

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**SESSION LAW 2005-195  
SENATE BILL 630**

AN ACT TO MODIFY THE STATUTES GOVERNING RESIDENTIAL SCHOOLS TO MAKE THEIR ACCOUNTABILITY SYSTEM AND THEIR SCHOOL IMPROVEMENT PLANS LIKE THOSE OF OTHER PUBLIC SCHOOLS, AND TO MAKE OTHER TECHNICAL OR CONFORMING CHANGES TO THOSE STATUTES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143B-146.1(b) reads as rewritten:

"(b) The following definitions apply in this Part:

- (1) ABC's Program or Program. – The School-Based Management and Accountability Program developed by the State Board.
- (2) Department. – The Department of Health and Human Services.
- (3) Instructional personnel. – ~~Principals, assistant~~ Assistant principals, teachers, instructional personnel, instructional support personnel, and teacher assistants employed in a residential school.
- (4) Participating school. – A residential school that is required to participate in the ABC's Program.
- (5) Residential school personnel. – The individuals included in G.S. 143B-146.16(a)(2).
- (6) Schools. – The residential schools under the control of the Secretary.
- (7) Secretary. – The Secretary of Health and Human Services.
- (8) State Board. – The State Board of Education.
- (9) Superintendent. – ~~The individual designated by the Secretary to administer a residential school.~~ The Superintendent of the Office of Education Services of the Department of Health and Human Services."

**SECTION 2.** G.S. 143B-146.2(a) reads as rewritten:

"(a) The Governor Morehead School and the schools for the deaf shall participate in the ABC's Program. The Secretary, in consultation with the General Assembly and the State Board, may designate other residential schools that must participate in the ABC's Program. The primary goal of the ABC's Program is to improve student performance. The Program is based upon an accountability, recognition, assistance, and intervention process in order to hold each participating school, its ~~superintendent,~~ principal, and the instructional personnel accountable for improved student performance in that school."

**SECTION 3.** G.S. 143B-146.4 reads as rewritten:

**"§ 143B-146.4. Performance recognition.**

(a) ~~The superintendent and instructional personnel assigned to participating schools that achieve or exceed a level of expected growth to be determined by the State Board are eligible for financial awards in amounts set by the State Board. Participating schools and personnel shall not be required to apply for these awards. The personnel in participating schools that achieve a level of expected growth greater than one hundred percent (100%) at a level to be determined by the State Board of Education are eligible for financial awards in amounts set by the State Board. Schools and personnel shall not be required to apply for these awards. For the purpose of this section, "personnel" includes the principal and the instructional personnel (i) serving students in one or more of the grades kindergarten through 12 or (ii) assigned to a prekindergarten program that is located within the participating school and is designed to prepare students for kindergarten at that school.~~

(b) The State Board shall establish a procedure to allocate the funds for these awards. Funds shall become available for expenditure July 1 of each fiscal year. Funds shall remain available until November 30 of the subsequent fiscal year for expenditure ~~for~~ for awards to personnel.

(1) ~~Awards to the personnel; or~~

(2) ~~The purposes authorized in a plan that has been:~~

a. ~~Developed and voted on by the superintendent and instructional personnel in the same manner that a school improvement plan is approved under G.S. 143B-146.12;~~

b. ~~Approved by a majority of the personnel who vote on the plan; and~~

c. ~~Submitted to and approved by the Secretary.~~

~~The Secretary shall approve this plan unless the plan involves expenditures of funds that are not for a public purpose or that are otherwise unlawful.~~

The Secretary is encouraged to make these awards to each eligible person no later than the first regular teacher payroll following receipt of the funds, and shall make these awards to each eligible person no later than the second regular teacher payroll following the receipt of the funds."

**SECTION 4.** G.S. 143B-146.6(b) reads as rewritten:

"(b) When assigned to an identified low-performing school, an assistance team shall:

...

(2) Evaluate at least semiannually the ~~superintendent~~ principal and instructional personnel assigned to the school and make findings and recommendations concerning their performance.

..."

**SECTION 5.** G.S. 143B-146.7(a) reads as rewritten:

"(a) Within 30 days of the initial identification of a school as low-performing, whether by the Secretary under G.S. 143B-146.5(b) or by the State Board under G.S. 143B-146.5(a), the Secretary shall take one of the following actions concerning the school's ~~superintendent~~ principal: (i) decide whether the ~~superintendent~~ principal should be retained in the same position, (ii) decide whether the ~~superintendent~~ principal

should be retained in the same position and a plan of remediation should be developed, (iii) decide whether the ~~superintendent-principal~~ should be transferred, or (iv) proceed under the State Personnel Act to dismiss or demote the ~~superintendent-principal~~. The ~~superintendent-principal~~ may be retained in the same position without a plan for remediation only if the ~~superintendent-principal~~ was in that position for no more than two years before the school is identified as low-performing. The ~~superintendent principal~~ shall not be transferred to another position unless (i) it is in a ~~superintendent principal~~ position in which the ~~superintendent-principal~~ previously demonstrated at least two years of success, (ii) there is a plan to evaluate and provide remediation to the ~~superintendent-principal~~ for at least one year following the transfer to assure the ~~superintendent-principal~~ does not impede student performance at the school to which the ~~superintendent-principal~~ is being transferred; and (iii) the parents of the students at the school to which the ~~superintendent-principal~~ is being transferred are notified. The ~~superintendent-principal~~ shall not be transferred to another low-performing school. The Secretary may, at any time, proceed under the State Personnel Act for the dismissal of any ~~superintendent-principal~~ who is assigned to a low-performing school to which an assistance team has been assigned. The Secretary shall proceed under the State Personnel Act for the dismissal of any ~~superintendent-principal~~ when the Secretary receives from the assistance team assigned to that school two consecutive evaluations that include written findings and recommendations regarding the ~~superintendent's principal's~~ inadequate performance. The Secretary shall order the dismissal of the ~~superintendent-principal~~ if the Secretary determines from available information, including the findings of the assistance team, that the low performance of the school is due to the ~~superintendent's-principal's~~ inadequate performance. The Secretary may order the dismissal of the ~~superintendent-principal~~ if (i) the Secretary determines that the school has not made satisfactory improvement after the State Board assigned an assistance team to that school; and (ii) the assistance team makes the recommendation to dismiss the ~~superintendent-principal~~. The Secretary may order the dismissal of a ~~superintendent-principal~~ before the assistance team assigned to the ~~superintendent's principal's~~ school has evaluated that ~~superintendent-principal~~ if the Secretary determines from other available information that the low performance of the school is due to the ~~superintendent's-principal's~~ inadequate performance. The burden of proof is on the ~~superintendent-principal~~ to establish that the factors leading to the school's low performance were not due to the ~~superintendent's-principal's~~ inadequate performance. The burden of proof is on the Secretary to establish that the school failed to make satisfactory improvement after an assistance team was assigned to the school. Two consecutive evaluations that include written findings and recommendations regarding that person's inadequate performance from the assistance team are substantial evidence of the inadequate performance of the ~~superintendent-principal~~. Within 15 days of the Secretary's decision concerning the ~~superintendent-principal~~, but no later than September 30, the Secretary shall submit to the State Board a written notice of the action taken and the basis for that action."

**SECTION 6.** G.S. 143B-146.8 reads as rewritten:

**"§ 143B-146.8. Evaluation of certificated personnel and ~~superintendents;~~  
principals; action plans; State Board notification.**

(a) Annual Evaluations; Low-Performing Schools. – The ~~superintendent~~ principal shall evaluate at least once each year all certificated personnel assigned to a participating school that has been identified as low-performing but has not received an assistance team. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of an action plan if one is recommended under subsection (b) of this section. If the employee is a teacher as defined under G.S. 115C-325(a)(6), either the principal or an assessment team assigned under G.S. 143B-146.9 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), the ~~superintendent~~ Superintendent shall conduct the evaluation.

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

The Secretary shall use the State Board's performance standards and criteria unless the Secretary develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those adopted by the State Board. All other provisions of this section shall apply if an evaluation is used other than one adopted by the State Board.

(b) Action Plans. – If a certificated employee in a participating school that has been identified as low-performing receives an unsatisfactory or below standard rating on any function of the evaluation that is related to the employee's instructional duties, the individual or team that conducted the evaluation shall recommend to the ~~superintendent~~ principal that: (i) the employee receive an action plan designed to improve the employee's performance; or (ii) the ~~superintendent~~ principal recommend to the Secretary that the employee be dismissed or demoted. The ~~superintendent~~ principal shall determine whether to develop an action plan or to recommend a dismissal proceeding. The person who evaluated the employee or the employee's supervisor shall develop the action plan unless an assistance team or assessment team conducted the evaluation. If an assistance team or assessment team conducted the evaluation, that team shall develop the action plan in collaboration with the employee's supervisor. Action plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board, in consultation with the Secretary, shall develop guidelines that include strategies to assist in evaluating certificated personnel and developing effective action plans within the time allotted under this section. The Secretary may adopt policies for the development and implementation of

action plans or professional development plans for personnel who do not require action plans under this section.

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

...

(f) Evaluation of ~~Superintendents~~Principals. – Each year the Secretary or the Secretary's designee ~~Superintendent~~ shall evaluate the ~~superintendents~~principals."

**SECTION 7.** G.S. 143B-146.9 reads as rewritten:

**"§ 143B-146.9. Assessment teams.**

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

Assessment teams shall:

- (1) Conduct evaluations of certificated personnel in low-performing schools;
- (2) Provide technical assistance and training to principals ~~and superintendents~~ who conduct evaluations of certificated personnel;
- (3) Develop action plans for certificated personnel; and
- (4) Assist principals ~~and superintendents~~ in the development and implementation of action plans."

**SECTION 8.** G.S. 143B-146.10 reads as rewritten:

**"§ 143B-146.10. Development of performance standards and criteria for certificated personnel.**

The State Board, in consultation with the Secretary, shall revise and develop uniform performance standards and criteria to be used in evaluating certificated personnel, including school administrators. These standards and criteria shall include improving student achievement, employee skills, and employee knowledge. The standards and criteria for school administrators also shall include building-level gains in student learning and effectiveness in providing for school safety and enforcing student discipline. The Secretary shall develop guidelines for evaluating ~~superintendents~~principals. The guidelines shall include criteria for evaluating a ~~superintendent's~~principal's effectiveness in providing safe schools and enforcing student discipline."

**SECTION 9.** G.S. 143B-146.12 reads as rewritten:

**"§ 143B-146.12. Development and approval of school improvement plans.**

(a) In order to improve student performance, each ~~participating~~ school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 143B-146.3. ~~The superintendent, principal of each school,~~ instructional personnel, and residential life personnel assigned to that school, and a minimum of five parents of children enrolled in the school shall constitute a school improvement team to develop a school improvement plan to improve student performance.

(a1) Representatives of the instructional and residential life personnel shall be elected by their respective groups by secret ballot.

(b) Parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. To the extent possible, parents serving on school improvement teams shall reflect the composition of the students enrolled in that school. No more than two parents may be employees of the school. Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with ~~teachers,~~instructional and residential life personnel, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation. Parents who are elected to serve on school improvement teams and who are not employees of the school shall receive travel and subsistence expenses in accordance with G.S. 138-5 and, if appropriate, may receive a stipend.

(c) The strategies for improving student performance shall include the following:

(1) A plan for the use of staff development funds that may be made available to the school ~~by the Secretary to meet the goals for that school under the ABC's Program and~~ to implement the school improvement plan. The plan may provide that a portion of these funds is used for mentor training and for release time and substitute teachers while teachers are meeting with mentors;

(1a) A plan for preparing students to read at grade level by the time they enter second grade. The plan shall require kindergarten and first grade teachers to notify parents or guardians when a child is not reading at grade level and is at risk of not reading at grade level by the time the child enters second grade. The plan may include the use of assessments to monitor students' progress in learning to read, strategies for teachers and parents to implement that will help students improve and expand their reading ability, and provide for the recognition of teachers and strategies that appear to be effective at preparing students to read at grade level.

(2) A comprehensive plan to encourage parent involvement.

(3) A safe school plan designed to provide that the school is safe, secure, and orderly, that there is a climate of respect in the school, and that

appropriate personal conduct is a priority for all students and all residential school personnel. This plan shall include components similar to those listed in G.S. 115C-105.47(b).

(4) A plan that specifies the effective instructional practices and methods to be used to improve the academic performance of students identified as at risk of academic failure or at risk of dropping out of school.

(d) Support among affected staff members is essential to successful implementation of a school improvement plan to address improved student performance at that school. The ~~superintendent-principal~~ of the school shall present the proposed school improvement plan to all of the instructional personnel assigned to the school for their review and vote. The vote shall be by secret ballot. The ~~superintendent-principal~~ shall submit the school improvement plan to the Superintendent for presentation to the Secretary only if the proposed school improvement plan has the approval of a majority of the instructional personnel who voted on the plan.

(e) The Secretary shall accept or reject the school improvement plan. The Secretary shall not make any substantive changes in any school improvement plan that the Secretary accepts. If the Secretary rejects a school improvement plan, the Secretary shall state with specificity the reasons for rejecting the ~~plan;~~plan to the Superintendent to share with the principal; the school improvement team may then prepare another plan, present it to the instructional personnel assigned to the school for a vote, and submit it to the Superintendent for presentation to the Secretary to accept or reject. Within 60 days after the initial submission of the school improvement plan to the Secretary, the Secretary shall accept the plan or shall ~~designate a person to~~direct that the Superintendent work with the school improvement team to resolve the disagreements. If there is no resolution within 30 days, then the Secretary may develop a school improvement plan for the school; however, the General Assembly urges the Secretary to utilize the school's proposed school improvement plan to the maximum extent possible when developing this plan.

(f) A school improvement plan shall remain in effect for no more than three years; however, the school improvement team may amend the plan as often as is necessary or appropriate. If, at any time, any part of a school improvement plan becomes unlawful or the Secretary finds that a school improvement plan is impeding student performance at a school, the Secretary may vacate the relevant portion of the plan and may direct the school to revise that portion. The procedures set out in this section shall apply to amendments and revisions to school improvement plans.

(g) Any funds the Secretary makes available to a school to meet the goals for that school under the ABC's Program and to implement the school improvement plan at that school shall be used in accordance with those goals and the school improvement plan.

(h) The ~~Secretary, Superintendent,~~ in consultation with the State Board, shall develop a list of recommended strategies that it determines to be effective which building level committees may use to establish parent involvement programs designed to meet the specific needs of their schools.

(i) Once developed, the ~~Secretary-principal~~ shall ensure the plan is available and accessible to parents and the school community."

**SECTION 10.** G.S. 143B-146.15 reads as rewritten:

**"§ 143B-146.15. Duty to report certain acts to law enforcement.**

When the ~~superintendent-principal~~ has personal knowledge or actual notice from residential school personnel or other reliable source that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the law, or possession of a controlled substance in violation of the law, the ~~superintendent-principal~~ shall immediately report the act to the appropriate local law enforcement agency. Failure to report under this section is a Class 3 misdemeanor. For purposes of this section, "school property" shall include any building, bus, campus, grounds, recreational area, or athletic field, in the charge of the ~~superintendent-principal~~ or while the student is under the supervision of school personnel. It is the intent of the General Assembly that the ~~superintendent-principal~~ notify the Secretary or the ~~Secretary's designee~~ Superintendent of any report made to law enforcement under this section."

**SECTION 11.** This act becomes effective July 1, 2005.  
In the General Assembly read three times and ratified this the 7<sup>th</sup> day of July,  
2005.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 12:53 p.m. this 15<sup>th</sup> day of July, 2005