

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 962
Education/Higher Education Committee Substitute Adopted 5/13/09
House Committee Substitute Favorable 6/23/09

Short Title: Probationary Teacher Appeals.

(Public)

Sponsors:

Referred to:

March 26, 2009

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

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 115C-325 reads as rewritten:

6 "§ 115C-325. System of employment for public school teachers.

7 ...

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

- 23 a. ~~It shall not reemploy the teacher for a fifth consecutive year;~~
24 b. ~~As of June 16, the teacher shall be entitled to one month's pay as~~
25 ~~compensation for the board's failure to vote upon the issue of~~
26 ~~granting career status; and~~
27 e. ~~The~~status, the teacher shall be entitled to an additional month's pay
28 for every 30 days or portion thereof after June 16 ~~that the board fails~~
29 ~~to vote upon the issue of granting career status.~~ or such later date as
30 provided in G.S. 115C-325(m)(7) if a majority of the board belatedly
31 votes against granting career status.

32 (2) Employment of a Career Teacher. – A teacher who has obtained career
33 status in any North Carolina public school system need not serve another
34 probationary period of more than one year. The board may grant career
35 status immediately upon employing the teacher, or after the first year of
36 employment. The teacher has a right to notice and hearing prior to the



board's vote as provided in G.S. 115C-325(m)(3) and G.S. 115C-325(m)(4).
 The board shall give the teacher written notice of that decision by June 15 or
 such later date as provided in G.S. 115C-325(m)(7). If a majority of the
 board votes against granting career status, the teacher shall not teach beyond
 the current term. If after one year of employment, the board fails to vote on
 the issue of granting career status:

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

...

(m) Probationary Teacher.

- (1) The board of any local school administrative unit may not discharge a probationary teacher during the school year except for the reasons for and by the procedures by which a career employee may be dismissed as set forth in subsections (e), (f), (f1), and (h) to (j3) above.
- (2) The board, upon recommendation of the superintendent, may refuse to renew the contract of any probationary teacher or to reemploy any teacher who is not under contract for any cause it deems sufficient: Provided, however, that the cause may not be arbitrary, capricious, discriminatory or for personal or political reasons.
- (3) The superintendent shall provide written notice to a probationary teacher no later than May 15 of the superintendent's intent to recommend nonrenewal and the teacher's right, within 10 days of receipt of the superintendent's recommendation, to (i) request and receive written notice of the reasons for the superintendent's recommendation for nonrenewal and the information that the superintendent may share with the board to support the recommendation for nonrenewal; and (ii) request a hearing for those teachers eligible for a hearing under G.S. 115C-325(m)(4). The failure to file a timely request within the 10 days shall result in a waiver of the right to this information and any right to a hearing. If a teacher files a timely request, the superintendent shall provide the requested information and arrange for a hearing, if allowed, and the teacher shall be permitted to submit supplemental information to the superintendent and board prior to the board making a decision or holding a hearing as provided in this section. The board shall adopt a policy to provide for the orderly exchange of information prior to the board's decision on the superintendent's recommendation for nonrenewal.
- (4) If the probationary teacher is eligible for career status pursuant to G.S. 115C-325(c)(1) and (2) and the superintendent recommends not to give the probationary teacher career status, the probationary teacher has the right to a hearing before the board unless the reason is a justifiable board- or superintendent-approved decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding.
- (5) For probationary contracts that are not in the final year before the probationary teacher is eligible for career status, the probationary teacher

1 shall have the right to petition the local board of education for a hearing, and
2 the local board may grant a hearing regarding the superintendent's
3 recommendation for nonrenewal. The local board of education shall notify
4 the probationary teacher making the petition of its decision whether to grant
5 a hearing.

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

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

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

16 ...

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

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

24 "

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