

# ***NCSBA Legislative Update: Personnel Policy Implications***

***Presented by Scott Murray, Staff Attorney***

***North Carolina School Boards Association***

***PANC 2017 Fall Conference***

***October 2, 2017***

The information in this presentation is for educational purposes only and does not constitute legal advice. No attorney-client relationship is created or intended through this presentation or through receipt or review of these materials. For advice on specific matters, please consult with your board attorney or other legal counsel.

© This presentation is copyrighted by the North Carolina School Boards Association. Unauthorized copying or distribution is prohibited.

**PLS Update: Fall 2017**  
**Legislative Policy Updates [Personnel Policies]**

Updated Policy	Policy Title	Description of Update	Legal Authority Involved	Notes
7130	Licensure	<ul style="list-style-type: none"> <li>• Revises subsection A.3 to reflect the elimination of lateral entry licensure and the addition of the new “residency” licensure category. <b>(The paragraph itself is optional; if retained, the new terminology is required – see note 1)</b></li> <li>• Modifies and relocates information on “emergency permits to practice” to reflect their new designation as a formal license classification. <b>(Required)</b></li> <li>• In Section B, adds new exceptions to licensure requirements as authorized by state law for (1) higher education faculty serving as adjunct instructors in core academic subjects and (2) former principals and assistant principals serving as interim principals. <b>(Strongly recommended)</b></li> <li>• Updates terminology in Sections D and E. <b>(Recommended)</b></li> <li>• In Section E, adds a provision regarding professional development requirements for teachers whose license expired or reverted to an initial license due to performance deficiencies. <b>(Strongly recommended – see note 2)</b></li> <li>• Updates statutory cites in the text and legal references. <b>(Required)</b></li> <li>• Adds new footnotes and updates statutory cite in an existing footnote. <b>(Informational only)</b></li> </ul>	<p>S.L. 2017-189, sec. 2.(j) and Part III  G.S. 115C-284(e)  G.S. 115C art. 17E</p> <p>S.L. 2017-91  G.S. 115C-298.5</p> <p>SBE policy  LICN-005</p>	<p><b>Note 1:</b> Lateral entry licenses have been eliminated and replaced by “residency” licenses; however, DPI can continue to issue lateral entry licenses for the 2017-18 and 2018-19 school years.</p> <p><b>Note 2:</b> In lieu of delegating discretion to the superintendent or designee to determine professional development requirements for these teachers, the board could impose specific requirements in policy.</p>
7510	Leave	<ul style="list-style-type: none"> <li>• This policy has been substantially revised to eliminate provisions that are duplicative of State Board of Education policy. <b>(Recommended – see note)</b></li> <li>• Adds information about leave to teach at a charter, regional, or lab school and references other types of leave not previously identified in this policy. <b>(Strongly Recommended)</b></li> <li>• Updates the legal references. <b>(Strongly recommended)</b></li> </ul>	<p>G.S. 115C-218.90(a)(3) and -238.68(3) and 116-239.10(4)</p> <p>State Board of Education policy  BENF-003</p> <p><i>North Carolina Public Schools Benefits and</i></p>	<p>The <i>North Carolina Public Schools Benefits and Employment Policy Manual</i> contains detailed rules applicable to the various forms of leave available to employees. We believe it is generally the best resource for informing employees of the key requirements for the use of leave, with local board policy serving as the means to address</p>

\* *Required* means either (1) the provisions are required by law to be addressed in policy or (2) the modifications must be made to ensure the policy reflects current law (ex. adding new statutory language or updates to legal citations).

\* *Strongly recommended* means the provisions are required by law, but they do not have to be addressed in policy, although NCSBA strongly recommends that the provisions be added to policy.

\* *Recommended* means the provisions are not required by law, but NCSBA considers them good practice.

**PLS Update: Fall 2017**  
**Legislative Policy Updates [Personnel Policies]**

Updated Policy	Policy Title	Description of Update	Legal Authority Involved	Notes
			<i>Employment Policy Manual</i> (NC DPI)	any special local requirements. At its discretion, the board could retain in policy any of the provisions of policy 7510 that we are removing in this update.
7530	Military Leave	<ul style="list-style-type: none"> <li>• Incorporates state law requirements regarding military leave taken by members of the National Guard serving on state duty. <b>(Strongly recommended)</b></li> <li>• Adds requirement that employees returning from leave must meet applicable deadlines for reporting to work/reinstatement. <b>(Strongly recommended)</b></li> <li>• Adds requirement to explain military leave benefits to eligible employees, as required by federal law. <b>(Strongly recommended)</b></li> <li>• Adds new subdivision headings and makes other clarifying changes. <b>(Recommended)</b></li> </ul>	Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S. C. 4301 <i>et seq.</i>  S.L. 2017-156 G.S. 127A art. 16	
7810	Evaluation of Licensed Employees	<ul style="list-style-type: none"> <li>• Adds provision permitting assistant principals to conduct teacher evaluations in the limited circumstances authorized by law. <b>(See note 1)</b></li> <li>• Removes analysis of student work from the student performance and growth data that may be used as part of the teacher evaluation. <b>(Required – see note 2)</b></li> <li>• Adds one new footnote and modifies another. <b>(Informational only)</b></li> </ul>	S.L. 2017-157, sec. 3.(b) S.L. 2017-57, sec. 7.23E.(a) G.S. 115C-333, -333.1	<p><b>Note 1:</b> Under prior law, teachers were to be evaluated at least once annually <u>by a principal</u>. State law now authorizes <u>assistant principals in high schools with at least 1,500 students</u> to conduct the annual evaluation in certain circumstances. The board should add the new language in the third paragraph of the policy <u>if</u> the LEA has at least one high school with at least 1,500 students; otherwise the board should omit the new language.</p> <p><b>Note 2:</b> Session Law 2017-57, Section 7.23E.(a), directs the State Board of Education to eliminate the use of the analysis of student work process and to prohibit use of an analysis of student work</p>

\* *Required* means either (1) the provisions are required by law to be addressed in policy or (2) the modifications must be made to ensure the policy reflects current law (ex. adding new statutory language or updates to legal citations).

\* *Strongly recommended* means the provisions are required by law, but they do not have to be addressed in policy, although NCSBA strongly recommends that the provisions be added to policy.

\* *Recommended* means the provisions are not required by law, but NCSBA considers them good practice.

**PLS Update: Fall 2017**  
**Legislative Policy Updates [Personnel Policies]**

Updated Policy	Policy Title	Description of Update	Legal Authority Involved	Notes
				process by LEAs to assess teacher performance and professional growth as part of the North Carolina Teacher Evaluation System.
7900	Resignation	<ul style="list-style-type: none"> <li>• Adds requirement to notify the SBE if a teacher’s criminal history is relevant to the teacher’s resignation. <b>(Strongly recommended)</b></li> <li>• Adds response requirements for inquiries regarding resignation related to teachers’ and other employees’ criminal histories, in accordance with new state law. <b>(Strongly recommended)</b></li> <li>• Updates the legal references. <b>(Strongly recommended)</b></li> <li>• Adds new footnotes. <b>(Informational only)</b></li> </ul>	S.L. 2017-189, sec. 4.(d),(f), (g) G.S. 115C-332	
7930	Professional Employees: Demotion and Dismissal	<ul style="list-style-type: none"> <li>• Adds response requirements for inquiries regarding dismissal related to an employee’s criminal history, in accordance with new state law. <b>(Strongly recommended)</b></li> <li>• Updates the legal references. <b>(Strongly recommended)</b></li> <li>• Adds a new footnote. <b>(Informational only)</b></li> </ul>	S.L. 2017-189, sec. 4.(g) G.S. 115C-332	
7940	Classified Personnel: Suspension and Dismissal	<ul style="list-style-type: none"> <li>• Adds response requirements for inquiries regarding dismissal related to an employee’s criminal history, in accordance with new state law. <b>(Strongly recommended)</b></li> <li>• Updates the legal references. <b>(Strongly recommended)</b></li> <li>• Adds a new footnote. <b>(Informational only)</b></li> </ul>	S.L. 2017-189, sec. 4.(g) G.S. 115C-325(o)(2) 115C-325.9(b) 115C-332	

\* *Required* means either (1) the provisions are required by law to be addressed in policy or (2) the modifications must be made to ensure the policy reflects current law (ex. adding new statutory language or updates to legal citations).

\* *Strongly recommended* means the provisions are required by law, but they do not have to be addressed in policy, although NCSBA strongly recommends that the provisions be added to policy.

\* *Recommended* means the provisions are not required by law, but NCSBA considers them good practice.

The board intends to comply fully with all licensure requirements of the Elementary and Secondary Education Act, state law, and State Board of Education policies.

**A. LICENSURE AND OTHER QUALIFICATION REQUIREMENTS**

1. Except as otherwise permitted by the State Board of Education or state law, a professional employee must hold at all times a valid North Carolina license appropriate to his or her position.<sup>1</sup>
2. To the extent possible, all professional teaching assignments will be in the area of the professional employee's license except as may be otherwise allowed by state and federal law and State Board policy.<sup>2</sup> In addition, all professional teachers employed to teach core academic subjects must be "highly qualified" as required by the State Board of Education.<sup>3</sup> Core academic subjects include English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.<sup>4</sup>
3. The board encourages ~~lateral~~ entry into the teaching profession by skilled individuals from the private sector who meet state residency licensure ~~licensing~~ requirements.<sup>5</sup>

**~~B. EXCEPTIONS TO LICENSURE REQUIREMENTS~~**

- ~~1. Emergency Permit to Practice~~
- ~~4. In extenuating circumstances when no other appropriately licensed professionals~~

<sup>1</sup> G.S. 115C-270.20 establishes the classes and levels of preparation necessary for teacher licenses to be issued by the State Board of Education. The statute delegates responsibility for establishing the classification and preparation requirements for administrator and student services personnel licenses to the State Board. It is unlawful for the board to employ or retain any principal, supervisor, or teacher who neither holds nor is qualified to hold a North Carolina license in compliance with law and State Board of Education rules. G.S. 115C-284(e), -295.

<sup>2</sup> In cases of emergency staffing needs, the superintendent or designee may submit a request to the licensure section of DPI that a teacher be assigned to teach out of his or her licensed field on a provisional license. Teachers who are granted a provisional license are eligible to receive the same years of teaching experience associated with their original license. See State Board of Education Policy LICN-001, Section 1.50.

<sup>3</sup> There is no longer a federal requirement that teachers of core academic subjects be "highly qualified." The State Board of Education, however, retains this requirement in policy. See State Board of Education Policy LICN-001. Also, see administrative regulation 7130-R, Section A, for the state definition of "highly qualified."

<sup>4</sup> State Board of Education Policy LICN-001.

<sup>5</sup> This sentence is optional. A residency license is a one-year license, renewable twice, that may be requested by the local board for individuals who hold a bachelor's degree and meet certain preservice requirements. The residency license replaces lateral entry licensure. The State Board of Education may continue to issue lateral entry licenses through the 2018-19 school year.

or persons who are eligible for a residency lateral entry-license are available to fill a position, the board may employ for up to one year an individual who holds an emergency permit to practice-license issued by the State Board of Education. An emergency permit license is not renewable.<sup>6</sup>

### **C.B. EXCEPTIONS TO LICENSURE REQUIREMENTS**

#### **1. ~~2.~~ Adjunct CTE Instructors**

An unlicensed individual who meets the adjunct hiring criteria established by the State Board of Education for a specific career and technical education (CTE) career cluster may be employed as an adjunct CTE instructor for up to 10 hours per week, provided the individual first completes preservice training and meets all other statutory requirements for serving as an adjunct instructor established by G.S. 115C-157.1.<sup>7</sup>

#### **2. Adjunct Instructors in Core Academic Subjects**

In accordance with G.S. 115C-298.5, an unlicensed faculty member of a higher education institution who meets the adjunct hiring criteria established by the State Board of Education may be employed as a temporary adjunct instructor for specific core academic subjects, provided the individual first completes preservice training and meets all other statutory and State Board of Education requirements.<sup>8</sup>

#### **3. Interim Principals**

A retired former principal or assistant principal may be employed as an interim principal for the remainder of any school year, regardless of licensure status.<sup>9</sup>

### **D.C. BEGINNING TEACHER SUPPORT PROGRAM**

The superintendent or designee shall develop a plan and a comprehensive program for

<sup>6</sup> An emergency license must be requested by the LEA. Applicants must meet State Board of Education requirements, including preservice training. At this time, there are no restrictions on the grade levels or subjects that the holder of an emergency license permit may teach. See State Board of Education Policy LICN-001, at Section 1.90.

<sup>7</sup> G.S. 115C-157.1 allows the board to contract with an adjunct CTE instructor for up to 10 hours per week on an annual or semester basis. The adjunct instructor must complete preservice training in all of the following areas before beginning instruction: (1) the identification and education of children with disabilities; (2) positive behavior management; (3) communication techniques for defusing and deescalating disruptive or dangerous behaviors; and (4) safe and appropriate use of seclusion and restraint. Adjunct instructors are not required to hold or apply for licensure as a teacher. School officials considering contracting for an adjunct CTE instructor should consult State Board of Education Policy EVAL-023 for hiring criteria.

<sup>8</sup> G.S. 115C-298.5 allows the board to contract with such adjunct instructors on an annual or semester basis, for less than 20 hours per week or for less than six full consecutive months of employment. Certain preservice training and other conditions apply.

<sup>9</sup> G.S. 115C-284(e).

beginning teacher support.<sup>10</sup> The plan must be approved by the board and kept on file for review. The superintendent or designee shall submit an annual report on the Beginning Teacher Support Program to the Department of Public Instruction (DPI) by October 1 of each year. The report must include evidence of demonstrated proficiency on the Beginning Teachers Support Program Standards and evidence of mentor success in meeting Mentor Standards.<sup>11</sup> The school system will also participate in implementing a regionally-based annual peer review and support system.

Teachers with fewer than three years of teaching experience will be required to participate in the Beginning Teacher Support Program.

#### **E.D. LICENSE CONVERSION**

Teachers must teach three years and meet all other requirements of the State Board of Education in order to move from an initial to a continuing professional license. Licensing is a state decision and cannot be appealed at the local level. The superintendent or designee shall ensure that teachers not qualifying for continuing professional licensure are informed of the process for appealing the state decision.

#### **F.E. LICENSE RENEWAL**

Licensure renewal is the responsibility of the individual, not of the school system. Any employee who allows a license to expire must have it reinstated prior to the beginning of the next school year. A teacher whose license has expired is subject to dismissal.<sup>12</sup>

The school system may offer courses, workshops, and independent study activities to help school personnel meet license renewal requirements. Any renewal activity offered must be consistent with State Board of Education policy. In addition, the superintendent or designee shall develop a procedure to determine the appropriateness of any credit offered in advance of renewal activities.<sup>13</sup>

Decisions regarding the employment of teachers who fail to meet the required proficiency standard for renewal of a continuing professional license will be made in accordance with state law G.S. 115C-270.30(b)(4) ~~115C-296(b)(1)b.4~~ and applicable State Board of Education requirements.<sup>14</sup> The superintendent or designee shall determine the

---

<sup>10</sup> This provision is required by State Board of Education Policy LICN-004, Section 4.120. The Beginning Teacher Support Program Plan must meet specific State Board requirements as set forth in State Board of Education Policy LICN-004, Section 4.120 (see also administrative regulation 7130-R, Section B).

<sup>11</sup> See detailed descriptions of these standards in State Board of Education Policy LICN-004.

<sup>12</sup> G.S. 115C-325(e)(1)(m) (applicable to career status teachers), -325.4(a)(12) (applicable to non-career status teachers).

<sup>13</sup> See State Board of Education Policy NCAC-6C.0307.

<sup>14</sup> G.S. ~~115C-296(b)(1)b.4~~ 115C-270.30(b)(4) states that teachers must achieve a rating of at least proficient on the most recent annual evaluation to maintain the current license status. A teacher who is unable to satisfy this requirement but who has been placed on a mandatory improvement plan may be eligible to receive an initial professional license. If not placed on a mandatory improvement plan, the teacher's license will be deemed expired.

---

professional development required of a teacher whose continuing license has reverted to an initial license and/or has expired due to performance issues. The superintendent or designee may authorize or direct principals to prescribe professional development to such employees in accordance with the employee's demonstrated deficiencies.<sup>15</sup>

#### **G.F. PARENTAL NOTIFICATION<sup>16</sup>**

At the beginning of each school year, the school system will notify the parents or guardians of each student attending a Title I school or participating in a Title I program of their right to request the following information about qualifications of their child's teacher: whether the teacher has met NC licensing requirements for the subject or grade level they are teaching; whether the teacher has had any licensure requirements waived; whether the teacher is teaching in the field of his or her certification; and whether the child is provided services by a paraprofessional, and if so, the paraprofessional's qualifications.

The school system will give notice within 10 school days<sup>17</sup> to the parents of children who, after four consecutive weeks, have been taught a core academic subject by a teacher who is not highly qualified.

#### **H.G. EQUITABLE DISTRIBUTION OF TEACHERS**

The superintendent shall assess whether low-income, minority, learning disabled, and/or English learners are being taught by inexperienced, ineffective, or out-of-field teachers at higher rates than students who do not fall into these categories and shall develop a plan to address any such disparities.<sup>18</sup> If DPI does not require such a plan of the LEA, the superintendent is not required to develop a plan under this subsection unless he or she determines that one is needed to address inequities within the school system.

Legal References: Elementary and Secondary Education Act, 20 U.S.C. 6301 *et seq.*; 34 C.F.R.

---

The State Board of Education defines "proficient" for purposes of license renewal as, at a minimum, a rating of proficient on Standard IV and two other standards of the North Carolina Educator Evaluation System. Teachers on an abbreviated evaluation plan require a rating of at least proficient on Standard IV. A teacher whose license has expired by operation of the statute can apply for an initial professional license after a 30-day waiting period. The salary of a teacher whose license reverts from continuing to initial under the statute may not be reduced and the reversion is not to be considered a demotion. See State Board Policy LICN-001.

<sup>15</sup> See State Board Policy LICN-005. In lieu of delegating this discretion to the superintendent or designee, the board could impose specific requirements in policy.

<sup>16</sup> This section is required by the Elementary and Secondary Education Act and State Board of Education Policy LICN-001, Section 103.

<sup>17</sup> The Elementary and Secondary Education Act requires "timely" notice to parents. NCSBA considers 10 school days to be a reasonable amount of time in light of the four consecutive weeks. The time frame may be modified to reflect local practices; however, any modification should be reasonable when taking into consideration the four weeks that would have passed.

<sup>18</sup> 20 U.S.C. 6312(b)(2) requires LEAs to address any identified disparities in the LEA's plan for Title I compliance. Historically, DPI has required LEAs to submit an equity plan with their application for Improving Teacher Quality Title II, Part A (PRC 103) funds.



200.55-57, 200.61; G.S. 115C art. 17E-296; 115C-284, -295, -298.5, -325(e)(1)(m) (applicable to career status teachers), -325.4(a)(12) (applicable to non-career status teachers), -333, -333.1; State Board of Education Policies EVAL-004, EVAL-023, LICN-001, -004, -005, -018, -021, NCAC-6C.0102, NCAC-6C.0307

Cross References:

Issued: June 1997

Revised: January 22, 1999; December 20, 2006; June 30, 2008; September 30, 2011; March 28, 2013; March 28, 2014; September 30, 2016; April 28, 2017; September 29, 2017

## **LEAVE**

Policy Code:

**7510**

The board of education believes that it is important for employees to have leave available to attend to personal, civic, and professional matters as well as to meet family commitments. This need for leave is to be balanced with the need to provide an effective instructional program for students. No employee may be discharged, demoted, or otherwise subjected to adverse employment action for taking leave in accordance with board policies and administrative procedures.

All requests for leave, with or without pay, must be addressed in accordance with state and federal law, as well as policies promulgated by the State Board of Education, including those specified in the most current edition of the *North Carolina Public Schools Benefits and Employment Policy Manual*, available at <http://www.ncpublicschools.org/district-humanresources/key-information>.

In addition to applicable laws and regulations, ~~these following board policies apply~~ to leave requests. The information in this policy is intended to supplement, not replace, the requirements of law and the State Board of Education. In the event that changes to State or federal law or regulation conflict with current State Board or local board policies, the board intends that its leave practices be modified to the extent necessary to comply with current law until such time as conforming changes to State Board and/or local board policy are made.

The superintendent ~~is directed to~~ shall develop any necessary administrative procedures and make them available to ~~any employees~~ upon request.

### **A. MINIMUM LEAVE TIME**

An employee may take any type of leave in increments of hours unless otherwise specified in this policy.<sup>1</sup>

### **B. CONTINUOUS LEAVE OF MORE THAN 10 DAYS**

An employee must comply with the notice and verification requirements provided in policy 7520, Family and Medical Leave, for any continuous leave of more than 10 days if: (1) the leave also is eligible for leave under the Family and Medical Leave Act (FMLA), defined in policy 7520, and (2) the leave is designated as FMLA-eligible at the time it is taken or as soon as is feasible thereafter.<sup>2</sup> See policy 7520, Family and Medical

---

<sup>1</sup> Alternatively, the board may establish the following policy: "An employee who is absent for less than one-half day will be charged with the use of one-half day of leave. If an absence on a given day is longer than one-half day, one day of leave will be charged." However, the board must allow leave that is designated as eligible for leave under the Family and Medical Leave Act, defined in policy 7520, Family and Medical Leave, to be taken in increments of hours.

<sup>2</sup> The 10-day stipulation is to eliminate the administrative burden to the employee and the administration when small amounts of leave are taken. However, a board may eliminate the 10-day threshold or may increase the number of

Leave.**C. SICK LEAVE**

The superintendent or designee may require a statement from a medical doctor or other acceptable proof that the employee was unable to work due to illness or injury. Employees who anticipate using sick leave ~~for more than a single day<sup>3</sup> must~~should inform their ~~principal or~~ immediate supervisor in advance so that arrangements may be made to reassign the employee's duties during the period of absence.

**D. PERSONAL LEAVE<sup>4</sup>**

~~Teachers earn personal leave at a rate of .20 days for each full month of employment, not to exceed two days per year. Unused personal leave may be carried forward from one year to another and may be accumulated without limitation until June 30 of each year. On June 30, personal leave in excess of five days shall be converted to sick leave so that a maximum of five days of personal leave is carried forward to July 1. At the time of his or her retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement.~~

~~Personal leave must be used in half or whole day units. Personal leave may be requested by application in accordance with the policies of the State Board of Education and may be used only upon the authorization of the teacher's immediate supervisor and in accordance with legal requirements and procedures established by the superintendent. A teacher shall not take personal leave on the first day he or she is required to report for the school year, on a required teacher workday, on days scheduled for state testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal. On all other days, if the request is made at least five days in advance, the request will be automatically granted subject to the availability of a substitute teacher. The teacher cannot be required to provide a reason for the request.~~

**E. VACATION LEAVE<sup>5</sup>**

Vacation may be taken only upon the authorization of the employee's immediate supervisor and in accordance with legal requirements and procedures established by the superintendent. ~~The superintendent or designee has the authority to approve the vacation schedules of all personnel.~~

---

days before notice and verifications requirements must be met.

<sup>3</sup> ~~The board may modify this time period.~~

<sup>4</sup> See G.S. 115C-302.1(d).

<sup>5</sup> If the school system includes schools that are on a year-round schedule, the board may, but is not required to address the use of vacation leave by instructional employees in those schools. See G.S. 115C-302.1(c) and G.S. 115C-316(a)(3), which authorize the board to allow instructional employees (including teacher assistants) in year-round schools who require substitutes to take vacation leave while students are in session. The board would bear the cost of substitutes. The board is not required to offer this opportunity.

To promote the efficient operation of the schools, the superintendent may designate certain periods during the nonacademic year as preferred vacation periods for 12-month employees. ~~Vacation earned by 12-month teachers during the two months of "extended employment" may be taken only upon the authorization of the employee's immediate supervisor and in accordance with procedures established by the superintendent.<sup>6</sup> Vacation earned by teachers and other 10-month employees during the 10-month school-year employment may be taken as outlined in the school-year calendar. If a teacher schedules vacation leave in accordance with the school calendar, the board and/or principal must give the teacher at least 14 calendar days' notice before requiring the teacher to work on the scheduled day(s), unless the teacher waives the notice requirement.<sup>7</sup>~~

~~Annual vacation leave may be accumulated without any applicable maximum until June 30 of each calendar year. On June 30, accumulated annual vacation leave in excess of 30 days will be converted to sick leave so that only 30 workdays of annual vacation leave are carried forward.~~

~~An employee who has unused vacation time from another school system in North Carolina may have the vacation time transferred to this school system.~~

~~Instructional personnel who must be replaced by a substitute may not take earned vacation on days when school is in session for students unless the employee's absence is due to the employee's own catastrophic illness and the employee has exhausted all of his or her sick leave or unless the employee qualifies as a new parent.<sup>8</sup> In such instances, the employee will not be required to pay the substitute.~~

~~Within any given year, instructional personnel who do not require a substitute may be granted a maximum of five vacation days when students are in attendance.<sup>9</sup> Such days may not be consecutive. Leave will not be granted for days immediately before or immediately following days when students are out of school. Leave will not be granted on mandatory staff development days.<sup>10</sup> An exception to these restrictions may be made when an employee is absent due to a catastrophic illness and the employee has exhausted all of his or her sick leave.~~

~~The superintendent shall establish procedures for reviewing requests for the use of vacation leave for catastrophic illness by instructional personnel.~~

---

<sup>6</sup>-See *North Carolina Public Schools Benefits and Employment Policy Manual* available at <http://www.ncpublicschools.org/district-humanresources/key-information>.

<sup>7</sup>This is required by G.S. 115C-84.2(a)(5).

<sup>8</sup>The board optionally may specify that instructional personnel employed for 11 or 12 months in year-round schools may take vacation when school is in session with prior approval from the principal. Local funds must be used to cover the cost of substitutes for those employees. See *North Carolina Public Schools Benefits and Employment Policy Manual*, available at <http://www.ncpublicschools.org/district-humanresources/key-information>.

<sup>9</sup>These restrictions are discretionary and may be eliminated or modified.

<sup>10</sup>This is not required but is suggested in order to be consistent with the provisions for other instructional personnel and bus drivers.

## ~~F. CHILD-SCHOOL INVOLVEMENT LEAVE~~

~~All employees may take up to four hours of unpaid leave per year to attend or otherwise be involved in the school of a child for whom the employee is a parent, guardian, or person standing in loco parentis.<sup>11</sup>~~

## ~~G.F. COMPENSATORY LEAVE~~

~~Because professional employees are expected to fulfill all job duties, compensatory leave should apply only in extraordinary circumstances.~~

~~Employees who are not exempt from the provisions of the Fair Labor Standards Act may accrue compensatory time (comp time) as described in policy 7500, Workday and Overtime. at a rate of one and one-half hours for every one hour worked in lieu of receiving overtime pay for each hour worked beyond 40 in a given workweek. For the purpose of compliance with the Fair Labor Standards Act, the workweek for school system employees will be from 12:00 a.m. Saturday until 11:59 p.m. Friday.<sup>12</sup> Supervisors shall arrange for employees to take comp time within one pay period following the time it is earned, if possible; however, ~~The~~ the superintendent or designee may exempt certain employees or categories of employees from this requirement ~~comp time provision~~ when deemed necessary for the proper administration of the school system.~~

~~An employee must obtain approval from his or her immediate supervisor before taking compensatory leave.~~

## ~~H. MILITARY LEAVE~~

~~Employees may take up to 15 workdays of paid military leave during the federal fiscal year, which runs from October 1 through September 30. Paid military leave may be used for: (1) active duty training in the Reserve Components of the U.S. Armed Forces, including the National Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, and the Coast Guard Reserve; (2) required physical examinations relating to membership in a reserve component; and (3) regularly scheduled unit assemblies, also referred to as drills. For infrequent special activities in the interest of the state when authorized by the Governor or designee, members of the National Guard may be paid for up to 30 days in addition to the 15 days allowed for training.~~

## ~~G. LEAVE TO TEACH AT A CHARTER, REGIONAL, OR LAB SCHOOL<sup>13</sup>~~

<sup>11</sup> ~~This leave opportunity is required by G.S. 95-28.3.~~

<sup>12</sup> ~~The board is legally required to identify the workweek but may designate another seven-day period as the school system's workweek.~~

<sup>13</sup> ~~The information in this section is not addressed in the *North Carolina Public Schools Benefits and Employment Policy Manual*. For more information, see G.S. 115C-218.90(a)(3) and -238.68(3) and G.S. 116-239.10(4).~~

Leave of absence to teach for one year at a charter, regional, or lab school will be granted to a teacher upon timely written request to the board. The request must be provided at least 45 days before the teacher would otherwise have to report for duty if it is the initial year of the charter/regional/lab school's operation and at least 90 days if it is after the charter/regional/lab school's initial year of operation.<sup>14</sup> The teacher may return to work in the school system in accordance with the provisions of applicable state law.<sup>15</sup>

#### I.H. DISCRETIONARY LEAVE OF ABSENCE WITHOUT PAY

An employee, who wishes to take leave that is not eligible for any other specific type of leave, may be granted a leave of absence without pay for the following reasons and for a period of time of up to one calendar year; renewable at the discretion of the superintendent with approval from the board:

1. military leave (see also policies 7520, Family and Medical Leave, and 7530, Military Leave);
2. personal illness in excess of sick leave;
3. family leave (see also policy 7520);
4. professional leave; and
5. other reasons at the discretion of the superintendent with the approval of the board.

An employee seeking leave is responsible for making necessary arrangements as provided in the administrative procedures. Except in the case of an emergency, an employee is expected first to consult with his or her immediate supervisor and then to employee who desires a leave of absence without pay shall provide advance at least 60 days' written notice (60 days if possible) and shall submit a request in writing to the board stating the beginning and ending dates of the desired leave of absence. The employee is expected to consult with the principal or his or her immediate supervisor. The superintendent may request documentation from the employee in support of his or her request. In determining the length of the leave of absence without pay that will be approved, with the exception of military and family leave, due and proper consideration must be given to the welfare of the students as well as the employee. The superintendent may require the employee to give notice of his or her intent to return to work at reasonable time intervals during the leave.

Once a leave of absence without pay has been requested by an employee and approved by

<sup>14</sup> The board may require less than the 45-day and 90-day notice specified in this sentence but may not require more.

<sup>15</sup> See G.S. 115C-218.90(a)(3) (leave to teach in a charter school); -238.68(3) (leave to teach in a regional school); and G.S. 116-239.10(4) (leave to teach in a lab school).

---

the board, the dates are binding unless both parties agree to a change.

### **I. OTHER LEAVE**

Other types of leave, such as leave for observance of a bona fide religious holiday, professional leave, community responsibility leave, leave for jury duty or court attendance, elected officials leave, parental involvement in schools leave, parental leave without pay, and military leave (see policy 7530, Military Leave), will be granted in accordance with the requirements of law and State Board of Education policy.

Legal References: G.S. 95-28.3; 115C-12, -36, -47, -84.2, -218.90(a)(3), -238.68(3), -285, -302.1, -316, -336, -336.1; 116-239.10(4); 16 N.C.A.C. 6C .0405; State Board of Education Policy BENF-003, *North Carolina Public Schools Benefits and Employment Policy Manual* (N.C. Dept. of Public Instruction, current version), available at <http://www.ncpublicschools.org/district-humanresources/key-information>

Cross References: Workday and Overtime (policy 7500), Compliance with State Board of Education Employment Policies (policy 7505), Family and Medical Leave (policy 7520), Military Leave (policy 7530), Voluntary Shared Leave (policy 7540), Absences Due to Inclement Weather (policy 7550)

Issued:

Revised: January 22, 1999; September 24, 1999; October 15, 2007; June 30, 2009; September 30, 2010; September 27, 2012; September 13, 2013; September 30, 2014; September 29, 2017

*NOTE: Footnotes are for reference only. They should be eliminated from an individual board's policy.*

## **MILITARY LEAVE**

Policy Code: **7530**

An employee will be eligible for all considerations of military leave in accordance with State Board of Education policy, ~~and~~ the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), and Article 16 of Chapter 127A of the North Carolina General Statutes.

Employees are encouraged to schedule short periods of required active duty during vacation periods so as not to interfere with regular duties of the individual's employment.

### **A. NOTICE AND DOCUMENTATION REQUIREMENTS**

1. ~~If an employee is going to be absent due to military obligations, the employee~~ Employees must provide to the superintendent advance written or oral notice of any absences due to military obligations, except in cases of emergency assignment or other conditions that make notice impossible or unreasonable.
2. For leave periods exceeding 30 days, the employee must also either provide written documentation evidencing performance of military duty or identify the military command in order for the school system to verify the request.

### **B. SHORT-TERM MILITARY LEAVE WITH PAY**

1. In accordance with State Board of Education policy, an employee who is a member of a reserve component of the U.S. Armed Forces<sup>1</sup> may take up to 15 workdays of paid military leave for active duty training per federal fiscal year, which runs from October 1 through September 30. Members of the National Guard may take additional paid leave beyond these 15 days for special state activities when so authorized by the governor.
2. After an employee has used all of his or her paid military leave, the employee may choose to use any accumulated vacation leave, bonus leave, or comp time during the period of military service; however, no employee will be forced to use such paid leave during military service.

### **C. UNPAID MILITARY LEAVE FOR EXTENDED ACTIVE DUTY**

1. Employees may take extended leaves of absence for state or federal military duty under honorable services status, for required training, or for special emergency management in accordance with state and federal law and State Board policy. Such leave is unpaid, except as described in paragraph C.2, below. The employee may use any available eligible paid leave prior to going on unpaid leave.

---

<sup>1</sup> Reserve components of the U.S. Armed Forces are the Army, Navy, Marine Corps, Air Force, Coast Guard Reserves, and the National Guard. Members of the National Guard may be activated to either state or federal duty.



2. During these periods of extended military leaves, which must not exceed five years cumulatively plus any period of additional service imposed by law, the employee will be paid the difference in military base pay and state salary, including non-performance-based bonuses, when the military pay is less than the state salary. Differential pay will be paid from the same source of funds as the employee's public school salary. An employee may not receive differential pay while absent on any type of paid leave.

#### **D. REINSTATEMENT FROM MILITARY LEAVE WITHOUT PAY**

1. If the individual ~~reapplies~~ applies for reinstatement following separation from military duty, his or her reemployment and related rights ~~is~~ are governed by the provisions of the USERRA (for members of reserve components of the U.S. Armed Forces, including members of the North Carolina National Guard returning from active federal duty) or Article 16 of G.S. 127A (for members of the North Carolina National Guard returning from active state duty).
2. Employees must meet all applicable state or federal deadlines for reporting back to work or applying for reinstatement.<sup>2</sup>
3. Under certain circumstances, an employee may receive teaching experience credit and retirement credit for service in the military, in accordance with State Board regulations.

#### **E. EXPLANATION OF BENEFITS**

When an employee is determined to be eligible for unpaid military leave under this policy, the superintendent or designee shall provide the employee with an explanation of his or her rights and benefits, including those related to leave, salary increases, medical insurance options, retirement status, the possibility of differential pay, and reinstatement rights.

#### **F. COMPLIANCE WITH OTHER REQUIREMENTS**

The board will follow and apply all other applicable legal requirements when administering military leave under this policy.

Legal References: Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*; G.S. 115C-47, -302.1(g), -302.1(g1); 127A art. 16; 16 N.C.A.C. 6C .0406;

---

<sup>2</sup> These deadlines are based on time spent on military duty. The requirements for members of the National Guard returning from state duty are different from those applicable under USERRA. For example, USERRA permits a returning service member to report back to work without first applying for reinstatement if the time absent for military duty was less than 31 days; state law requires a written application to the employer in that circumstance. There are other differences, as well. Compare G.S. 127A-202 to 38 U.S.C. sec. 4312 (e)(1).

*North Carolina Public Schools Benefits and Employment Policy Manual, §§ 9.6 – 10.4 (2008-2009)*

Cross References: Leave (policy 7510)

Issued: June 1997

Revised: May 7, 2004; April 7, 2008; December 1, 2009; September 29, 2017

*NOTE: Footnotes are for reference only. They should be eliminated from an individual board's policy.*

## **EVALUATION OF LICENSED EMPLOYEES**

*Policy Code:*

**7810**

The board recognizes that an effective staff is critical to the smooth operation of the school system and to creating a learning environment in which students can succeed. The board further believes that students will not excel in performance unless those who most directly affect students, including school administrators, teachers, and other licensed professionals, excel in their performance.<sup>1</sup> It is the intent of the board to employ only those licensed employees who continuously exhibit a pattern of behavior that exemplifies excellent performance.

The board places a high priority on securing the most competent personnel available and, once they are employed, in assisting them in their professional growth and development throughout their careers. An effective evaluation program that clearly describes an employee's performance is a critical aspect of professional growth and assistance. Further, performance evaluation data is an important factor for consideration in decisions regarding continued employment. The superintendent must be able to substantiate any recommendation for continued employment with evaluation data, among other factors.

The superintendent is directed to develop and implement an effective evaluation system for licensed personnel that is consistent with State Board of Education policies.<sup>2</sup> School administrators who are responsible for conducting evaluations shall comply with all state requirements with regard to the type and frequency of evaluation, including as applicable, the processes for evaluating licensed employees in schools designated as low performing.<sup>3</sup> The principal, or an assistant principal in the limited circumstances authorized by law,<sup>4</sup> shall evaluate teachers and may incorporate any guidelines or strategies developed by the State Board to assist in the evaluations.<sup>5</sup> The principal shall provide teachers' access to EVAAS data as required by law and shall notify teachers at least annually when the data is updated to reflect teacher performance from the previous school year.<sup>6</sup> The superintendent or designee shall evaluate principals and assistant principals.

All licensed personnel must be evaluated at least annually<sup>7</sup> using state-approved evaluation

---

<sup>1</sup> Board mission/objective statements may be used in addition to or in place of these statements.

<sup>2</sup> State law requires that local boards use the performance standards and criteria adopted by the State Board. However, local boards may adopt additional evaluation criteria and standards.

<sup>3</sup> The requirements applicable to the evaluation of licensed staff in low performing schools are found in State Board Policy EVAL-004.

<sup>4</sup> This clause is inapplicable and may be omitted if the LEA does not have at least one high school with 1,500 or more students. Assistant principals in high schools with at least 1,500 students may conduct the annual evaluation of a teacher provided that at least one evaluation in the teacher's first three years of employment is conducted by a principal. See G.S. 115C-333 and -333.1.

<sup>5</sup> G.S. 115C-333.1(b) requires the State Board to develop guidelines that include strategies to assist in evaluating teachers.

<sup>6</sup> G.S. 115C-333.2 directs the board to ensure that individual teachers are provided access to school-level value-added data, the teacher's own value-added data, when applicable, and the teacher's EVAAS evaluation dashboard. The statute also includes the requirement for notice by the principal at least annually.

<sup>7</sup> See G.S. 115C-333(a), G.S. 115C-333.1(a), and State Board Policy EVAL-022. Annual reviews for school

instruments in conformance with the processes established by the State Board in the North Carolina Educator Evaluation System for that class of personnel.<sup>8</sup> Teachers with fewer than three consecutive years of experience will be evaluated annually in accordance with state law<sup>9</sup> and the comprehensive evaluation cycle established in State Board Policy EVAL-004. For teachers with three or more years of experience, the abbreviated evaluation process established in State Board Policy EVAL-004 satisfies the annual evaluation requirement;<sup>10</sup> however, a teacher receiving an abbreviated evaluation may request that the evaluator conduct a formal observation.<sup>11</sup> In addition, in any given year, the principal may elect to use the comprehensive or standard evaluation processes set forth in State Board Policy EVAL-004 or require additional formal or informal observations to evaluate a teacher with three or more years of experience.<sup>12</sup> The principal also may supplement the State Board evaluation processes for other categories of licensed personnel by requiring additional observations or other evaluation measures.<sup>13</sup> The annual evaluation of principals and assistant principals must include a mid-year review.<sup>14</sup>

The evaluation system must incorporate the following directives.

1. Evaluators must clearly identify exemplary performance as well as deficiencies in performance.

---

principals and assistant principals are required by G.S. 115C-286.1.

<sup>8</sup> The State Board has established evaluation rubrics and processes for school principals and assistant principals, teachers, central office instructional staff with a rank of Director or above, and support staff, such as counselors, social workers, media coordinators, school psychologists, school nurses, and related service providers. Although not relevant to this policy, the State Board has also developed an evaluation process for superintendent evaluations, addressed in policy 7805, Superintendent Evaluation.

<sup>9</sup> G.S. 115C-333 and -333.1 establish the number of observations required for teachers as part of the annual evaluation. ~~The statutes also specify who must conduct the observations. For teachers who have been employed for less than three consecutive years, three observations are required, including one by a peer and two by the principal or designee. For teachers licensed for fewer than two years, three observations are required, one of which must be conducted by the principal (not a designee) and one by a peer. Two of the observations of a teacher licensed for fewer than two years must be conducted in the first semester of the school year, with one of the two being conducted within the first grading period, if practicable.~~ State Board Policy EVAL-004 sets out requirements for the evaluation process and establishes a comprehensive evaluation cycle for teachers employed for fewer than three years and an abbreviated process for teachers employed for at least three years.

<sup>10</sup> SBE Policy EVAL-004 states that the annual evaluation requirement for experienced teachers (including those with career status) who have been employed for three or more years can be met through either a comprehensive, standard, or abbreviated evaluation cycle. The cycles vary in their observation requirements, including whether a peer observation is required and whether any or all of the required observations may be informal. An abbreviated evaluation must include two informal observations of at least twenty minutes each in which the observer notes the teacher's performance in relation to Standards One and Four of the evaluation rubric. This model policy permits the use of the abbreviated process exclusively; however, the board may rewrite this section to require that a more extensive evaluation cycle be followed periodically, e.g., during the license renewal year.

<sup>11</sup> The option to request a formal observation is required by State Board Policy EVAL-004.

<sup>12</sup> State Board Policy EVAL-004. See note 6, above.

<sup>13</sup> The evaluation processes designated for other classes of licensed personnel specify observation requirements. In some cases, only a single observation is required (e.g., nurses, physical therapists, occupational therapists, and speech language pathologists). This statement gives principals flexibility to conduct additional observations when necessary.

<sup>14</sup> The mid-year review is required by State Board policy.

2. Evaluators are encouraged to use supplementary means of assessing and documenting performance in addition to the state performance standards, assessment rubrics, and evaluation instruments, including, but not limited to, additional formal observations, informal observations, conferences, reviews of lesson plans and grade books, interactions with the employee, plans of growth or improvement, and any other accurate indicators of performance.<sup>15</sup>
3. <sup>16</sup>Student performance and growth data will be considered as a part of the evaluation of licensed personnel, as provided in the assessment rubric for the class of employees under evaluation. For teachers, such data shall include ~~analysis of student work for performance-based courses and~~ student performance as measured by the statewide growth model for educator effectiveness or as otherwise authorized by the State Board of Education and approved by the local board. ~~Multiple means of assessing student performance must be used whenever possible. If only one method is used to measure student performance, it must be a clearly valid tool for evaluating an employee's impact on student performance.~~
4. Peer observations of teachers with fewer than three consecutive years of experience must be conducted as required by law<sup>17</sup> using the evaluation instrument and process established by the State Board and must be considered by the school administrator in evaluating teacher performance.<sup>18</sup>
5. Supervisors and principals should facilitate open communication with employees about performance expectations.
6. An employee who is unclear about how performance is being assessed or who desires additional evaluation opportunities should address these issues with his or her immediate supervisor.
7. Evaluators will be held accountable for following the evaluation system and all applicable state guidelines on the evaluation of employees.
8. Evaluation data will be submitted to the central office personnel file in accordance with state law and policy 7820, Personnel Files.
9. Evaluation data will be used in making employment decisions, including decisions related to professional and staff development (see policy 1610/7800, Professional and Staff Development) and suspension, demotion, and dismissal of employees (see policy

---

<sup>15</sup> This statement is optional. The state evaluation process already anticipates the collection of a wide variety of data and other evidence of performance.

<sup>16</sup> The local board may wish to expand the types of student performance data that will be considered when evaluating teachers and/or other licensed personnel beyond what the performance standards and state evaluation instruments require.

<sup>17</sup> See G.S. 115C-333(a) and G.S. 115C-333.1(a).

<sup>18</sup> See State Board of Education Policy EVAL-004.

---

7930, Professional Employees: Demotion and Dismissal, and policy 7940, Classified Personnel: Suspension and Dismissal). Employment decisions may be made by the board and administrators regardless of whether evaluators have followed the evaluation system, so long as there is a legally sufficient basis for the decisions.<sup>19</sup>

10. The superintendent and all evaluators are encouraged to develop ways to recognize distinguished performance and to capitalize on the abilities of such exemplary employees in helping other employees.<sup>20</sup> The superintendent and evaluators are encouraged to involve employees in developing these processes.

The superintendent shall develop any other necessary procedures and shall provide training, as necessary, to carry out the board's directives and to meet state requirements.<sup>21</sup>

Legal References: G.S. 115C-47(18), -286.1, -325, -333, -333.1, -333.2; State Board of Education Policies EVAL-004 through -006, EVAL-022, EVAL-025 through -031

Cross References: Professional and Staff Development (policy 1610/7800), School Administrator Contracts (policy 7425), Plans for Growth and Improvement of Licensed Employees (policy 7811), Personnel Files (policy 7820), Professional Employees: Demotion and Dismissal (policy 7930), Classified Personnel: Suspension and Dismissal (policy 7940)

Issued:

Revised: January 22, 1999; January 31, 2006; June 30, 2009; September 30, 2010; September 30, 2011; March 28, 2013; September 13, 2013; March 31, 2015; November 13, 2015; March 31, 2016; September 30, 2016; April 28, 2017; September 29, 2017

---

<sup>19</sup> The intent of this policy is to hold evaluators accountable for meeting standards without limiting the authority of the board to make legally defensible decisions.

<sup>20</sup> Alternatively, "are encouraged" may be replaced with "are required." The board may be more specific as to the types of recognition it chooses to promote (it may promote non-monetary recognition, or recognition may include merit pay). If merit pay is considered, the board may want to set standards or require the superintendent to establish standards to help ensure an equitable process.

<sup>21</sup> State Board policy requires training for school administrators, teachers, and evaluators on the respective state rubrics and evaluation processes for school executives and teachers.

## **RESIGNATION**

*Policy Code:*

**7900**

### **A. PROFESSIONAL EMPLOYEES**

Professional employees who intend to resign for any reason are encouraged to indicate their plans in writing at as early a date in the school year as possible, such as when plans become firm and/or the decision to leave the school system is made. A resignation becomes effective at the end of the school year in which it is submitted. A resignation for any other time requires 30 days' notice unless the superintendent consents to a shorter notice period.

If a teacher has not been recommended for dismissal but fails to meet the notice requirements and the superintendent does not consent to a waiver of notice, the superintendent shall inform the board and recommend to the board whether a request should be made to the State Board of Education to revoke the teacher's license for the remainder of the school year. The superintendent shall place a copy of the request in the teacher's personnel file.

The superintendent must notify the State Board of Education if a teacher's criminal history is relevant to the teacher's resignation, regardless of whether the teacher gave adequate advance notice of resignation.<sup>1</sup>

If a teacher who has been recommended for dismissal under the applicable state law resigns without the written consent of the superintendent, then: (1) the superintendent shall report the matter to the State Board of Education; (2) the employee shall be deemed to have consented to the placement of the written notice of the superintendent's intention to recommend dismissal in the employee's personnel file; (3) the employee shall be deemed to have consented to the release to prospective employers, upon request, of the fact that the superintendent has reported this employee to the State Board of Education; and (4) the employee shall be deemed to have voluntarily surrendered his or her license pending an investigation by the State Board of Education to determine whether to seek action against the employee's license.

Upon inquiry from a North Carolina local board of education, charter school, or regional school as to the reason for a teacher's resignation, the superintendent or designee shall indicate if the teacher's criminal history was relevant to the resignation.<sup>2</sup>

### **B. ALL EMPLOYEES**

---

<sup>1</sup> A report to the State Board of Education is required by G.S. 115C-325(o)(2) (applicable to career status teachers) and 115C-325.9(b) (applicable to non-career status teachers) and is to be made regardless of whether the teacher has met the 30-day notice requirement.

<sup>2</sup> This response is required by G.S. 115C-332 and applies to inquiries regarding any employee's resignation, not just teachers' resignations. A general statement of applicability appears in the text accompanying footnote 4.

---

Letters of resignation must be submitted to the superintendent. Resignations may be accepted, on behalf of the board, by the superintendent or designee. To help ensure the smooth operation of the schools, 30 days' notice is requested whenever possible.

<sup>3</sup>Each employee who is leaving the school system may arrange to meet with any director, supervisor, or administrator to discuss his or her reasons for leaving and to identify any practices or policies that he or she feels are detrimental to the objectives of the school system. To the extent possible, statements made by employees will be confidential. However, should another North Carolina local school board, charter school, or regional school inquire as to the reason for any employee's resignation, the superintendent or designee must indicate if criminal history was relevant to the employee's resignation.<sup>4</sup>

Legal References: G.S. 115C-47, -325(e) and -325(o) (applicable to career status teachers), -325.4 and -325.9 (applicable to non-career status employees), -332

Cross References: Personnel Files (policy 7820), Professional Employees: Demotion and Dismissal (policy 7930)

Issued:

Revised: April 28, 2009; September 30, 2010; January 27, 2012; March 28, 2014; September 29, 2017

---

<sup>3</sup> Specific local practices for exit interviews may be substituted for this paragraph, or this paragraph may be eliminated.

<sup>4</sup> This is required of the board by G.S. 115C-332.



*NOTE: Footnotes are for reference only. They should be eliminated from an individual board's policy.*

## **PROFESSIONAL EMPLOYEES: DEMOTION AND DISMISSAL**

*Policy Code:*

**7930**

---

<sup>1</sup>The board recognizes that an effective professional staff is critical to the smooth operations of the school system and to creating a learning environment where students are able to succeed. The board expects all professionally licensed employees, whether employed pursuant to a contract or through continuing career status, to exemplify above-average performance in carrying out their teaching or other professional responsibilities. Such employees are expected to continue to strive for excellence, meet all performance standards established by the board, and pursue professional development as provided in policy 1610/7800, Professional and Staff Development. Any professionally licensed employee who is unable or unwilling to meet the performance expectations or other reasonable standards of the board may be subject to demotion or dismissal as provided in this policy.

Evaluators of licensed employees are expected to follow policy 7810, Evaluation of Licensed Employees, policy 7820, Personnel Files, and policy 7811, Plans for Growth and Improvement of Licensed Employees. Evaluators should provide the superintendent with carefully documented evidence concerning a person's inadequacies and lack of competencies when such deficiencies have led to the recommendation and contemplation of dismissal or demotion. These documents also should show ways in which the evaluator has endeavored to help the employee become a more effective professional. In the interest of students and the welfare of the school system, dismissal or demotion may be pursued regardless of whether the evaluator has met these expectations and regardless of whether the employee has first been placed on a growth plan or mandatory improvement plan, so long as the legal grounds for seeking dismissal or demotion can be sufficiently demonstrated.

All legally required procedures, including those prescribed in the applicable state law, will be followed in the dismissal or demotion of employees. Career status teachers, non-career status teachers during the terms of their contracts, and school administrators during the terms of their contracts may be dismissed only for the following reasons:

1. inadequate performance, as defined by the applicable state statute;<sup>2</sup>
2. immorality;

---

<sup>1</sup> Board mission and/or objectives may be added or substituted for these statements.

<sup>2</sup> G.S. 115C-325(e)(3) defines "inadequate performance" for a teacher as (1) the failure to perform at a proficient level on any standard of the evaluation instrument or (2) otherwise performing in a manner that is below standard. However, a non-career status teacher who receives a performance rating of below proficient may be deemed to be performing adequately by the superintendent or designee depending on the teacher's stage of development. For a career teacher, a performance rating of below proficient will constitute inadequate performance, unless the principal notes on the evaluation instrument that a teacher is making adequate progress toward proficiency given the circumstances. Effective July 1, 2014, G.S. 115C-325(e)(3) applies only to career status teachers. However, the same definition is included in G.S. 115C-325.4(a)(1), which applies to all other teachers and to school administrators.

3. insubordination;
4. neglect of duty;
5. physical or mental incapacity;
6. habitual or excessive use of alcohol or non-medical use of a controlled substance as defined in Article 5, Chapter 90 of the General Statutes;
7. conviction of a felony or a crime involving moral turpitude;
8. advocating the overthrow of the government of the United States or of the state of North Carolina by force, violence, or other unlawful means;
9. failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes;
10. failure to comply with such reasonable requirements as the board may prescribe;
11. any cause that constitutes grounds for the revocation of an employee's teaching or school administrator license;
12. a justifiable decrease in the number of positions due to school system reorganization, decreased enrollment, or decreased funding, provided that there is full compliance with other statutory requirements;
13. failure to maintain one's license in current status;
14. failure to repay money owed to the state in accordance with the provisions of Article 60, Chapter 143 of the General Statutes; and
15. providing false information or knowingly omitting a material fact on an application for employment or in response to a pre-employment inquiry.

Upon inquiry from a North Carolina local board of education, charter school, or regional school as to the reason for an employee's dismissal, the superintendent or designee shall indicate if the employee's criminal history was relevant to the dismissal.<sup>3</sup>

Resignation by a teacher who has been recommended for dismissal under the applicable state statute is subject to the provisions of policy 7900, Resignation.

Legal References: G.S. 90 art. 5; 115C-287.1, -307, -325 (applicable to career status teachers), -325.1 *et seq.* (applicable to non-career status teachers), -332, -333, -333.1; 143 art. 60; 16

---

<sup>3</sup> This response is required by G.S. 115C-332.

N.C.A.C. 6C .0502

Cross References: Professional and Staff Development (policy 1610/7800), Staff Responsibilities (policy 7300), Job Descriptions (policy 7400), Teacher Contracts (policy 7410), School Administrator Contracts (policy 7425), Evaluation of Licensed Employees (policy 7810), Plans for Growth and Improvement of Licensed Employees (policy 7811), Personnel Files (policy 7820), Resignation (policy 7900), Non-Career Status Teachers: Nonrenewal (policy 7950)

Issued: June 1997

Revised: May 7, 2004; June 30, 2009; December 1, 2009; September 30, 2010; September 30, 2011; March 28, 2014; March 31, 2017; September 29, 2017

*NOTE: Footnotes are for reference only. They should be eliminated from an individual board's policy.*

## **CLASSIFIED PERSONNEL: SUSPENSION AND DISMISSAL**

*Policy Code:*

**7940**

---

Classified positions are critical to the effective operation of the school system. The board encourages open communication between classified employees and their supervisors. When performance problems arise, supervisors are encouraged to communicate clearly in oral or written form the nature of the deficiencies and to provide a reasonable opportunity to improve. Any written notices or reprimands will be included in the employee's central office personnel file. All employees are expected to meet job requirements and to seek clarification and guidance when needed to fulfill these requirements.

### **A. SUSPENSION**

The superintendent or designee may suspend an employee without pay as a disciplinary sanction. The superintendent shall provide written notice of the suspension without pay to the employee. This notice will be placed in the personnel file. The suspension without pay may begin immediately. An employee has 10 calendar days<sup>1</sup> from the date of receiving written notice of the superintendent's decision to take the following actions: (1) request written notice of the reason(s) for the superintendent's decision and (2) request an appeal before the board of education regarding the decision to suspend without pay. If notice of the reason(s) for the suspension is requested, such notice must be provided prior to any board hearing on the decision.<sup>2</sup> If an appeal is not made within this time, an appeal is deemed to be waived. An employee may appeal a suspension on the grounds that there was no rational basis for the suspension; the suspension was discriminatory or was used for harassment; or board policies were not followed.

Upon receiving a request for an appeal, the chairperson may designate a panel of three board members to review the decision. The chairperson of the board or the panel may establish rules for an orderly and efficient hearing. The employee will be notified in writing of the decision of the board to uphold, reverse, or modify the superintendent's decision. An employee will receive back pay for any period of suspension without pay that is not upheld by the board.<sup>3</sup>

### **B. TERMINATION**

As "at will" employees, employees in classified positions may be terminated on any

---

<sup>1</sup> The time frame may be adjusted.

<sup>2</sup> State statute previously required that, upon request, an employee be provided written notice of the reasons for the superintendent's decision, prior to any board hearing. As of July 1, 2014, there is no longer a statutory requirement to do so. However, we recommend retaining the provision, as written documentation of the reasons for a suspension may provide a defense in the event of legal claims arising from the decision.

<sup>3</sup> This provision allows the superintendent's decision to go into effect during the appeals process. Alternatively, the policy could provide that no suspension without pay may occur until the board has acted on any appeal. If the alternative approach is taken, a shorter time frame for the appeals may be preferred.

nondiscriminatory basis, including inadequate performance, misconduct, failure to follow board policies, or a reduction in staff. All terminations to reduce staff will be in accordance with policy 7921, Classified Personnel Reduction.<sup>4</sup> All other terminations will be made pursuant to this policy. The superintendent has the authority to terminate at-will employees.<sup>5</sup> The superintendent should provide written notice to the employee and the board of the decision to terminate. An employee has 15 calendar days<sup>6</sup> from the date of receiving notice of the superintendent's decision to take the following actions: (1) request written notice of the reason(s) for the superintendent's decision and (2) request an appeal of the decision to the board of education. If notice of the reason(s) for the termination is requested, such notice must be provided prior to any board hearing on the termination.<sup>7</sup> The termination is effective during the period of appeal.

Upon receiving a request to appeal the superintendent's decision to terminate, the chairperson may appoint a panel of three board members to review the decision. The employee has the burden of establishing that the termination was based on an illegal discrimination.<sup>8</sup> The superintendent may offer evidence to substantiate that the dismissal was for a nondiscriminatory reason, such as prior warnings or remedial efforts.

The hearing procedures established in policy 2500, Hearings Before the Board, will be followed.<sup>9</sup> The chairperson will provide written notice of the decision to the employee and the superintendent as soon as practicable after reaching a decision. The board may uphold the superintendent's decision or reinstate the employee for any reason it deems proper, so long as the board's reason is not discriminatory.<sup>10</sup>

Any employee who has been dismissed for cause will be ineligible for reemployment.

Upon inquiry from a North Carolina local board of education, charter school, or regional school as to the reason for an employee's dismissal, the superintendent or designee shall indicate if the employee's criminal history was relevant to the dismissal.<sup>11</sup>

This policy is not intended to create any property rights or an implied or express contract between the board and the employee other than what is provided by law.

---

<sup>4</sup> This provision should be revised if the board has not adopted a policy governing reduction in force of classified employees.

<sup>5</sup> This delegation of authority to the superintendent should be in board policy.

<sup>6</sup> This time frame may be revised.

<sup>7</sup> State statute previously required that, upon request, an employee be provided written notice of the reasons for the superintendent's decision, prior to any board hearing. As of July 1, 2014, there is no longer a statutory requirement to do so. However, we recommend retaining the provision, as written documentation of the reasons for a dismissal may provide a defense in the event of legal claims arising from the decision.

<sup>8</sup> Nondiscrimination is the standard for at-will employees. The standard may be raised by the board. Raising the standard will increase the rights of the employee.

<sup>9</sup> Alternatively, the policy may define hearing procedures. As a post-termination hearing, the hearing may be very limited in scope.

<sup>10</sup> This is the legal standard for at-will employment.

<sup>11</sup> This response is required by G.S. 115C-332.

Legal References: 29 U.S.C. 621 *et seq.*; 29 U.S.C. 794 *et seq.*; 42 U.S.C. 1981; 42 U.S.C. 12101; G.S. 115C-45(c), -47, -332

Cross References: Hearings Before the Board (policy 2500), Classified Personnel Reduction (policy 7921), Annual Independent Audit (policy 8310)

Issued: June 1997

Revised: September 24, 1999; May 7, 2004; June 30, 2009; March 28, 2014; September 29, 2017