

NORTH CAROLINA GENERAL ASSEMBLY
1973 SESSION

CHAPTER 782
HOUSE BILL 697

AN ACT TO AMEND G.S. 115-142, THE TEACHER EMPLOYMENT AND DISMISSAL ACT, IN ORDER TO MAKE IT MORE WORKABLE AND TO ELIMINATE AMBIGUITIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-142(a)(1) is hereby rewritten to eliminate the definition of "administrator" and to add a definition of "day" as follows:

"Day' means any day except Saturday, Sunday, or a legal holiday. In computing any period of time, the day in which notice is received is not counted, but the last day of the period so computed is to be counted."

Sec. 2. G.S. 115-142(a)(3) is hereby rewritten to read as follows:

"Career teacher' means a teacher who has obtained career status as provided in G.S. 115-142(c)."

Sec. 3. G.S. 115-142(a)(5) is hereby rewritten to read as follows:

"Demote' means to reduce the compensation of a person who is classified or paid by the State Board of Education as a classroom teacher or to transfer him to a new position carrying a lower salary. The word demote does not include a reduction in compensation that results from the elimination of a special duty, such as the duty of an athletic coach, assistant principal, or a choral director."

Sec. 4. G.S. 115-142(a)(6) is hereby rewritten to read as follows:

"Probationary teacher' means a certificated person, other than a superintendent, associate superintendent, or assistant superintendent, who has not obtained career-teacher status and whose major responsibility is to teach or to supervise teaching."

Sec. 5. G.S. 115-142(a)(7) is hereby rewritten to eliminate the definition of "substitute teacher" and to add a definition of "supervisor" as follows:

"Supervisor' means a person paid on the supervisor's salary schedule who supervises the instructional program in one or more schools and is under the immediate supervision of the superintendent or his designee."

Sec. 6. G.S. 115-142(a)(10) is hereby repealed and G.S. 115-142(a)(9) rewritten to read as follows:

"Teacher' means a person who holds at least a current, not expired, Class A certificate or a regular, not provisional or expired, vocational certificate issued by the State Department of Public Instruction; whose major responsibility is to teach or directly supervise teaching or who is classified by the State Board of Education or is paid as a classroom teacher; and who is employed to fill a full-time, permanent position."

Sec. 7. G.S. 115-142(b) is hereby rewritten to read as follows:

"The superintendent shall maintain in his office a personnel file for each teacher that contains any complaint, commendation, or suggestion for correction or improvement about the teacher. The complaint, commendation, or suggestion shall be signed by the person who makes it and shall be placed in the teacher's file only after five (5) days' notice to the teacher. Any denial or explanation relating to such complaint, commendation, or suggestion that the teacher desires to make shall be placed in the file."

The personnel file shall be open for the teacher's inspection at all reasonable times but shall be open to other persons only in accordance with such rules and regulations as the board adopts. Any pre-employment data or other information obtained about a teacher before his employment by the board may be kept in a file separate from his personnel file and need not be made available to him. No data placed in the pre-employment file may be introduced as evidence at a hearing on the dismissal or demotion of a teacher."

Sec. 8. G.S. 115-142(c) is hereby rewritten to read as follows:

"(1) Status of teachers employed on July 1, 1972. No teacher may become a career teacher before July 1, 1973. To be eligible to become a career teacher on July 1, 1973, a teacher must have been employed by a North Carolina school system on July 1, 1972, and, at the end of the 1971-72 school year, have either (1) been employed by that school system (or successor school system if the system has been consolidated) for four consecutive years, or (2) been employed in a North Carolina public school system for five consecutive years. Notwithstanding the requirement that the period of employment must be consecutive, a board may waive this requirement if the teacher has taught in its school system for a total of four years at the end of the 1971-72 school year and if, in the board's opinion, there was good reason why the service was not consecutive. A teacher who satisfies these requirements shall automatically become a career teacher on July 1, 1973, if he taught in that school system during the 1972-73 school year and was reemployed for the 1973-74 school year. All other teachers are probationary teachers.

(2) Normal election of a teacher to career status. When a teacher will have been employed by a North Carolina public school system for three consecutive years, the board, near the end of the third year, shall vote upon his employment for the next school year. The board shall give him written notice of that decision at least 30 days before the end of his third year of employment. If a majority of the board votes to reemploy him, he becomes a career teacher on the first day of the fourth year of employment. If the board votes to reemploy the teacher and thus grant career status at the beginning of the next school year, and if it has notified him of this decision, it may not later rescind that action but must proceed under the provisions of this act for the demotion or discharge of a teacher if it decides to terminate his employment.

If a majority of the board votes against reemploying the teacher, he shall not teach beyond the current school term. If the board fails to vote on granting career status but reemploys him for the next year, he automatically becomes a career teacher on the first day of the fourth year of employment.

A year, for purposes of computing time as a probationary teacher, shall be not less than 120 work days performed as a full-time, permanent teacher in a normal school year.

(3) Employment of a career teacher. A teacher who has obtained career status in another North Carolina public school system, need not serve another probationary period of more than two years, and may, at the option of the board, be employed immediately as a career teacher. In any event, if the teacher is reemployed for a third consecutive year, he shall automatically become a career teacher. A teacher with career status who resigns and within five years seeks to be reemployed by the same school system need not serve another probationary period of more than one year and may, at the option of the board, be reemployed as a career teacher. In any event, if he is

reemployed for a second consecutive year, he shall automatically become a career teacher.

- (4) Ineligible for career status. No superintendent, associate superintendent, assistant superintendent or other school employee who is not a teacher as defined by G.S. 115-142(a)(9) is eligible to obtain career status or continue in a career status if he no longer performs the responsibilities of a teacher as defined in G.S. 115-142(a)(9).
- (5) Leaves of absence. A career teacher who has been granted a leave of absence by a board shall maintain his career status if he returns to his teaching position at the end of the authorized leave."

Sec. 9. G.S. 115-142(d)(2) is rewritten to read as follows:

"A career teacher who has performed the duties of a principal or supervisor in a particular position in the school system for three consecutive years shall not be transferred from that position to a lower-paying administrative position or to a lower-paying nonadministrative position without his consent except for the reasons given in G.S. 115-142(e) and in accordance with the procedure for the dismissal of a career teacher set out in this act."

Sec. 10. G.S. 115-142(e)(1) is hereby amended by adding the words "or employed on a part-time basis" on line 1 after the word "demoted" and before the word "except".

Sec. 11. G.S. 115-142(e)(1)f. is hereby rewritten to read as follows:

"f. Habitual or excessive use of alcohol or nonmedical use of a controlled substance as defined in Article 5 of Chapter 90 of the General Statutes."

Sec. 12. G.S. 115-142(e)(1) is hereby amended by adding the following subsection:

"m. Failure to maintain one's certificate in a current status."

Sec. 13. G.S. 115-142(e)(2) is hereby amended by adding at the end of the last sentence:

"However, if the school system offers the dismissed teacher a position for which he is certified and he refuses it, his name shall be removed from the priority list."

Sec. 14. G.S. 115-142(f) is hereby rewritten to read as follows:

"(f) Suspension without pay. If a board believes that cause exists for dismissing a probationary or career teacher for any reason specified in G.S. 115-142(e)(1)(b) through G.S. 115-142(e)(1)(h) and that immediate suspension of the teacher is necessary, the board may by resolution suspend him without pay and without giving notice and a hearing.

If a board thinks a probationary or career teacher's performance is so inadequate that an emergency situation exists requiring the teacher to be removed immediately from his duties, the board shall give him written notice that it plans to suspend him and the reasons for the planned action. Not less than two or more than five days after the teacher receives the board's notice, the board shall hold a hearing on whether it should suspend the teacher. The hearing procedures provided in G.S. 115-142(j) shall be followed and all teacher evaluations and other information in the teacher's personnel file shall be made available to the board. If the board finds it necessary to suspend the teacher, it may by resolution suspend him without pay.

Within five days after a suspension under this section, the superintendent shall initiate a dismissal as provided in this act. If it is finally determined that no grounds for dismissal exist, the teacher shall be reinstated immediately and shall be paid for the period of suspension."

Sec. 15. G.S. 115-142(g)(3) is hereby amended by adding the following sentence at the end:

"The compensation shall be paid by the State Board of Education."

Sec. 16. G.S. 115-142(h)(1) is hereby rewritten as follows:

"A career teacher may not be dismissed, demoted, or reduced to part-time employment except upon the superintendent's recommendation."

Sec. 17. G.S. 115142(h)(2) is hereby amended by striking the words, "At least 20 days", as they appear at the beginning of the sentence. G.S. 115-142(h)(2) is further amended by adding the following sentence at the end: "If the teacher does not request a panel hearing within the 15 days provided, the superintendent may submit his recommendation to the board."

Sec. 18. The time requirements provided in the dismissal procedure are reduced by the following amendments:

- (1) G.S. 115-142(h)(4) is hereby amended by reducing from "10" to "7" days the amount of time that the State Superintendent of Public Instruction has to designate a panel of the Professional Review Committee.
- (2) G.S. 115-142(i)(4) is hereby amended by reducing from "30" to "20" days the amount of time the review panel has to conduct its investigation.
- (3) G.S. 115-142(i)(4) is hereby amended on the last line by reducing from "60" to "10" days the extension permitted the panel to conduct its investigation.
- (4) G.S. 115-142(i)(5) is hereby amended on line 1 by reducing from "30" to "5" days the amount of time the superintendent has after receiving the panel report to submit his recommendation of dismissal or demotion to the board of education.

Sec. 19. G.S. 115-142(i)(1) is hereby amended on line 2 by changing "40" to "30", thereby reducing the number of Professional Review Committee members that the teacher and superintendent may eliminate from consideration for appointment to the review panel.

Sec. 20. G.S. 115-142(h)(3) is hereby amended by striking the first sentence and replacing it with the following two sentences:

"Within the 15-day period after receipt of the notice, the career teacher may file with the superintendent a written request for either (1) a review of the superintendent's proposed recommendation by a panel of the Professional Review Committee or (2) a hearing before the board within 10 days. If the teacher requests an immediate hearing before the board, he forfeits his right to a hearing by a panel of the Professional Review Committee."

Sec. 21. G.S. 115-142(i)(4) is hereby amended by adding at the end of the first sentence after the word "superintendent" the words "and teacher."

Sec. 22. G.S. 115-142(i)(5) is hereby amended on line 2 by adding to the first sentence, after the word "board", the words, "with a copy to the teacher,".

Sec. 23. G.S. 115-142(i)(6) is hereby rewritten to read as follows:

"Within seven days after receiving the superintendent's recommendation and before taking any formal action, the board shall notify the teacher by certified mail that it has received the superintendent's recommendation and the report of the panel. The notice shall state that if the teacher requests a hearing before the board on the superintendent's recommendation, a hearing will be provided at the time and place specified in the notice. The time specified shall not be sooner than 7 or later than 20 days after the teacher received the notice. The notice shall further state that if the board does not receive the teacher's written notification that he wants a hearing before the board, such notice to be given within 5 days after he has received the board's notice, it may by resolution dismiss the teacher. If the teacher can show that his request for a hearing was postmarked within the time provided, his right to a hearing is not forfeited."

Sec. 24. G.S. 115-142(j)(1) is amended by putting a period after the word "private" and striking the words "unless the career teacher or the superintendent requests a public hearing."

Sec. 25. G.S. 115-142(j)(3) is hereby amended on line 1 by striking the words "career teacher" and inserting in their place "teacher and superintendent".

Sec. 26. G.S. 115-142(k)(1) is hereby amended on line 4 by adding after the word "teacher" the words "or the superintendent".

Sec. 27. G.S. 115-142(l)(3) is hereby amended by rewriting the first sentence to read as follows:

"At the request of either the superintendent or the teacher, the board shall issue subpoenas requiring the production of papers or records or the attendance of persons residing within the State before the board."

Sec. 28. G.S. 115-142(1)(3) is hereby amended by rewriting the last sentence as follows:

"The board shall pay witness fees for up to five witnesses subpoenaed on behalf of the teacher, except that it shall not pay for any witness who resides within the county in which the dismissal originates or who is an employee of the board. However, no employee of the board shall suffer any loss of compensation because he has been subpoenaed to testify at the hearing. These payments shall be as provided for witnesses in G.S. 7A-314."

Sec. 29. G.S. 115-142(1)(5) is hereby rewritten to read as follows:

"Within five days following the hearing, the board shall send a written copy of its findings and order to the teacher and superintendent. The Board shall provide for making a transcript of its hearing. If the teacher contemplates an appeal to a court of law, he may request and shall receive at no charge a transcript of the proceedings."

Sec. 30. G.S. 115-142(o) is hereby rewritten as follows:

"A teacher, career or probationary, should not resign without the consent of the superintendent unless he has given at least 30 days' notice. If the teacher does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's certificate for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

A probationary teacher whose contract will not be renewed for the next school year shall be notified of this fact not less than 30 days before the end of his employment period."

Sec. 31. G.S. 115-45 is hereby amended by repealing the second and third paragraphs.

Sec. 32. This act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 23rd day of May, 1973.