time, should satisfactorily resolve  
7 such deficiencies.
- 8           (2) ~~Local boards shall adopt policies to require action plans for all certified~~  
9 ~~employees who receive a below standard or unsatisfactory rating on an~~  
10 ~~evaluation in the event the superintendent does not recommend dismissal,~~  
11 ~~demotion, or nonrenewal.~~
- 12           (2a) If a licensed employee in a low-performing school receives a rating on any  
13 standard on an evaluation that is below proficient or otherwise represents  
14 unsatisfactory or below standard performance in an area that the licensed  
15 employee was expected to demonstrate, the individual or team that  
16 conducted the evaluation shall recommend to the superintendent that (i) the  
17 employee receive a mandatory improvement plan designed to improve the  
18 employee's performance or (ii) the superintendent recommend to the local  
19 board that the employee be dismissed or demoted. If the individual or team  
20 that conducted the evaluation elects not to make either of the above  
21 recommendations, the said individual or team shall notify the superintendent  
22 of this decision. The superintendent shall determine whether to develop a  
23 mandatory improvement plan or to recommend a dismissal proceeding.
- 24           (3) If at any time a licensed employee engages in inappropriate conduct or  
25 performs inadequately to such a degree that such conduct or performance  
26 causes substantial harm to the educational environment, and immediate  
27 dismissal or demotion is not appropriate, then the principal may immediately  
28 institute a mandatory improvement plan regardless of any ratings on  
29 previous evaluations. The principal shall document the exigent reason for  
30 immediately instituting such a plan.
- 31           (4) Mandatory improvement plans shall be developed by the person who  
32 evaluated the licensed employee or the employee's supervisor unless the  
33 evaluation was conducted by an assistance team. If the evaluation was  
34 conducted by an assistance team, that team shall develop the mandatory  
35 improvement plan in collaboration with the employee's supervisor.  
36 Mandatory improvement plans shall be designed to be completed within 90  
37 instructional days or before the beginning of the next school year. The State  
38 Board shall develop guidelines that include strategies to assist local boards  
39 in evaluating licensed employees and developing effective mandatory  
40 improvement plans within the time allotted under this section. Local boards  
41 may adopt policies for the development and implementation of mandatory  
42 improvement plans and policies for the implementation of monitored and  
43 directed growth plans.
- 44           (c) ~~Reevaluation. Reassessment of Employee in a Low-Performing School. – After the~~  
45 ~~expiration of the time period for the mandatory improvement plan~~~~Upon completion of an action~~  
46 ~~plan under subdivision (1) of subsection (b)(2a) of subsection (b) of this section, the~~  
47 ~~superintendent, the superintendent's designee, or the assessment assistance team shall evaluate~~  
48 ~~assess the performance of the employee of the low-performing school a second time. If the~~  
49 ~~superintendent, superintendent's designee, or assistance team determines that the employee has~~  
50 ~~failed to become proficient in any of the performance standards articulated in the mandatory~~  
51 ~~improvement plan or demonstrate sufficient improvement toward such standards, if on the~~

1 ~~second evaluation the employee receives one unsatisfactory or more than one below standard~~  
2 ~~rating on any function that is related to the employee's instructional duties,~~ the superintendent  
3 shall recommend that the employee be dismissed or demoted under G.S. 115C-325. The results  
4 of the ~~second evaluation assessment~~ shall constitute substantial evidence of the employee's  
5 inadequate performance.

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

26 ...."

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

29 **"§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing;**  
30 **mandatory improvement plans; State Board notification upon dismissal of**  
31 **teachers.**

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

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

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

14 (c) Observation by a Qualified Observer. –

15 (1) The term "qualified observer" as used in this section is any administrator or  
16 teacher who is licensed by the State Board of Education and working in  
17 North Carolina; any employee of the North Carolina Department of Public  
18 Instruction who is trained in evaluating licensed employees; or any instructor  
19 or professor who teaches in an accredited North Carolina school of  
20 education and holds an educator's license.

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

28 (3) Any teacher, other than a teacher assigned to a school designated as  
29 low-performing, who has been placed on a mandatory improvement plan  
30 shall have a right to be observed by a qualified observer in the area or areas  
31 of concern identified in the mandatory improvement plan. The affected  
32 teacher and the principal shall jointly choose the qualified observer within  
33 20 instructional days after the commencement of the mandatory  
34 improvement plan. If the teacher and the principal cannot agree on a  
35 qualified observer within this time period, they each shall designate a person  
36 from the list of qualified observers created pursuant to subdivision (2) of this  
37 subsection, and these two designated persons shall choose a qualified  
38 observer within five instructional days of their designation. The qualified  
39 observer shall draft a written report assessing the teacher in the areas of  
40 concern identified in the mandatory improvement plan. The report shall be  
41 submitted to the principal before the end of the mandatory improvement plan  
42 period. If a teacher or administrator from the same local school  
43 administrative unit is selected to serve as the qualified observer, the  
44 administration of the local school administrative unit shall provide such  
45 qualified observer with the time necessary to conduct the observation and  
46 prepare a report. If someone who is not employed by the same local school  
47 administrative unit is selected to serve as the qualified observer, the teacher  
48 who is the subject of the mandatory improvement plan will be responsible  
49 for any expenses related to the observations and reports prepared by the  
50 qualified observer. The qualified observer shall not unduly disrupt the  
51 classroom when conducting an observation.

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

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

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

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

47           (g) Civil Immunity. – There shall be no liability for negligence on the part of the State  
48 Board of Education or a local board of education, or their employees, arising from any action  
49 taken or omission by any of them in carrying out the provisions of this section. The immunity  
50 established by this subsection shall not extend to gross negligence, wanton conduct, or  
51 intentional wrongdoing that would otherwise be actionable. The immunity established by this



1 subsection shall be deemed to have been waived to the extent of indemnification by insurance,  
2 indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the  
3 extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of  
4 Chapter 143 of the General Statutes."

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

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

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

15 "**§ 115C-288. Powers and duties of principal.**

16 ...

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

23 ...."

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

25 "**§ 115C-296. Board sets ~~certification-licensure~~ requirements; reports; lateral entry and**  
26 **mentor programs.**

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

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

42 ...

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

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

1 (5) Initial application for Out-of-State ~~certificate, license~~, \$85.00.

2 (6) All other applications, \$85.00.

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

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

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

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

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

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

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

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

1 (b1) The State Board of Education shall develop a plan to provide a focused review of  
2 teacher education programs and the current process of accrediting these programs in order to  
3 ensure that the programs produce graduates that are well prepared to teach. The plan shall  
4 include the development and implementation of a school of education performance report for  
5 each teacher education program in North Carolina. The performance report shall include at  
6 least the following elements: (i) quality of students entering the schools of education, including  
7 the average grade point average and average score on preprofessional skills tests that assess  
8 reading, writing, math and other competencies; (ii) graduation rates; (iii) time-to-graduation  
9 rates; (iv) average scores of graduates on professional and content area examination for the  
10 purpose of ~~certification~~licensure; (v) percentage of graduates receiving initial  
11 ~~certification~~licenses; (vi) percentage of graduates hired as teachers; (vii) percentage of  
12 graduates remaining in teaching for four years; (viii) graduate satisfaction based on a common  
13 survey; and (ix) employer satisfaction based on a common survey. The performance reports  
14 shall follow a common format. The performance reports shall be submitted annually. The State  
15 Board of Education shall develop a plan to be implemented beginning in the 1998-99 school  
16 year to reward and sanction approved teacher education programs and masters of education  
17 programs and to revoke approval of those programs based on the performance reports and other  
18 criteria established by the State Board of Education.

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

24 Both plans for performance reports also shall include a method to provide the annual  
25 performance reports to the Board of Governors of The University of North Carolina, the State  
26 Board of Education, and the boards of trustees of the independent colleges. The State Board of  
27 Education shall review the schools of education performance reports and the performance  
28 reports for masters degree programs in education and school administration each year the  
29 performance reports are submitted. The State Board shall submit the performance report for the  
30 1999-2000 school year to the Joint Legislative Education Oversight Committee by December  
31 15, 2000. Subsequent performance reports shall be submitted to the Joint Legislative Education  
32 Oversight Committee on an annual basis by October 1.

33 ...

34 (c) It is the policy of the State of North Carolina to encourage lateral entry into the  
35 profession of teaching by skilled individuals from the private sector. To this end, before the  
36 1985-86 school year begins, the State Board of Education shall develop criteria and procedures  
37 to accomplish the employment of such individuals as classroom teachers. Beginning with the  
38 2006-2007 school year, the criteria and procedures shall include preservice training in (i) the  
39 identification and education of children with disabilities and (ii) positive management of  
40 student behavior, effective communication for defusing and deescalating disruptive or  
41 dangerous behavior, and safe and appropriate use of seclusion and restraint. Skilled individuals  
42 who choose to enter the profession of teaching laterally may be granted a provisional teaching  
43 ~~certificate~~license for no more than three years and shall be required to obtain  
44 ~~certification~~licensure before contracting for a fourth year of service with any local  
45 administrative unit in this State.

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

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

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

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

13 ...

14 (d) The State Board shall adopt rules to establish the reasons and procedures for the  
15 suspension and revocation of ~~certificates~~licenses. The State Board shall revoke the  
16 ~~certificate~~license of a teacher or school administrator if the State Board receives notification  
17 from a local board or the Secretary of Health and Human Services that a teacher or school  
18 administrator has received ~~an unsatisfactory or below standard rating~~a rating on any standard  
19 that was identified as an area of concern on the mandatory improvement plan that was below  
20 proficient or otherwise represented unsatisfactory or below standard performance under  
21 G.S. ~~115C-333(d)~~, 115C-333(d) and G.S. 115C-333.1(f). In addition, the State Board may  
22 revoke or refuse to renew a teacher's ~~certificate~~license when:

- 23 (1) The Board identifies the school in which the teacher is employed as  
24 low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
- 25 (2) The State Board shall automatically revoke the ~~certificate~~license of a  
26 teacher or school administrator without the right to a hearing upon receiving  
27 verification of the identity of the teacher or school administrator together  
28 with a certified copy of a criminal record showing that the teacher or school  
29 administrator has entered a plea of guilty or nolo contendere to or has been  
30 finally convicted of any of the following crimes: Murder in the first or  
31 second degree, G.S. 14-17; Conspiracy or solicitation to commit murder,  
32 G.S. 14-18.1; Rape or sexual offense as defined in Article 7A of Chapter 14  
33 of the General Statutes. Felonious assault with deadly weapon with intent to  
34 kill or inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39;  
35 Abduction of children, G.S. 14-41; Crime against nature, G.S. 14-177;  
36 Incest, G.S. 14-178 or G.S. 14-179; Employing or permitting minor to assist  
37 in offense against public morality and decency, G.S. 14-190.6;  
38 Dissemination to minors under the age of 16 years, G.S. 14-190.7;  
39 Dissemination to minors under the age of 13 years, G.S. 14-190.8;  
40 Displaying material harmful to minors, G.S. 14-190.14; Disseminating  
41 harmful material to minors, G.S. 14-190.15; First degree sexual exploitation  
42 of a minor, G.S. 14-190.16; Second degree sexual exploitation of a minor,  
43 G.S. 14-190.17; Third degree sexual exploitation of a minor,  
44 G.S. 14-190.17A; Promoting prostitution of a minor, G.S. 14-190.18;  
45 Participating in prostitution of a minor, G.S. 14-190.19; Taking indecent  
46 liberties with children, G.S. 14-202.1; Solicitation of child by computer to  
47 commit an unlawful sex act, G.S. 14-202.3; Taking indecent liberties with a  
48 student, G.S. 14-202.4; Prostitution, G.S. 14-204; and child abuse under  
49 G.S. 14-318.4. The Board shall mail notice of its intent to act pursuant to this  
50 subdivision by certified mail, return receipt requested, directed to the teacher  
51 or school administrator at their last known address. The notice shall inform

1 the teacher or school administrator that it will revoke the person's  
2 ~~certificate~~license unless the teacher or school administrator notifies the  
3 Board in writing within 10 days after receipt of the notice that the defendant  
4 identified in the criminal record is not the same person as the teacher or  
5 school administrator. If the teacher or school administrator provides this  
6 written notice to the Board, the Board shall not revoke the ~~certificate~~license  
7 unless it can establish as a fact that the defendant and the teacher or school  
8 administrator are the same person.

9 (3) In addition, the State Board may revoke or refuse to renew a teacher's  
10 ~~certificate~~license when:

- 11 a. The Board identifies the school in which the teacher is employed as  
12 low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
- 13 b. The assistance team assigned to that school makes the  
14 recommendation to revoke or refuse to renew the teacher's  
15 ~~certificate~~license for one or more reasons established by the State  
16 Board in its rules for ~~certificate~~license suspension or revocation.

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

23 (e) The State Board of Education shall develop a mentor program to provide ongoing  
24 support for teachers entering the profession. In developing the mentor program, the State Board  
25 shall conduct a comprehensive study of the needs of new teachers and how those needs can be  
26 met through an orientation and mentor support program. For the purpose of helping local  
27 boards to support new teachers, the State Board shall develop and distribute guidelines which  
28 address optimum teaching load, extracurricular duties, student assignment, and other working  
29 condition considerations. These guidelines shall provide that initially ~~certificated~~licensed teachers  
30 not be assigned extracurricular activities unless they request the assignments in writing and that  
31 other noninstructional duties of these teachers be minimized. The State Board shall develop and  
32 coordinate a mentor teacher training program. The State Board shall develop criteria for  
33 selecting excellent, experienced, and qualified teachers to be participants in the mentor teacher  
34 training program.

35 ...

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

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

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

48 **"§ 115C-334. Assessment teams.**

49 The State Board shall develop guidelines for local boards to use to create assessment teams.  
50 A local board shall assign an assessment team to every low-performing school in the local  
51 school administrative unit that has not received an assistance team. Local boards shall ensure

1 that assessment team members are trained in the proper administration of the employee  
2 evaluation used by the local school administrative unit. If service on an assessment team is an  
3 additional duty for an employee of a local board, the board may pay the employee for that  
4 additional work.

5 Assessment teams shall have the following duties:

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

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

17 "**§ 115C-335. Development of performance standards and criteria for ~~certified~~licensed**  
18 **employees; training and remediation programs.**

19 ...

20 (b) Training. – The State Board, in collaboration with the Board of Governors of The  
21 University of North Carolina, shall develop programs designed to train principals and  
22 superintendents in the proper administration of the employee evaluations developed by the  
23 State Board. The Board of Governors shall use the professional development programs for  
24 public school employees that are under its authority to make this training available to all  
25 principals and superintendents at locations that are geographically convenient to local school  
26 administrative units. The programs shall include methods to determine whether an employee's  
27 performance has improved student learning, the development and implementation of  
28 appropriate ~~action~~professional growth and mandatory improvement plans, the process for  
29 contract nonrenewal, and the dismissal process under G.S. 115C-325. The Board of Governors  
30 shall ensure that the subject matter of the training programs is incorporated into the masters in  
31 school administration programs offered by the constituent institutions. The State Board, in  
32 collaboration with the Board of Governors, also shall develop in-service programs for ~~certified~~  
33 licensed public school employees that may be included in ~~an action~~a mandatory improvement  
34 plan created under G.S. 115C-333(b), G.S. 115C-333(b) or G.S. 115C-333.1(b). The Board of  
35 Governors shall use the professional development programs for public school employees that  
36 are under its authority to make this training available at locations that are geographically  
37 convenient to local school administrative units."

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