

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

D

SENATE BILL 466  
PROPOSED COMMITTEE SUBSTITUTE S466-PCS35197-RQ-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 ...



\* S 4 6 6 - P C S 3 5 1 9 7 - R Q - 1 1 \*

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

3 ...

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

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

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

51 ...

1 (f) (1) Suspension without Pay. – If a superintendent believes that cause exists for  
2 dismissing a career employee for any reason specified in  
3 G.S. 115C-325(e)(1) and that immediate suspension of the career employee  
4 is necessary, the superintendent may suspend the career employee without  
5 pay. Before suspending a career employee without pay, the superintendent  
6 shall meet with the career employee and give him written notice of the  
7 charges against him, an explanation of the bases for the charges, and an  
8 opportunity to respond. Within five days after a suspension under this  
9 paragraph, the superintendent shall initiate a dismissal, demotion, or  
10 disciplinary suspension without pay as provided in this section. If it is finally  
11 determined that no grounds for dismissal, demotion, or disciplinary  
12 suspension without pay exist, the career employee shall be reinstated  
13 immediately, shall be paid for the period of suspension, and all records of  
14 the suspension shall be removed from the career employee's personnel file.

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

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

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

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

42 ...  
43 (h) Procedure for Dismissal or Demotion of Career Employee.

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

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

49 (2) Before recommending to a board the dismissal or demotion of the career  
50 employee, the superintendent shall give written notice to the career  
51 employee by certified mail or personal delivery of his or her intention to

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

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

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

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

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

- 1           (7) ~~The~~ Within five days of being notified of the request for a hearing before a  
2 hearing officer, the Superintendent of Public Instruction shall select~~submit to~~  
3 both parties a list of hearing officers trained and approved by the State Board  
4 of Education.~~ease manager within three days of receiving notice from the~~  
5 ~~superintendent.~~ Within five days of receiving the list, the parties may jointly  
6 select a hearing officer from that list, or, if the parties cannot agree to a  
7 hearing officer, each party may strike up to one-third of the names on the list  
8 and submit its strikeout list to the Superintendent of Public Instruction. The  
9 Superintendent of Public Instruction shall then appoint a hearing officer  
10 from those individuals remaining on the list. ~~designate the person jointly~~  
11 ~~selected by the parties to serve as case manager provided the person agrees~~  
12 ~~to serve as case manager and can meet the requirements for time frames for~~  
13 ~~the hearing and report as provided in G.S. 115C-325(i1)(1). If a case~~  
14 ~~manager was not jointly selected or if the case manager is not available, the~~  
15 ~~Superintendent of Public Instruction shall select a case manager from the~~  
16 ~~master list.~~ Further, the parties may jointly agree on another hearing officer  
17 not on the State Board of Education's list, provided that individual is available  
18 to proceed in a timely manner and is willing to accept the terms of  
19 appointment required by the State Board of Education. No person eliminated  
20 by the career employee or superintendent shall be designated ease  
21 manager,~~as the hearing officer for that case.~~
- 22           (8) ~~The superintendent and career employee shall provide each other serve a~~  
23 ~~copy to the other party of all documents with copies of all documents~~  
24 ~~submitted to the Superintendent of Public Instruction and~~ to the designated  
25 ease manager,~~hearing officer and include a signed certificate of service~~  
26 similar to that required in court pleadings.
- 27       (h1) ~~Case Managers;~~ Hearing Officers; Qualifications; Training; Compensation.
- 28           (1) ~~Each year the~~ The State Board of Education shall select and maintain a  
29 master list of no more than 42-15 qualified ease managers,~~hearing officers.~~  
30 The State Board shall, except for good cause shown, remove a hearing  
31 officer from the list who has failed to conduct a hearing or prepare a report  
32 within the time specified in G.S. 115C-325(i1) or who has failed to submit a  
33 supplemental report in accordance with G.S. 115C-325(i1)(4) or (j1)(2). A  
34 hearing officer shall, except for good cause shown, also be removed from the  
35 list for failure to meet the terms and conditions of engagement established by  
36 the State Board. Additionally, if a hearing officer is not appointed to a case  
37 within a two-year period due to repeated strikes from the list by either party  
38 as provided in G.S. 115C-325(h)(7), the State Board may remove the hearing  
39 officer from the master list.
- 40           (2) ~~Persons selected by the State Board as ease managers,~~ hearing officers shall  
41 be: ~~(i) certified as a North Carolina Superior Court mediator; (ii) a~~  
42 ~~member of the American Arbitration Association's roster of arbitrators and~~  
43 ~~mediators; or (iii) have comparable certification in alternative dispute~~  
44 ~~resolution.~~ Case managers, ~~members in good standing of the North Carolina~~  
45 State Bar who have demonstrated experience and expertise in the areas of  
46 education law, due process, administrative law, or employment law within  
47 the last five years. The State Board shall give special consideration in its  
48 selection to persons jointly endorsed by the largest by membership of each  
49 statewide organization representing teachers, school administrators, and  
50 local boards of education. Following State Board selection, hearing officers  
51 must complete a special training course approved by the State Board of

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

1            State Board. The State Board shall determine an appropriate reduction in  
2            compensation to the hearing officer for failure to submit a timely  
3            supplemental report to both parties, except upon a showing of good cause by  
4            the hearing officer. The failure of the ~~ease manager~~ hearing officer to  
5            prepare a supplemental report or to address a critical factual issue shall not  
6            constitute a basis for appeal.

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

9            (1) The hearing shall be private.

10           (2) The hearing shall be conducted in accordance with reasonable rules and  
11           regulations adopted by the State Board of Education to govern such ~~ease~~  
12           ~~manager~~ hearings.

13           (3) At the hearing the career employee and the superintendent or the  
14           superintendent's designee shall have the right to be present and to be heard,  
15           to be represented by counsel and to present through witnesses any competent  
16           testimony relevant to the issue of whether grounds for dismissal or demotion  
17           exist or whether the procedures set forth in G.S. 115C-325 have been  
18           followed.

19           (4) Rules of evidence shall not apply to a hearing conducted by a ~~ease manager~~  
20           ~~and the ease manager~~ hearing officer. The hearing officer may give  
21           probative effect to evidence that is of a kind commonly relied on by  
22           reasonably prudent persons in the conduct of serious affairs.

23           (5) At least five days before the hearing, the superintendent shall provide to the  
24           career employee a list of witnesses the superintendent intends to present, a  
25           brief statement of the nature of the testimony of each witness and a copy of  
26           any documentary evidence the superintendent intends to present. At least  
27           three days before the hearing, the career employee shall provide to the  
28           superintendent a list of witnesses the career employee intends to present, a  
29           brief statement of the nature of the testimony of each witness and a copy of  
30           any documentary evidence the career employee intends to present.  
31           Additional witnesses or documentary evidence may not be presented except  
32           upon a finding by the ~~ease manager~~ hearing officer that the new evidence is  
33           critical to the matter at issue and the party making the request could not,  
34           with reasonable diligence, have discovered and produced the evidence  
35           according to the schedule provided in this subdivision.

36           (5a) The hearing shall be completed within three days after commencement,  
37           unless extended by the hearing officer on a showing of extraordinary cause.  
38           Neither party shall have more than eight hours to present its case in chief,  
39           which does not include cross examination of witnesses, rebuttal evidence, or  
40           arguments of counsel.

41           (6) The ~~ease manager~~ hearing officer may subpoena issue subpoenas, at his or  
42           her discretion or upon written application by either party, and swear  
43           witnesses and may require them to give testimony and to produce records  
44           and documents relevant to the grounds for dismissal.

45           (7) The ~~ease manager~~ hearing officer shall decide all procedural issues,  
46           including limiting cumulative evidence, necessary for a fair and efficient  
47           hearing.

48           (8) The superintendent shall provide for making a transcript of the hearing. If  
49           the career employee contemplates a hearing before the board or to appeal the  
50           board's decision to a court of law, the career employee may request and shall

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



- 1 (5) The board shall make a determination and may (i) reject the superintendent's  
2 recommendation or (ii) accept or modify the recommendation and dismiss,  
3 demote, reinstate, or suspend the employee without pay.
- 4 (6) Within two days following the hearing, the board shall send a written copy  
5 of its findings and determination to the career employee and the  
6 superintendent.
- 7 (j2) Board Hearing. – The following procedures shall apply to a hearing conducted by  
8 the board:
- 9 ...
- 10 (2) If the career employee requested a hearing by a ~~case manager~~hearing  
11 officer, the board shall receive the following:
- 12 a. The whole record from the hearing held by the ~~case manager~~hearing  
13 officer, including a transcript of the hearing, as well as any other  
14 records, exhibits, and documentary evidence submitted to the case  
15 manager at the hearing.
- 16 b. The ~~case manager's~~hearing officer's findings of fact, including any  
17 supplemental findings prepared by the ~~case manager~~hearing officer  
18 under G.S. 115C-325 (i1)(4) or G.S. 115C-325(j1)(2).
- 19 e. ~~The case manager's recommendation as to whether the grounds in~~  
20 ~~G.S. 115C-325(e) submitted by the superintendent are substantiated.~~
- 21 d. The superintendent's recommendation and the grounds for the  
22 recommendation.
- 23 (3) If the career employee did not request a hearing by a ~~case manager~~hearing  
24 officer, the board shall receive the following:
- 25 a. Any documentary evidence the superintendent intends to use to  
26 support the recommendation. The superintendent shall provide the  
27 documentary evidence to the career employee seven days before the  
28 hearing.
- 29 b. Any documentary evidence the career employee intends to use to  
30 rebut the superintendent's recommendation. The career employee  
31 shall provide the superintendent with the documentary evidence three  
32 days before the hearing.
- 33 c. The superintendent's recommendation and the grounds for the  
34 recommendation.
- 35 ...
- 36 (6) No new evidence may be presented at the hearing except upon a finding by  
37 the board that the new evidence is critical to the matter at issue and the party  
38 making the request could not, with reasonable diligence, have discovered  
39 and produced the evidence at the hearing before the ~~case manager~~hearing  
40 officer.
- 41 (7) The board shall accept the ~~case manager's~~hearing officer's findings of fact  
42 unless a majority of the board determines that the findings of fact are not  
43 supported by substantial evidence when reviewing the record as a whole. In  
44 such an event, the board shall make alternative findings of fact. If a majority  
45 of the board determines that the ~~case manager~~hearing officer did not address  
46 a critical factual issue, the board may remand the findings of fact to the ~~case~~  
47 ~~manager~~hearing officer to complete the report to the board. If the ~~case~~  
48 ~~manager~~hearing officer does not submit the report within seven days receipt  
49 of the board's request, the board may determine its own findings of fact  
50 regarding the critical factual issues not addressed by the ~~case~~

1                   ~~manager-hearing officer~~. The board's determination shall be based upon a  
2                   preponderance of the evidence.

3                   ...

4           (o)    Resignation. –

5           (1)    If a career employee has been recommended for dismissal under  
6           G.S. 115C-325(e)(1) and the employee chooses to resign without the written  
7           agreement of the superintendent, then:

8           a.     The superintendent shall report the matter to the State Board of  
9           Education.

10          b.    The employee shall be deemed to have consented to (i) the placement  
11          in the employee's personnel file of the written notice of the  
12          superintendent's intention to recommend dismissal and (ii) the release  
13          of the fact that the superintendent has reported this employee to the  
14          State Board of Education to prospective employers, upon request.  
15          The provisions of G.S. 115C-321 shall not apply to the release of this  
16          particular information.

17          c.    The employee shall be deemed to have voluntarily surrendered his or  
18          her ~~certificate-license~~ pending an investigation by the State Board of  
19          Education in a determination whether or not to seek action against  
20          the employee's ~~certificate-license~~. This ~~certificate-license~~ surrender  
21          shall not exceed 45 days from the date of resignation. Provided  
22          further that the cessation of the ~~certificate-license~~ surrender shall not  
23          prevent the State Board of Education from taking any further action  
24          it deems appropriate. The State Board of Education shall initiate  
25          investigation within five working days of the written notice from the  
26          superintendent and shall make a final decision as to whether to  
27          revoke or suspend the employee's ~~certificate-license~~ within 45 days  
28          from the date of resignation.

29          (2)    A teacher, career or probationary, who is not recommended for dismissal  
30          should not resign without the consent of the superintendent unless he or she  
31          has given at least 30 days' notice. If a teacher who is not recommended for  
32          dismissal does resign without giving at least 30 days' notice, the board may  
33          request that the State Board of Education revoke the teacher's ~~certificate~~  
34          license for the remainder of that school year. A copy of the request shall be  
35          placed in the teacher's personnel file.

36                ...

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

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

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

- 3 a. The Secretary determines that the school has failed to make  
4 satisfactory improvement after the State Board assigned an assistance  
5 team to that school under Part 3A of Article 3 of Chapter 143B of the  
6 General Statutes; and  
7 b. That assistance team makes the recommendation to dismiss the  
8 teacher, principal, assistant principal, director, supervisor, or other  
9 ~~certificated~~-licensed personnel for one or more grounds established in  
10 G.S. 115C-325(e)(1) for dismissal or demotion of a career employee.

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

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

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

35 ...

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

38 ...

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

46 A ~~certificated~~-licensed staff member may request a hearing before a panel  
47 of three members of the State Board within 30 days of any dismissal under  
48 this subdivision. The State Board shall adopt procedures to ensure that due  
49 process rights are afforded to ~~certificated~~-licensed staff members recommended  
50 for dismissal under this subdivision. Decisions of the panel may be appealed

1 on the record to the State Board, with further right of judicial review under  
2 Chapter 150B of the General Statutes.

3 ...."

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

5 "**§ 115C-333. Evaluation of certified—licensed employees including certain**  
6 **superintendents; ~~action—mandatory improvement~~ plans; State board**  
7 **notification upon dismissal of employees.**

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

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

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

34 (b) Mandatory Improvement Action Plans. –

35 (1) ~~If a certified employee in a low-performing school receives an unsatisfactory~~  
36 ~~or below standard rating on any function of the evaluation that is related to~~  
37 ~~the employee's instructional duties, the individual or team that conducted the~~  
38 ~~evaluation shall recommend to the superintendent that: (i) the employee~~  
39 ~~receive an action plan designed to improve the employee's performance; or~~  
40 ~~(ii) the superintendent recommend to the local board that the employee be~~  
41 ~~dismissed or demoted. The superintendent shall determine whether to~~  
42 ~~develop an action plan or to recommend a dismissal proceeding. Action~~  
43 ~~plans shall be developed by the person who evaluated the employee or the~~  
44 ~~employee's supervisor unless the evaluation was conducted by an assistance~~  
45 ~~team or an assessment team. If the evaluation was conducted by an~~  
46 ~~assistance team or an assessment team, that team shall develop the action~~  
47 ~~plan in collaboration with the employee's supervisor. Action plans shall be~~  
48 ~~designed to be completed within 90 instructional days or before the~~  
49 ~~beginning of the next school year. The State Board shall develop guidelines~~  
50 ~~that include strategies to assist local boards in evaluating certified employees~~  
51 ~~and developing effective action plans within the time allotted under this~~

1 ~~section. Local boards may adopt policies for the development and~~  
2 ~~implementation of action plans or professional development plans for~~  
3 ~~employees who do not require action plans under this section.~~

4 (1a) A mandatory improvement plan is an instrument designed to improve a  
5 teacher's performance or the performance of any licensed employee in a  
6 low-performing school by providing the individual with notice of specific  
7 performance areas that have substantial deficiencies and a set of strategies,  
8 including the specific support to be provided to the individual, so that the  
9 individual, within a reasonable period of time, should satisfactorily resolve  
10 such deficiencies.

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

15 (2a) If a licensed employee in a low-performing school receives a rating on any  
16 standard on an evaluation that is below proficient or otherwise represents  
17 unsatisfactory or below standard performance in an area that the licensed  
18 employee was expected to demonstrate, the individual or team that  
19 conducted the evaluation shall recommend to the superintendent that (i) the  
20 employee receive a mandatory improvement plan designed to improve the  
21 employee's performance or (ii) the superintendent recommend to the local  
22 board that the employee be dismissed or demoted. If the individual or team  
23 that conducted the evaluation elects not to make either of the above  
24 recommendations, the said individual or team shall notify the superintendent  
25 of this decision. The superintendent shall determine whether to develop a  
26 mandatory improvement plan or to recommend a dismissal proceeding.

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

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

47 (c) ~~Reevaluation. Reassessment of Employee in a Low-Performing School. – After the~~  
48 ~~expiration of the time period for the mandatory improvement plan~~Upon completion of an action  
49 ~~plan~~ plan ~~under subdivision (1) of subsection (b)(2a) of subsection (b) of this section, the~~  
50 ~~superintendent, the superintendent's designee, or the assessment assistance team shall evaluate~~  
51 ~~assess the performance of the employee of the low-performing school a second time. If the~~

1 superintendent, superintendent's designee, or assistance team determines that the employee has  
2 failed to become proficient in any of the performance standards articulated in the mandatory  
3 improvement plan or demonstrate sufficient improvement toward such standards, ~~If on the~~  
4 ~~second evaluation the employee receives one unsatisfactory or more than one below standard~~  
5 ~~rating on any function that is related to the employee's instructional duties,~~ the superintendent  
6 shall recommend that the employee be dismissed or demoted under G.S. 115C-325. The results  
7 of the second ~~evaluation~~ assessment shall constitute substantial evidence of the employee's  
8 inadequate performance.

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

29 ...."

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

32 **"§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing;**  
33 **mandatory improvement plans; State Board notification upon dismissal of**  
34 **teachers.**

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

47 (b) Mandatory Improvement Plans for Teachers. – If, in an observation report or  
48 year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents  
49 unsatisfactory or below standard performance on any standard that the teacher was expected to  
50 demonstrate, the principal may place the teacher on a mandatory improvement plan as defined  
51 in G.S. 115C-333(b)(1a). The mandatory improvement plan shall be utilized only if the

1 superintendent or superintendent's designee determines that an individual, monitored, or  
2 directed growth plan will not satisfactorily address the deficiencies.

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

16 (c) Observation by a Qualified Observer. –

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

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

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

1 qualified observer. The qualified observer shall not unduly disrupt the  
2 classroom when conducting an observation.

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

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

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

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

49 (g) Civil Immunity. – There shall be no liability for negligence on the part of the State  
50 Board of Education or a local board of education, or their employees, arising from any action  
51 taken or omission by any of them in carrying out the provisions of this section. The immunity



1 established by this subsection shall not extend to gross negligence, wanton conduct, or  
2 intentional wrongdoing that would otherwise be actionable. The immunity established by this  
3 subsection shall be deemed to have been waived to the extent of indemnification by insurance,  
4 indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the  
5 extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of  
6 Chapter 143 of the General Statutes."

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

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

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

17 **"§ 115C-288. Powers and duties of principal.**

18 ...

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

25 ...."

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

27 **"§ 115C-296. Board sets ~~certification~~ licensure requirements; reports; lateral entry and**  
28 **mentor programs.**

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

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

44 ...

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

- 47 (1) Application for demographic or administrative changes to a  
48 ~~certificate~~ license, \$30.00.
- 49 (2) Application for a duplicate ~~certificate~~ license or for copies of documents in  
50 the ~~certification~~ licensure files, \$30.00.

- 1 (3) Application for a renewal, extension, addition, upgrade, and variation to a  
2 ~~certificate, license~~, \$55.00.
- 3 (4) Initial application for New, In-State Approved Program Graduate, \$55.00.
- 4 (5) Initial application for Out-of-State ~~certificate, license~~, \$85.00.
- 5 (6) All other applications, \$85.00.

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

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

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

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

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

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

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

49 All North Carolina institutions of higher education that offer teacher education programs,  
50 masters degree programs in education, or masters degree programs in school administration  
51 shall provide performance reports to the State Board of Education. The performance reports

1 shall follow a common format, shall be submitted according to a plan developed by the State  
2 Board, and shall include the information required under the plan developed by the State Board.

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

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

26 Both plans for performance reports also shall include a method to provide the annual  
27 performance reports to the Board of Governors of The University of North Carolina, the State  
28 Board of Education, and the boards of trustees of the independent colleges. The State Board of  
29 Education shall review the schools of education performance reports and the performance  
30 reports for masters degree programs in education and school administration each year the  
31 performance reports are submitted. The State Board shall submit the performance report for the  
32 1999-2000 school year to the Joint Legislative Education Oversight Committee by December  
33 15, 2000. Subsequent performance reports shall be submitted to the Joint Legislative Education  
34 Oversight Committee on an annual basis by October 1.

35 ...

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

48 (c1) The State Board of Community Colleges may provide a program of study for lateral  
49 entry teachers to complete the coursework necessary to earn a teaching ~~certificate~~license. To  
50 this end, the State Board of Education, in consultation with the State Board of Community  
51 Colleges, shall establish a competency-based program of study for lateral entry teachers to be

1 implemented within the Community College System no later than May 1, 2006. This program  
2 must meet standards set by the State Board of Education.

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

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

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

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

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

1 subdivision by certified mail, return receipt requested, directed to the teacher  
2 or school administrator at their last known address. The notice shall inform  
3 the teacher or school administrator that it will revoke the person's  
4 ~~certificate~~license unless the teacher or school administrator notifies the  
5 Board in writing within 10 days after receipt of the notice that the defendant  
6 identified in the criminal record is not the same person as the teacher or  
7 school administrator. If the teacher or school administrator provides this  
8 written notice to the Board, the Board shall not revoke the ~~certificate~~license  
9 unless it can establish as a fact that the defendant and the teacher or school  
10 administrator are the same person.

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

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

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

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

37 ...

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

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

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

50 **"§ 115C-334. Assessment teams.**

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

8 Assessment teams shall have the following duties:

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

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

20 "**§ 115C-335. Development of performance standards and criteria for ~~certified~~licensed**  
21 **employees; training and remediation programs.**

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

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