

§ 115C-333. Evaluation of licensed employees including certain superintendents; mandatory improvement plans; State board notification upon dismissal of employees.

(a) Annual Evaluations; Low-Performing Schools. – Local school administrative units shall evaluate at least once each year all licensed employees assigned to a school that has been identified as low-performing. The evaluation shall occur early enough during the school year to provide adequate time for the development and implementation of a mandatory improvement plan if one is recommended under subsection (b) of this section. If the employee is a teacher with career status as defined under G.S. 115C-325(a)(6), or a teacher as defined under G.S. 115C-325.1(6), either the principal, the assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-105.38 shall conduct the evaluation. If the employee is a school administrator as defined under G.S. 115C-287.1(a)(3), either the superintendent or the superintendent's designee shall conduct the evaluation.

All teachers in low-performing schools who have been employed for less than three consecutive years shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. For high schools with at least 1,500 students, the annual evaluation may be conducted by an assistant principal, provided that at least one evaluation in such a teacher's first three years of employment is conducted by a principal. All teachers in low-performing schools who have been licensed as a teacher for less than two years shall be observed at least three times annually by the principal or the principal's designee, at least once annually by a teacher, and at least once annually by a principal, and at least two of those observations shall be conducted in the first semester of the school year, and if practicable, at least one of those observations shall be conducted within the first grading period of the school year. This section shall not be construed to limit the duties and authority of an assistance team assigned to a low-performing school under G.S. 115C-105.38.

A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans. –

- (1) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.
- (1a) A mandatory improvement plan is an instrument designed to improve a teacher's performance or the performance of any licensed employee in a low-performing school by providing the individual with notice of specific performance areas that have substantial deficiencies and a set of strategies, including the specific support to be provided to the individual, so that the individual, within a reasonable period of time, should satisfactorily resolve such deficiencies.
- (2) Repealed by Session Laws 2011-348, s. 2, effective July 1, 2011, and applicable to persons recommended for dismissal or demotion on or after that date.
- (2a) If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance in an area that the licensed employee was expected to demonstrate, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a mandatory improvement plan designed to improve the

employee's performance, (ii) the superintendent recommend to the local board that if the employee is a career status teacher the employee be dismissed or demoted and if the employee is a teacher on contract the teacher's contract not be recommended for renewal, or (iii) if the employee engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment that a proceeding for immediate dismissal or demotion be instituted. If the individual or team that conducted the evaluation elects not to make any of the above recommendations, the said individual or team shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement plan, to not recommend renewal of the employee's contract, or to recommend a dismissal proceeding.

- (3) If at any time a licensed employee engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan.
- (4) Mandatory improvement plans shall be developed by the person who evaluated the licensed employee or the employee's supervisor unless the evaluation was conducted by an assistance team. If the evaluation was conducted by an assistance team, that team shall develop the mandatory improvement plan in collaboration with the employee's supervisor. Mandatory improvement plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The State Board shall develop guidelines that include strategies to assist local boards in evaluating licensed employees and developing effective mandatory improvement plans within the time allotted under this section. Local boards may adopt policies for the development and implementation of mandatory improvement plans and policies for the implementation of monitored and directed growth plans.

(c) **Reassessment of Employee in a Low-Performing School.** – After the expiration of the time period for the mandatory improvement plan under subdivision (2a) of subsection (b) of this section, the superintendent, the superintendent's designee, or the assistance team shall assess the performance of the employee of the low-performing school a second time. If the superintendent, superintendent's designee, or assistance team determines that the employee has failed to become proficient in any of the performance standards articulated in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent shall recommend that if the employee is a teacher with career status the teacher be dismissed or demoted under G.S. 115C-325, or if the employee is a teacher on contract the employee's contract not be renewed or if the employee has engaged in inappropriate conduct or performed inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, that the employee be immediately dismissed or demoted under G.S. 115C-325.4. The results of the second assessment shall constitute substantial evidence of the employee's inadequate performance.

(d) **State Board Notification.** – If a local board dismisses an employee of a low-performing school who is a teacher with career status for any reason except a reduction in force under G.S. 115C-325(e)(1)l., or dismisses an employee who is a teacher on contract for

cause or elects to not renew an employee's contract as a result of a superintendent's recommendation under subsection (b) or (c) of this section, it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those individuals. If a local board hires one of these individuals, within 60 days the superintendent or the superintendent's designee shall observe the employee, develop a mandatory improvement plan to assist the employee, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the employee receives a rating on any standard that was identified as an area of concern on the mandatory improvement plan that is again below proficient or otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board and the State Board shall initiate a proceeding to revoke the employee's license under G.S. 115C-270.35. If on this next evaluation the employee receives at least a proficient rating on all of the performance standards that were identified as areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the employee is in good standing and the State Board shall not continue to provide the individual's name to local boards under this subsection unless the employee is a teacher with career status and is subsequently dismissed under G.S. 115C-325 except for a reduction in force, or the employee is a teacher on contract subsequently dismissed under G.S. 115C-325.4.

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

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

- (1) One or more schools in a local school administrative unit that has no more than 10 schools.
- (2) Two or more schools in a local school administrative unit that has no more than 20 schools.
- (3) Three or more schools in a local school administrative unit that has more than 20 schools. (1998-5, s. 4; 1998-220, ss. 14, 15; 2011-348, s. 2; 2013-360, s. 9.7(i), (s); 2016-94, s. 8.32(h); 2016-126, 4th Ex., Sess., s. 21; 2017-157, ss. 2(n), 3(a); 2017-189, s. 6(e).)