

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2013

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SENATE BILL 564

Short Title: Education Improvement Act of 2013. (Public)

Sponsors: Senators Stein (Primary Sponsor); D. Davis and Robinson.

Referred to: Rules and Operations of the Senate.

April 2, 2013

A BILL TO BE ENTITLED

AN ACT TO ENACT THE EDUCATION IMPROVEMENT ACT OF 2013.

The General Assembly of North Carolina enacts:

PART I. TASK FORCE TO STUDY TEACHER AND SCHOOL ADMINISTRATOR EFFECTIVENESS, COMPENSATION, AND CAREER DEVELOPMENT

SECTION 1.(a) Establishment. – The North Carolina Educator Effectiveness, Compensation, and Career Development Task Force (Task Force) is established.

SECTION 1.(b) Membership. – The Task Force shall be composed of 16 members as follows:

(1) Eight members appointed by the Speaker of the House of Representatives as follows:

- a. Four persons who are members of the House of Representatives at the time of appointment, at least two of whom represent the minority party.
- b. A representative of the Department of Public Instruction.
- c. A classroom teacher, as recommended by the North Carolina Association of Educators.
- d. A school principal, as recommended by the North Carolina Association of School Administrators.
- e. A representative of a North Carolina institution of higher education that offers a teacher education program and a master's degree program in education or school administration.

(2) Eight members appointed by the President Pro Tempore of the Senate as follows:

- a. Four persons who are members of the Senate at the time of appointment, at least two of whom represent the minority party.
- b. A representative of the State Board of Education.
- c. A classroom teacher, as recommended by the North Carolina Association of Educators.
- d. A school system superintendent, as recommended by the North Carolina Association of School Administrators.
- e. A local school board member, as recommended by the North Carolina School Boards Association.

The Task Force shall have two cochairs, one designated by the President Pro Tempore of the Senate and one designated by the Speaker of the House of Representatives



1 from among their appointees. The Task Force shall meet upon the call of the cochairs.
2 Vacancies shall be filled by the appointing authority. A quorum of the Task Force shall be a
3 majority of the members.

4 **SECTION 1.(c) Duties.** – The Task Force shall make recommendations on whether
5 to create a statewide model of incentives to encourage the recruitment and retention of highly
6 effective educators and to consider the transition to an alternative compensation system for
7 educators. In developing recommendations, the Task Force shall consider at least the following
8 factors:

- 9 (1) Alternatives to or simplification of the current teacher and school principal
10 salary schedules, including the need for "hold harmless" options or a choice
11 in compensation structure to avoid reduction in pay for current educators.
- 12 (2) Incorporating the feedback of educators in order to maximize buy-in.
- 13 (3) The integration of school-level performance measures in an alternative
14 compensation system.
- 15 (4) Whether local school administrative units may create their own customized
16 alternative compensation systems in lieu of or in addition to a statewide
17 system, including necessary parameters, such as funding flexibility and
18 guidelines for local boards of education.
- 19 (5) The use of incentive pay to recruit and retain educators to teach in
20 hard-to-staff areas.
- 21 (6) The recognition of educator responsibilities and leadership roles, such as
22 mentoring of beginning teachers, instructional coaching, and curriculum
23 development.
- 24 (7) Methods for identifying effective teaching and its relationship to an
25 alternative compensation system, including:
 - 26 a. The correlation of student outcomes with effective teaching.
 - 27 b. The use of multiple teacher evaluation measures and feedback
28 methods to recognize effective teaching, such as classroom
29 observations, student surveys, video training for teachers, and
30 standard measures of student achievement.
 - 31 c. The use of multiple teacher observations, including at least one
32 observer from outside of the teacher's school.
 - 33 d. The correlation to annual student growth and performance data,
34 evaluations, effectiveness levels, and a three-year average of student
35 growth.
- 36 (8) Barriers to the implementation of alternative compensation systems.
- 37 (9) Educator compensation reform in other states and North Carolina pilot
38 programs currently utilizing alternative compensation systems.
- 39 (10) The potential of offering 12-month employment contracts to all teachers at
40 the election of those teachers.
- 41 (11) The goal to raise pay for North Carolina educators to match the national
42 averages by 2019.
- 43 (12) Current working conditions for educators.
- 44 (13) The impact of educator career development, including licensure, evaluations,
45 and salary schedules.
- 46 (14) Effective strategies for retaining effective teachers.

47 **SECTION 1.(d) Compensation; Administration.** – Members of the Task Force
48 shall receive subsistence and travel allowances at the rates set forth in G.S. 120-3.1, 138-5, or
49 138-6, as appropriate. With the prior approval of the Legislative Services Task Force, the
50 Legislative Services Officer shall assign professional and clerical staff to assist in the work of
51 the Task Force. With the prior approval of the Legislative Services Commission, the Task

1 Force may hold its meetings in the State Legislative Building or the Legislative Office
2 Building. The Task Force may also meet at various locations around the State in order to
3 promote greater public participation in its deliberations. The Task Force, while in the discharge
4 of its official duties, may exercise all the powers provided under the provisions of G.S. 120-19
5 and G.S. 120-19.1 through G.S. 120-19.4, including the power to request all officers, agents,
6 agencies, and departments of the State to provide any information, data, or documents within
7 their possession, ascertainable from their records, or otherwise available to them and the power
8 to subpoena witnesses.

9 **SECTION 1.(e)** Report. – The Task Force shall report its findings and
10 recommendations to the 2014 Regular Session of the 2013 General Assembly no later than
11 April 15, 2014. The Task Force shall terminate upon the filing of its final report.
12

13 **PART II. ANNUAL EVALUATIONS FOR ALL TEACHERS AND AT LEAST ONE** 14 **OBSERVATION PERFORMED BY AN OUTSIDE EVALUATOR**

15 **SECTION 2.(a)** G.S. 115C-333(a) reads as rewritten:

16 "(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units
17 shall evaluate at least once each year all licensed employees assigned to a school that has been
18 identified as ~~low-performing~~ low-performing and, to the extent practicable, have at least one
19 formal observation performed by an outside evaluator designated by the principal. The
20 evaluation shall occur early enough during the school year to provide adequate time for the
21 development and implementation of a mandatory improvement plan if one is recommended
22 under subsection (b) of this section. If the employee is a teacher as defined under
23 G.S. 115C-325(a)(6), either the principal, the assistant principal who supervises the teacher, or
24 an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the
25 employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the
26 superintendent or the superintendent's designee shall conduct the evaluation.

27 All teachers in low-performing schools who have not attained career status shall be
28 observed at least once annually by a teacher and at least three times annually by the principal or
29 the principal's designee and at least once annually by a teacher and shall be evaluated at least
30 once annually by a principal-designee. At least one of these three observations shall be
31 performed by the principal and, to the extent practicable, at least one formal observation shall
32 be performed by an outside evaluator designated by the principal. This section shall not be
33 construed to limit the duties and authority of an assistance team assigned to a low-performing
34 school under G.S. 115C-105.38.

35 A local board shall use the performance standards and criteria adopted by the State Board
36 and may adopt additional evaluation criteria and standards. All other provisions of this section
37 shall apply if a local board uses an evaluation other than one adopted by the State Board."

38 **SECTION 2.(b)** G.S. 115C-333.1(a) reads as rewritten:

39 "(a) Annual Evaluations. – All teachers who are assigned to schools that are not
40 designated as low-performing and who have not attained career status shall be observed at least
41 once annually by a teacher and at least three times annually by the principal or the principal's
42 designee and at least once annually by a teacher and shall be evaluated at least once annually
43 by a principal-designee. At least one of these three observations shall be performed by the
44 principal and, to the extent practicable, at least one formal observation shall be performed by an
45 outside evaluator designated by the principal. All teachers with career status who are assigned
46 to schools that are not designated as low-performing shall be evaluated ~~annually unless a local~~
47 ~~board adopts rules that allow teachers with career status to be evaluated more or less frequently,~~
48 ~~provided that such rules are not inconsistent with State or federal requirements.~~ at least annually
49 and, to the extent practicable, have at least one formal observation performed by an outside
50 evaluator designated by the principal. Local boards also may adopt rules requiring the annual
51 evaluation of nonlicensed employees. A local board shall use the performance standards and

1 criteria adopted by the State Board and may adopt additional evaluation criteria and standards.
2 All other provisions of this section shall apply if a local board uses an evaluation other than one
3 adopted by the State Board."

4 **SECTION 2.(c)** G.S. 115C-45(c) reads as rewritten:

5 "(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the
6 local board of education from any final administrative decision in the following matters:

- 7 (1) The discipline of a student under G.S. 115C-390.7, 115C-390.10, or
8 115C-390.11;
- 9 (2) An alleged violation of a specified federal law, State law, State Board of
10 Education policy, State rule, or local board policy, including policies
11 regarding grade retention of students;
- 12 (3) The terms or conditions of employment or employment status of a school
13 employee; and
- 14 (4) Any other decision that by statute specifically provides for a right of appeal
15 to the local board of education and for which there is no other statutory
16 appeal procedure.

17 As used in this subsection, the term "final administrative decision" means a decision of a
18 school employee from which no further appeal to a school administrator is available.

19 Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this
20 subsection shall have the right to appeal to the superintendent and thereafter shall have the right
21 to petition the local board of education for a hearing, and the local board may grant a hearing
22 regarding any final decision of school personnel within the local school administrative unit. A
23 licensed employee of a local administrative unit shall have the right to petition the local board
24 of education to grant a hearing regarding the results of the licensed employee's annual
25 evaluation or implementation of a mandatory improvement plan under G.S. 115C-333 or
26 G.S. 115C-333.1. The local board of education shall notify the person making the petition of its
27 decision whether to grant a hearing.

28 In all appeals to the board it is the duty of the board of education to see that a proper notice
29 is given to all parties concerned and that a record of the hearing is properly entered in the
30 records of the board conducting the hearing.

31 The board of education may designate hearing panels composed of not less than two
32 members of the board to hear and act upon such appeals in the name and on behalf of the board
33 of education.

34 An appeal of right brought before a local board of education under subdivision (1), (2), (3),
35 or (4) of this subsection may be further appealed to the superior court of the State on the
36 grounds that the local board's decision is in violation of constitutional provisions, is in excess of
37 the statutory authority or jurisdiction of the board, is made upon unlawful procedure, is affected
38 by other error of law, is unsupported by substantial evidence in view of the entire record as
39 submitted, or is arbitrary or capricious. However, the right of a noncertified employee to appeal
40 decisions of a local board under subdivision (3) of this subsection shall only apply to decisions
41 concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A
42 noncertified employee may request and shall be entitled to receive written notice as to the
43 reasons for the employee's dismissal, demotion, or suspension without pay. The notice shall be
44 provided to the employee prior to any local board of education hearing on the issue. This
45 subsection shall not alter the employment status of a noncertified employee."
46

47 **PART III. PROFESSIONAL DEVELOPMENT REQUIRED FOR LICENSURE**
48 **RENEWAL AND STANDARDS FOR TEACHER EDUCATION PROGRAMS**

49 **SECTION 3.(a)** G.S. 115C-296(b) reads as rewritten:

50 "(b) It is the policy of the State of North Carolina to maintain the highest quality teacher
51 education programs and school administrator programs in order to enhance the competence of

1 professional personnel licensed in North Carolina. To the end that teacher preparation programs
2 are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead
3 agency in coordination and cooperation with the University Board of Governors, the Board of
4 Community Colleges and such other public and private agencies as are necessary, shall
5 continue to refine the several licensure requirements, standards for approval of institutions of
6 teacher education, standards for institution-based innovative and experimental programs,
7 standards for implementing consortium-based teacher education, and standards for improved
8 efficiencies in the administration of the approved programs. The licensure program shall
9 provide for initial licensure after completion of preservice training, continuing licensure after
10 three years of teaching experience, and license renewal every five years thereafter, until the
11 retirement of the teacher. The last license renewal received prior to retirement shall remain in
12 effect for five years after retirement. The licensure program shall also provide for lifetime
13 licensure after 50 years of teaching.

14 The State Board of Education, as lead agency in coordination with the Board of Governors
15 of The University of North Carolina, the North Carolina Independent Colleges and
16 Universities, and any other public and private agencies as necessary, shall continue to raise
17 standards for entry into teacher education programs.

18 To further ensure that teacher preparation programs remain current and reflect a rigorous
19 course of study that is aligned to State and national standards, the State Board of Education, in
20 consultation with the Board of Governors of The University of North Carolina, shall ensure
21 students preparing to teach in elementary schools (i) have adequate coursework in the teaching
22 of reading and mathematics; (ii) are assessed prior to certification to determine that they
23 possess the requisite knowledge in scientifically based reading and mathematics instruction that
24 is aligned with the State Board's expectations; (iii) continue to receive preparation in applying
25 formative and summative assessments within the school and classroom setting through
26 technology-based assessment systems available in North Carolina schools that measure and
27 predict expected student improvement; and (iv) are prepared to integrate arts education across
28 the curriculum.

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

33 The State Board of Education, in consultation with the Board of Governors of The
34 University of North Carolina, shall evaluate and develop enhanced requirements for continuing
35 licensure. The new requirements shall reflect more rigorous standards for continuing licensure
36 and to the extent possible shall be aligned with quality professional development programs that
37 reflect State priorities for improving student achievement. Continuing licensure shall require at
38 least 10 continuing education credits, including competencies related to digital learning and
39 innovative and alternative methods of teaching.

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

46 The standards for approval of institutions of teacher education shall require that teacher
47 education programs for all students include demonstrated competencies in (i) the identification
48 and education of children with ~~disabilities and disabilities~~; (ii) positive management of student
49 behavior and effective communication techniques for defusing and deescalating disruptive or
50 dangerous ~~behavior~~-behavior; and (iii) creative teaching strategies, including digital learning
51 and innovative and alternative methods of teaching. The State Board of Education shall

1 incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals
2 under the School Administrator Training Program into its school administrator program
3 approval standards.

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

9 **SECTION 3.(b)** For teachers who are in their fourth or fifth year of their current
10 five-year license renewal cycle, the changes required by subsection (a) of this section shall
11 apply beginning with the first year of their next five-year license renewal cycle.
12

13 **PART IV. DUTY-FREE PLANNING PERIOD FOR TEACHERS**

14 **SECTION 4.(a)** G.S. 115C-301.1 reads as rewritten:

15 **"§ 115C-301.1. Duty-free instructional planning time.**

16 All full-time assigned classroom teachers shall be provided duty-free instructional planning
17 time during regular student contact hours. ~~The duty-free instructional planning time shall be~~
18 ~~provided to the maximum extent that (i) the safety and proper supervision of children may~~
19 ~~allow during regular student contact hours and (ii) insofar as funds are provided for this~~
20 ~~purpose by the General Assembly. If the safety and supervision of children does not allow~~
21 ~~duty-free instructional planning time during regular student contact hours for a given teacher,~~
22 ~~the funds provided by the General Assembly for the duty-free instructional planning time for~~
23 ~~that teacher shall revert to the general fund. Teachers in kindergarten through fifth grade shall~~
24 ~~receive a minimum of three hours per week, teachers in grades six through eight shall receive a~~
25 ~~minimum of four hours per week, and teachers in grades nine through 12 shall receive a~~
26 ~~minimum of five hours per week.~~ Principals shall not unfairly burden a given teacher by
27 making that teacher give up his or her duty-free instructional planning time on an ongoing,
28 regular basis without the consent of the teacher."

29 **SECTION 4.(b)** G.S. 115C-105.27(b) reads as rewritten:

30 "(b) The strategies for improving student performance:

- 31 (1) Shall include a plan for the use of staff development funds that may be made
32 available to the school by the local board of education to implement the
33 school improvement plan. The plan may provide that a portion of these
34 funds is used for mentor training and for release time and substitute teachers
35 while mentors and teachers mentored are meeting;
- 36 (1a) Repealed by Session Laws 2012-142, s. 7A.1(c), effective July 2, 2012.
- 37 (2) Shall include a plan to address school safety and discipline concerns;
- 38 (3) May include a decision to use State funds in accordance with
39 G.S. 115C-105.25;
- 40 (4) Shall include a plan that specifies the effective instructional practices and
41 methods to be used to improve the academic performance of students
42 identified as at risk of academic failure or at risk of dropping out of school;
- 43 (5) May include requests for waivers of State laws, rules, or policies for that
44 school. A request for a waiver shall meet the requirements of
45 G.S. 115C-105.26;
- 46 (6) Shall include a plan to provide a duty-free lunch period for every teacher on
47 a daily basis or as otherwise approved by the school improvement team; and
- 48 (7) Shall include a plan to provide duty-free instructional planning time for
49 every teacher under ~~G.S. 115C-301.1, with the goal of providing an average~~
50 ~~of at least five hours of planning time per week.~~ G.S. 115C-301.1."
51

PART V. CAREER STATUS FOR EFFECTIVE TEACHERS

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

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

...
(c) (1) ~~Election of a Teacher Achievement toof~~ Career Status. – Except as otherwise provided in subdivision (3) of this subsection, when a teacher has been employed by a North Carolina public school system for four consecutive years, ~~the board, near the end of the fourth year, shall vote upon whether to grant the teacher career status.~~ the determination of a teacher's career status shall be as follows:

a. If the probationary teacher has received (i) a rating of accomplished or higher on all of the evaluation standards for the last two out of four years and (ii) a rating of highly effective by the end of the fourth year of evaluations, the teacher shall be automatically eligible for career status and the board shall not dismiss the teacher except for the reasons for and by the procedures by which a career employee may be dismissed as set forth in subsections (e), (f), (f1), and (h) through (j3) of this section.

b. If the probationary teacher has not received (i) a rating of proficient or higher on all evaluation standards for two out of the last three of the four years and (ii) a rating of effective or higher by the end of the fourth year of evaluations, the teacher shall not achieve career status. A local board of education may extend the probationary teacher's contract on a yearly basis until the teacher meets at least the minimum requirements of this subdivision on evaluations for two consecutive years to be eligible for another determination of career status. However, the superintendent shall report a teacher's ineligibility to achieve career status to the State Board of Education. The State Board may adopt rules to provide remediation to teachers who are ineligible to achieve career status under this sub-subdivision.

c. If neither of the circumstances in sub-subdivisions a. and b. of this subdivision apply, the board shall vote upon whether to grant the teacher career status. The teacher has a right to notice and hearing prior to the board's vote as provided in G.S. 115C-325(m)(3) and G.S. 115C-325(m)(4). The board shall give the teacher written notice of that decision by June 15 or such later date as provided in G.S. 115C-325(m)(7). If a majority of the board votes to grant career status to the teacher, and if it has notified the teacher of the decision, it may not rescind that action but must proceed under the provisions of this section for the demotion or dismissal of a teacher if it decides to terminate the teacher's employment. If a majority of the board votes against granting career status, the teacher shall not teach beyond the current school term. If the board fails to vote on granting career status, the teacher shall be entitled to an additional month's pay for every 30 days or portion thereof after June 16 or such later date as provided in G.S. 115C-325(m)(7) if a majority of the board belatedly votes against granting career status.

(1a) Revocation of Tenure. – If a teacher who has obtained career status (i) receives a rating below proficient on any evaluation standard or (ii) receives a rating below effective for the teacher's average effectiveness rating for two consecutive years of evaluations, the teacher shall lose career status and shall

1 serve an additional probationary period of two years beginning with the next
2 school year. During this probationary period, the teacher shall be considered
3 a probationary teacher under this section for employment purposes by the
4 local board of education. At the end of the two-year probationary period, if
5 the teacher has received a rating of proficient or higher on all evaluation
6 standards during that period, the teacher shall be eligible for a vote by the
7 local board of education on whether to restore the teacher to career status in
8 accordance with sub-subdivision (c)(1)c. of this section. If the teacher fails
9 to meet the performance requirements, the local board of education may
10 extend the teacher's contract as a probationary teacher on a yearly basis until
11 the teacher meets the requirements of this subdivision on evaluations for two
12 consecutive years. The superintendent shall report a teacher's ineligibility to
13 regain career status to the State Board of Education.

- 14 (2) Employment of a Career Teacher. – A teacher who has obtained career
15 status in any North Carolina public school system under sub-subdivision
16 (c)(1)c. of this section need not serve another probationary period of more
17 than one year. The board may grant career status immediately upon
18 employing the teacher, or after the first year of employment. The teacher has
19 a right to notice and hearing prior to the board's vote as provided in
20 G.S. 115C-325(m)(3) and G.S. 115C-325(m)(4). The board shall give the
21 teacher written notice of that decision by June 15 or such later date as
22 provided in G.S. 115C-325(m)(7). If a majority of the board votes against
23 granting career status, the teacher shall not teach beyond the current term. If
24 after one year of employment, the board fails to vote on the issue of granting
25 career status, the teacher shall be entitled to one additional month's pay for
26 every 30 days or portion thereof beyond June 16 or such later date as
27 provided in G.S. 115C-325(m)(7) if a majority of the board belatedly voted
28 against granting career status. A teacher who attains career status under
29 sub-subdivision (c)(1)a. of this section and maintains a rating of highly
30 effective in subsequent evaluation years shall not be required to serve
31 another probationary period in any North Carolina public school system.

32 ...

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

- 34 (1) Grounds. – No career employee shall be dismissed or demoted or employed
35 on a part-time basis except for one or more of the following:
36 a. Inadequate performance.
37 b. Immorality.
38 c. Insubordination.
39 d. Neglect of duty.
40 e. Physical or mental incapacity.
41 f. Habitual or excessive use of alcohol or nonmedical use of a
42 controlled substance as defined in Article 5 of Chapter 90 of the
43 General Statutes.
44 g. Conviction of a felony or a crime involving moral turpitude.
45 h. Advocating the overthrow of the government of the United States or
46 of the State of North Carolina by force, violence, or other unlawful
47 means.
48 i. Failure to fulfill the duties and responsibilities imposed upon
49 teachers or school administrators by the General Statutes of this
50 State.

- 1 j. Failure to comply with such reasonable requirements as the board
2 may prescribe.
- 3 k. Any cause which constitutes grounds for the revocation of the career
4 teacher's teaching license or the career school administrator's
5 administrator license.
- 6 l. A justifiable decrease in the number of positions due to district
7 reorganization, decreased enrollment, or decreased funding, provided
8 that there is compliance with subdivision (2).
- 9 m. Failure to maintain his or her license in a current status.
- 10 n. Failure to repay money owed to the State in accordance with the
11 provisions of Article 60, Chapter 143 of the General Statutes.
- 12 o. Providing false information or knowingly omitting a material fact on
13 an application for employment or in response to a preemployment
14 inquiry.

15 (2) Reduction in Force. –

- 16 a. Local boards of education shall adopt a Reduction in Force policy for
17 determining the positions subject to the reduction in force that
18 includes the consideration of evaluations, effectiveness ratings, and
19 length of tenure of licensed employees in similar positions.
- 20 b. Before recommending to a board the dismissal or demotion of the
21 career employee pursuant to ~~G.S. 115C-325(e)(1)l.~~
22 ~~G.S. 115C-325(e)(1)l.~~, the superintendent shall give written notice to
23 the career employee by certified mail or personal delivery of ~~his~~the
24 superintendent's intention to make such recommendation and shall
25 set forth as part of his or her recommendation the grounds upon
26 which he or she believes such dismissal or demotion is justified. The
27 notice shall include a statement to the effect that if the career
28 employee within 15 days after receipt of the notice requests a review,
29 he or she shall be entitled to have the proposed recommendations of
30 the superintendent reviewed by the board. Within the 15-day period
31 after receipt of the notice, the career employee may file with the
32 superintendent a written request for a hearing before the board within
33 10 days. If the career employee requests a hearing before the board,
34 the hearing procedures provided in G.S. 115C-325(j3) shall be
35 followed. If no request is made within the 15-day period, the
36 superintendent may file his or her recommendation with the board. If,
37 after considering the recommendation of the superintendent and the
38 evidence adduced at the hearing if there is one, the board concludes
39 that the grounds for the recommendation are true and substantiated
40 by a preponderance of the evidence, the board, if it sees fit, may by
41 resolution order such dismissal. Provisions of this section which
42 permit a hearing by a hearing officer shall not apply to a dismissal or
43 demotion recommended pursuant to G.S. 115C-325(e)(1)l.

44 When a career employee is dismissed pursuant to G.S. 115C-325(e)(1)l.,
45 above, his or her name shall be placed on a list of available career employees
46 to be maintained by the board.

- 47 (3) Inadequate Performance. – In determining whether the professional
48 performance of a career employee is adequate, consideration shall be given
49 to regular and special evaluation reports prepared in accordance with the
50 published policy of the employing local school administrative unit and to
51 any published standards of performance which shall have been adopted by

1 the board. Failure to notify a career employee of an inadequacy or deficiency
 2 in performance shall be conclusive evidence of satisfactory performance.
 3 Inadequate performance for a teacher shall mean (i) the failure to perform at
 4 a proficient level on any standard of the evaluation instrument or (ii)
 5 otherwise performing in a manner that is below standard. However, for a
 6 probationary teacher, a performance rating below proficient may or may not
 7 be deemed adequate at that stage of development by a superintendent or
 8 ~~designee~~. ~~designee~~, except that a performance rating below proficient in more
 9 than two out of the last three years of the probationary period shall make the
 10 teacher ineligible for career status under G.S. 115C-325(c)(1)b. For a career
 11 teacher, a performance rating below proficient shall constitute inadequate
 12 performance unless the principal noted on the instrument that the teacher is
 13 making adequate progress toward proficiency given the circumstances.
 14

14 ...

15 (m) Probationary Teacher.

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

1 hearing before the board unless the reason is a justifiable board-
2 superintendent-approved decrease in the number of positions due to district
3 reorganization, decreased enrollment, or decreased funding.

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

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

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

18"

19 20 **PART VI. PRINCIPALS' DUTY TO RESTRUCTURE CLASSROOMS AND UTILIZE** 21 **TEACHERS DIFFERENTLY**

22 **SECTION 6.** G.S. 115C-288 is amended by adding a new subsection to read:

23 "(n) To Enhance Teacher Effectiveness by Appropriately Utilizing Employees. –
24 Principals shall use personnel and other resources to implement evidence-based practices in the
25 classroom that are appropriate to enhance student achievement. Such practices shall take into
26 account (i) individual teachers, given their content knowledge and ability to facilitate learning
27 for diverse student populations, (ii) the strengths of other instructional and instructional-support
28 personnel, (iii) the opportunities and constraints, given the physical plant of the school, and (iv)
29 the needs of the student population served in the classroom. The principal shall share such
30 practices and measures with the school improvement team for the principal's school."

31 32 **PART VII. MANDATORY IMPROVEMENT PLANS FOR LOW-PERFORMING** 33 **TEACHERS TO INCLUDE MENTORING/COACHING**

34 **SECTION 7.** G.S. 115C-333(b)(1a) reads as rewritten:

35 "(b) Mandatory Improvement Plans. –

36 ...

37 (1a) A mandatory improvement plan is an instrument designed to improve a
38 teacher's performance or the performance of any licensed employee in a
39 low-performing school by providing the individual with notice of specific
40 performance areas that have substantial deficiencies and a set of strategies,
41 including the specific support to be provided to the individual, so that the
42 individual, within a reasonable period of time, should satisfactorily resolve
43 such deficiencies. The support provided for the individual shall include
44 mentoring, coaching, or both."

45 46 **PART VIII. STUDENT GROWTH IN SCHOOL PERFORMANCE GRADES**

47 **SECTION 8.(a)** Notwithstanding any provision of Section 7A.3(e) of S.L.
48 2012-142, the State Board of Education shall develop a method of incorporating student
49 growth, as determined by the Education Value-Added Assessment System (EVAAS), in the
50 calculation of the overall school performance scores and in awarding school performance
51 grades for the annual report cards required under G.S. 115C-12(9)c1., as amended by this act.

SECTION 8.(b) G.S. 115C-12(9)c1. reads as rewritten:

"c1. To issue an annual "report card" for the State and for each local school administrative unit, assessing each unit's efforts to improve student performance based on the growth in performance of the students in each school and taking into account progress over the previous years' level of performance and the State's performance in comparison with other states. This assessment shall take into account factors that have been shown to affect student performance and that the State Board considers relevant to assess the State's efforts to improve student performance. As a part of the annual "report card" for each local school administrative unit, the State Board shall award an overall numerical school performance score on a scale of zero to 100 and a corresponding letter grade of A, B, C, D, or F earned by each school within the local school administrative unit. The school performance score and grade shall reflect student performance on annual subject-specific assessments, college and workplace readiness measures, student growth as determined by the Education Value-Added Assessment System (EVAAS), and graduation rates. For schools serving students in any grade from kindergarten to eighth grade, separate performance scores and grades shall also be awarded based on the school performance in reading and mathematics respectively. The annual "report card" for schools serving students in third grade also shall include the number and percentage of third grade students who (i) take and pass the alternative assessment of reading comprehension; (ii) were retained in third grade for not demonstrating reading proficiency as indicated in G.S. 115C-83.7(a); and (iii) were exempt from mandatory third grade retention by category of exemption as listed in G.S. 115C-83.7(b)."

PART IX. MEDICAL CARE PROGRAM**SECTION 9.** G.S. 115C-375.1 reads as rewritten:**"§ 115C-375.1. To provide some medical care to students.**

It is within the scope of duty of teachers, including substitute teachers, teacher assistants, student teachers, or any other public school employee when authorized by the local board of education or its designee, (i) to administer any drugs or medication prescribed by a doctor upon written request of the parents, (ii) to give emergency health care when reasonably apparent circumstances indicate that any delay would seriously worsen the physical condition or endanger the life of the ~~pupil,~~student, and (iii) to perform any other first aid or lifesaving techniques in which the employee has been trained in a program approved by the State Board of Education. No employee, however, shall be required to administer drugs or medication or attend lifesaving techniques programs.

Any public school employee, authorized by the local board of education or its designee to act under (i), (ii), or (iii) above, shall not be liable in civil damages for any authorized act or for any omission relating to that act unless the act or omission amounts to gross negligence, wanton conduct, or intentional wrongdoing. Any person, serving in a voluntary position at the request of or with the permission or consent of the local board of education or its designee, who has been given the authority by the local board of education or its designee to act under (ii) above shall not be liable in civil damages for any authorized act or for any omission relating to the act unless the act amounts to gross negligence, wanton conduct, or intentional wrongdoing.

At the commencement of each school year, but before the beginning of classes, and thereafter as circumstances require, the principal of each school shall determine which persons

1 will participate in the medical care program. The principal shall ensure that appropriate training
2 is provided to all individuals participating in the medical care program."

3

4 **PART X. EFFECTIVE DATE**

5 **SECTION 10.** This act is effective when it becomes law. Sections 2 through 7 and
6 Section 9 apply beginning with the 2013-2014 school year. Section 8 applies beginning with
7 the 2012-2013 school year.