

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 639

Short Title: Clarify Roles DPI/SBE Staff. (Public)

Sponsors: Representatives Saine, Jones, and D. Hall (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Appropriations, Education, if favorable, Rules, Calendar, and Operations of the House

April 10, 2019

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE SUPERINTENDENT OF PUBLIC INSTRUCTION'S ROLE AS THE ADMINISTRATIVE HEAD FOR THE STAFF OF THE DEPARTMENT OF PUBLIC INSTRUCTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-11 reads as rewritten:

"§ 115C-11. **Organization and internal procedures of Board.**

...

(i) Administrative Assistance. – The Superintendent of Public Instruction shall provide technical assistance and administrative assistance, including all personnel except as otherwise provided in subsection (j) of this section, assistance, administrative assistance, legal services, and personnel to the State Board of Education through the Department of Public Instruction. Instruction to support its operations, as needed.

(j) ~~Certain Personnel Appointed by the State Board.~~ The State Board may appoint only the following personnel positions to support the operations of the State Board of Education through the Department of Public Instruction:

Position number

Title

(1) 65023576

Attorney I.

(2) 60009384

Attorney II.

(3) 65003194

Paralegal II.

(4) 60095070

Administrative Assistant I."

SECTION 2. G.S. 115C-13.5 reads as rewritten:

"§ 115C-13.5. **Prohibition on use of State funds to employ private counsel in litigation.**

As provided in G.S. 114-2.3(d) and G.S. 147-17(c1), the State Board of Education shall not use any State funds to employ private counsel to provide litigation services to the State Board of Education. As used in this section, litigation services include legal work conducted in anticipation of or in preparation for any suit or action. As used in this section, private counsel includes any licensed attorney retained, engaged, or otherwise representing the State Board of Education but does not include a licensed attorney who holds a permanent budgeted position in either the Department of Justice or the ~~State Board of Education.~~ Department of Public Instruction."

SECTION 3. G.S. 115C-21(a) reads as rewritten:

"(a) Administrative Duties. – It shall be the duty of the Superintendent of Public Instruction:



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(1) To organize and establish a Department of Public Instruction which shall include divisions and departments for supervision and administration of the public school system, to administer the funds appropriated for the operation of the Department of Public Instruction, in accordance with all needed rules and regulations adopted by the State Board of Education, and to enter into contracts for the operations of the Department of Public Instruction. All appointments of administrative and supervisory personnel to the staff of the Department of Public Instruction and the State Board of Education, ~~except for certain personnel appointed by the State Board of Education as provided in G.S. 115C-11(j),~~ Education shall be under the control and management of the Superintendent of Public Instruction who may terminate these appointments in conformity with Chapter 126 of the General Statutes, the North Carolina Human Resources Act.

...
 (9) To have under his or her direction and control all matters relating to the provision of staff ~~services, except certain personnel appointed by the State Board as provided in G.S. 115C-11(j),~~ services and support of the State Board of Education, including implementation of federal programs on behalf of the State Board."

SECTION 4. Article 3 of Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-23. Powers and duties of the Superintendent related to legal services.

The Superintendent of Public Instruction, as an elected officer, Council of State member, and the administrative head of the Department of Public Instruction responsible for the day-to-day supervision and administration of the public school system, shall establish a general counsel division within the Department of Public Instruction to manage the entirety of legal affairs of the Department and to provide legal services, as needed, to support the operations of the State Board of Education."

SECTION 5. Section 7.18(b) of S.L. 2017-57 is repealed.

SECTION 6. The Department of Public Instruction shall eliminate the following positions:

<u>Position number</u>	<u>Title</u>
(1) 60009384	Attorney II.
(2) 60009394	Legislative and Community Affairs Director.

Of the two hundred seventy-six thousand one dollars (\$276,001) made available in the Department of Public Instruction's budget from the elimination of positions in accordance with this section, by July 1, 2019, the Superintendent of Public Instruction shall use up to one hundred fifteen thousand dollars (\$115,000) to establish a full-time equivalent position, including salaries and benefits, for a Rules Coordinator, who shall be responsible for oversight of all the duties and responsibilities of the State Board of Education and the Department of Public Instruction for administrative rule making and for meeting the requirements of Chapter 150B of the General Statutes.

SECTION 7. This act is effective when it becomes law.