

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-5
SENATE BILL 1126

AN ACT TO AMEND THE TEACHER COMPETENCY TESTING PROVISIONS OF
THE EXCELLENT SCHOOLS ACT, TO PROVIDE FOR ANNUAL
EVALUATIONS OF CERTIFIED PUBLIC SCHOOL EMPLOYEES IN ALL
LOW-PERFORMING SCHOOLS, AND TO CREATE ASSESSMENT TEAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-105.38A reads as rewritten:

"§ 115C-105.38A. **Teacher competency assurance.**

(a) General Knowledge Test. –

- (1) Each assistance team assigned to a low-performing school during the 1997-98 school year shall review the team's evaluations of certified staff members to determine which staff members have been designated by the team as Category 3 teachers. The assistance team shall then determine whether lack of general knowledge contributed to the Category 3 designation. If the assistance team determines that a certified staff member's lack of general knowledge contributed to that staff member being designated as a Category 3 teacher, the assistance team shall submit the staff member's name to the State Board. Upon receipt of the notification, ~~The the State Board of Education shall require all that the~~ certified staff members ~~working in schools at the time the schools are identified as low performing under this Article and to which the State Board has assigned an assistance team to identified by the assistance teams~~ demonstrate their general knowledge by acquiring a passing score on a test designated by the State Board. ~~The first general knowledge test shall be administered State Board shall administer the general knowledge test required under this subdivision~~ at the end of the 1997-98 school year. ~~In subsequent years, the State Board shall determine when to administer the test for certified staff members in schools that are identified that year as low-performing and assigned an assistance team.~~
- (2) During the 1998-99 school year and thereafter, either the principal assigned to a low-performing school or the assistance team assigned to a low-performing school may recommend to the State Board that a certified staff member take a general knowledge test. A principal or an assistance team may make this recommendation if the principal or the

assistance team determines that the certified staff member's performance is impaired by the staff member's lack of general knowledge. After receipt of the notification, but prior to the end of the fiscal year, the State Board shall require that all certified staff members identified under this subdivision demonstrate their general knowledge by acquiring a passing score on a test designated by the State Board.

~~(b) Exemptions.—The following certified staff members shall be exempt from taking the general knowledge test required under subsection (a) of this section.~~

~~(1) Certified staff members who have:~~

~~a. Taken and passed the PRAXIS I exam as a condition of entry into a school of education; and~~

~~b. Taken and passed the PRAXIS II exam after July 1, 1996.~~

~~(2) Certified staff members who have previously taken and passed the general knowledge test.~~

~~The exemptions under this subsection shall expire July 1, 2000, unless the State Board adopts a policy to continue them.~~

(c) Remediation. – Certified staff members who do not acquire a passing score on the general knowledge test required under subsection (a) of this section shall engage in a remediation plan based upon the deficiencies identified by the ~~test, test, or an~~ assistance team, or a principal. The remediation plan for deficiencies of individual certified staff members shall consist of up to a semester of university or community college training or coursework ~~or both, or other similar activity to correct the deficiency.~~ The remediation shall be developed by the State Board of Education in consultation with the Board of Governors of The University of North Carolina. The State Board shall reimburse the institution providing the remediation any tuition and fees incurred under this section. If the remediation plan requires that the staff member engage in a full-time course of study or training, the staff member shall be considered on leave with pay.

~~(d) Retesting; Retesting; Dismissal. – Upon completion of the first remediation plan, plan required under subsection (c) of this section, the certified staff member shall take the general knowledge test a second time. If the certified staff member fails to acquire a passing score on the second test, the State Board shall provide a program of further remediation under subsection (e) of this section. begin a dismissal proceeding under G.S. 115C-325(q)(2a).~~

~~(e) Dismissal.—Upon completion of the second remediation plan, the certified staff member shall take the general knowledge test a third time. If the certified staff member fails to acquire a passing score on the third test, the State Board shall begin dismissal proceedings under G.S. 115C-325(q)(2a).~~

(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under G.S. 115C-325(q)(1);

(2) The dismissal of a teacher, assistant principal, director, or supervisor under G.S. 115C-325(q)(2);

- (3) The dismissal or demotion of a career employee for any of the grounds listed under G.S. 115C-325(e);
- (4) The nonrenewal of a school administrator's or probationary teacher's contract of employment; or
- (5) The decision to grant career status.

~~(g) Future Testing.—The State Board shall develop a plan for testing and shall test all certified staff members in low performing schools identified at the end of the 1999-2000 school year. When developing the plan, the State Board shall consider administering tests in the area of an individual's certification as well as the general knowledge test. The State Board shall report this plan to the Joint Legislative Education Oversight Committee prior to November 15, 1998."~~

Section 2. G.S. 115C-325(q)(2a) reads as rewritten:

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

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

Section 3. G.S. 115C-326 is repealed.

Section 4. Article 22 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 7. Personnel Evaluations.

"§ 115C-333. Evaluation of certified employees including certain superintendents; action plans; State board notification upon dismissal of employees.

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

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

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

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

(c) Reevaluation. – Upon completion of an action plan under subsection (b) of this section, the superintendent, the superintendent's designee, or the assessment team shall evaluate the employee a second time. If on the second evaluation the employee receives one unsatisfactory or more than one below standard rating on any function that is related to the employee's instructional duties, the superintendent shall recommend that the employee be dismissed or demoted under G.S. 115C-325. The results of the second evaluation shall constitute substantial evidence of the employee's inadequate performance.

(d) State Board Notification. – If a local board dismisses an employee for any reason except a reduction in force under G.S. 115C-325(e)(1)l, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the

names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop an action plan to assist the employee, and submit the plan to the State Board. The State Board shall review the action plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives an unsatisfactory or below standard rating on any function that is related to the employee's instructional duties, the local board shall notify the State Board and the State Board shall revoke the employee's certificate under G.S. 115C-296(d). If on the next evaluation the employee receives at least a satisfactory rating on all the functions related to the employee's instructional duties, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is subsequently dismissed under G.S. 115C-325 except for a reduction in force.

(e) Civil Immunity. – There shall be no liability for negligence on the part of the State Board of Education or a local board of education, or their employees, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(f) Local Board Evaluation of Certain Superintendents. – Each year the local board of education shall evaluate the superintendent employed by the local school administrative unit and report to the State Board the results of that evaluation if during that year the State Board designated as low-performing:

- (1) One or more schools in a local school administrative unit that has no more than 10 schools.
- (2) Two or more schools in a local school administrative unit that has no more than 20 schools.
- (3) Three or more schools in a local school administrative unit that has more than 20 schools.

"§ 115C-334. Assessment teams.

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

Assessment teams shall have the following duties:

- (1) Conduct evaluations of certified employees in low-performing schools;

- (2) Provide technical assistance and training to principals, assistant principals, superintendents, and superintendents' designees who conduct evaluations of certified employees;
- (3) Develop action plans for certified employees; and
- (4) Assist principals, assistant principals, superintendents, and superintendents' designees in the development and implementation of action plans.

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

(a) Development of Performance Standards. – The State Board, in consultation with local boards of education, shall revise and develop uniform performance standards and criteria to be used in evaluating certified public school employees, including school administrators. These standards and criteria shall include improving student achievement, employee skills, and employee knowledge. The standards and criteria for school administrators also shall include building-level gains in student learning and effectiveness in providing for school safety and enforcing student discipline. The State Board shall develop rules regarding the use of these standards and criteria. The State Board also shall develop guidelines for evaluating superintendents. The guidelines shall include criteria for evaluating a superintendent's effectiveness in providing safe schools and enforcing student discipline.

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

Section 5. G.S. 115C-296(d) reads as rewritten:

"(d) The State Board shall adopt rules to establish the reasons and procedures for the suspension and revocation of certificates. The State Board shall revoke the certificate of a teacher or school administrator if the State Board receives notification from a local board that a teacher or school administrator has received an unsatisfactory

or below standard rating under G.S. 115C-333(d). In addition, the State Board may revoke or refuse to renew a teacher's certificate when:

- (1) The Board identifies the school in which the teacher is employed as low-performing under G.S. 115C-105.37; and
- (2) The assistance team assigned to that school under G.S. 115C-105.38 makes the recommendation to revoke or refuse to renew the teacher's certificate for one or more reasons established by the State Board in its rules for certificate suspension or revocation.

The State Board may issue subpoenas for the purpose of obtaining documents or the testimony of witnesses in connection with proceedings to suspend or revoke certificates."

Section 6. G.S. 115C-276 is amended by adding a new subsection to read:

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

Section 7. G.S. 115C-288 is amended by adding a new subsection to read:

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

Section 8. The State Board of Education may expend funds appropriated to State Aid to Local School Administrative Units, or to the Department of Public Instruction, or both, to develop certified employee evaluations. The Board of Governors of The University of North Carolina shall direct resources allocated to entities affiliated with the Leadership Academy to accomplish the requirements of G.S. 115C-335(b) created under this act. Prior to December 15, 1998, the State Board shall provide to the Joint Legislative Education Oversight Committee a progress report on the development of the certified employee evaluations and the guidelines for assessment teams.

Section 9. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of June, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:09 a.m. this 9th day of June, 1998