

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

D

SENATE BILL 962  
Education/Higher Education Committee Substitute Adopted 5/13/09  
PROPOSED HOUSE COMMITTEE SUBSTITUTE S962-PCS55443-TC-48

Short Title: Probationary Teacher Appeals.

(Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE HEARING PROCESS APPLICABLE TO PROBATIONARY  
3 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 ...

8 (c) (1) Election of a Teacher to Career Status. – Except as otherwise provided in  
9 subdivision (3) of this subsection, when a teacher has been employed by a  
10 North Carolina public school system for four consecutive years, the board,  
11 near the end of the fourth year, shall vote upon whether to grant the teacher  
12 career status. The teacher has a right to notice and hearing prior to the  
13 board's vote as provided in G.S. 115C-325(m)(3) and G.S. 115C-325(m)(4).  
14 The board shall give the teacher written notice of that decision by June  
15 15; June 15 or such later date as provided in G.S. 115C-325(m)(7). If a  
16 majority of the board votes to grant career status to the teacher, and if it has  
17 notified the teacher of the decision, it may not rescind that action but must  
18 proceed under the provisions of this section for the demotion or dismissal of  
19 a teacher if it decides to terminate the teacher's employment. If a majority of  
20 the board votes against granting career status, the teacher shall not teach  
21 beyond the current school term. If the board fails to vote on granting career  
22 status:

23 a. ~~It shall not reemploy the teacher for a fifth consecutive year;~~

24 b. ~~As of June 16, the teacher shall be entitled to one month's pay as~~  
25 ~~compensation for the board's failure to vote upon the issue of~~  
26 ~~granting career status; and~~

27 e. ~~The~~status, the teacher shall be entitled to an additional month's pay  
28 for every 30 days or portion thereof after June 16 ~~that the board fails~~  
29 ~~to vote upon the issue of granting career status.~~ or such later date as  
30 provided in G.S. 115C-325(m)(7) if a majority of the board belatedly  
31 votes against granting career status.

32 (2) Employment of a Career Teacher. – A teacher who has obtained career  
33 status in any North Carolina public school system need not serve another



\* S 9 6 2 - P C S 5 4 4 3 - T C - 4 8 \*

1 probationary period of more than one year. The board may grant career  
 2 status immediately upon employing the teacher, or after the first year of  
 3 employment. The teacher has a right to notice and hearing prior to the  
 4 board's vote as provided in G.S. 115C-325(m)(3) and G.S. 115C-325(m)(4).  
 5 The board shall give the teacher written notice of that decision by June 15 or  
 6 such later date as provided in G.S. 115C-325(m)(7). If a majority of the  
 7 board votes against granting career status, the teacher shall not teach beyond  
 8 the current term. If after one year of employment, the board fails to vote on  
 9 the issue of granting career status:

- 10 a. ~~It shall not reemploy the teacher for a second consecutive year;~~  
 11 b. ~~As of June 16, the teacher shall be entitled to one month's pay as~~  
 12 ~~compensation for the board's failure to vote upon the issue of~~  
 13 ~~granting career status; and~~  
 14 e. The status, the teacher shall be entitled to one additional month's pay  
 15 for every 30 days or portion thereof beyond June 16 that the board  
 16 fails to vote upon the issue of granting career status, or such later date  
 17 as provided in G.S. 115C-325(m)(7) if a majority of the board  
 18 belatedly voted against granting career status.

19 ...

20 (m) Probationary Teacher.

- 21 (1) The board of any local school administrative unit may not discharge a  
 22 probationary teacher during the school year except for the reasons for and by  
 23 the procedures by which a career employee may be dismissed as set forth in  
 24 subsections (e), (f), (f1), and (h) to (j3) above.
- 25 (2) The board, upon recommendation of the superintendent, may refuse to renew  
 26 the contract of any probationary teacher or to reemploy any teacher who is  
 27 not under contract for any cause it deems sufficient: Provided, however, that  
 28 the cause may not be arbitrary, capricious, discriminatory or for personal or  
 29 political reasons.
- 30 (3) The superintendent shall provide written notice to a probationary teacher no  
 31 later than May 15 of the superintendent's intent to recommend nonrenewal  
 32 and the teacher's right, within 10 days of receipt of the superintendent's  
 33 recommendation, to (i) request and receive written notice of the reasons for  
 34 the superintendent's recommendation for nonrenewal and the information  
 35 that the superintendent may share with the board to support the  
 36 recommendation for nonrenewal; and (ii) request a hearing for those teachers  
 37 eligible for a hearing under G.S. 115C-325(m)(4). The failure to file a timely  
 38 request within the 10 days shall result in a waiver of the right to this  
 39 information and any right to a hearing. If a teacher files a timely request, the  
 40 superintendent shall provide the requested information and arrange for a  
 41 hearing, if allowed, and the teacher shall be permitted to submit  
 42 supplemental information to the superintendent and board prior to the board  
 43 making a decision or holding a hearing as provided in this section. The board  
 44 shall adopt a policy to provide for the orderly exchange of information prior  
 45 to the board's decision on the superintendent's recommendation for  
 46 nonrenewal.
- 47 (4) If the probationary teacher is eligible for career status pursuant to  
 48 G.S. 115C-325(c)(1) and (2) and the superintendent recommends not to give  
 49 the probationary teacher career status, the probationary teacher has the right  
 50 to a hearing before the board unless the reason is a justifiable board- or

1 superintendent-approved decrease in the number of positions due to district  
2 reorganization, decreased enrollment, or decreased funding.

3 (5) For probationary contracts that are not in the final year before the  
4 probationary teacher is eligible for career status, the probationary teacher  
5 shall have the right to petition the local board of education for a hearing, and  
6 the local board may grant a hearing regarding the superintendent's  
7 recommendation for nonrenewal. The local board of education shall notify  
8 the probationary teacher making the petition of its decision whether to grant  
9 a hearing.

10 (6) Any hearing held according to this subsection shall be pursuant to the  
11 provisions of G.S. 115C-45(c).

12 (7) The board shall notify a probationary teacher whose contract will not be  
13 renewed for the next school year of its decision by June 15; provided,  
14 however, if a teacher submits a request for information or a hearing, the  
15 board shall provide the nonrenewal notification by July 1 or such later date  
16 upon the written consent of the superintendent and teacher.

17 (8) All final board decisions to nonrenew a probationary teacher shall be subject  
18 to judicial review pursuant to Article 4 of Chapter 150B of the General  
19 Statutes.

20 ...

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

26 ~~A probationary teacher whose contract will not be renewed for the next school year shall be~~  
27 ~~notified of this fact by June 15.~~

28 ...."

29 **SECTION 2.** This act is effective when it becomes law. G.S. 115C-325(m)(4), as  
30 enacted by Section 1 of this act, applies to proceedings initiated after August 31, 2010. The  
31 remainder of this act applies to proceedings initiated after August 31, 2009.