

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**HOUSE BILL 1292
Committee Substitute Favorable 5/13/09
Senate Education/Higher Education Committee Substitute Adopted 8/5/09**

Short Title: Employment of Noncertified School Personnel.

(Public)

Sponsors:

Referred to:

April 9, 2009

A BILL TO BE ENTITLED
AN ACT TO AMEND THE LAW REGARDING THE DISMISSAL, DEMOTION, OR
SUSPENSION OF NONCERTIFIED SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-45(c) reads as rewritten:

"(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to the local board of education from any final administrative decision in the following matters:

- (1) The discipline of a student under G.S. 115C-391(c), (d), (d1), (d2), (d3), or (d4);
- (2) An alleged violation of a specified federal law, State law, State Board of Education policy, State rule, or local board policy, including policies regarding grade retention of students;
- (3) The terms or conditions of employment or employment status of a school employee; and
- (4) Any other decision that by statute specifically provides for a right of appeal to the local board of education and for which there is no other statutory appeal procedure.

As used in this subsection, the term "final administrative decision" means a decision of a school employee from which no further appeal to a school administrator is available.

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

In all appeals to the board it is the duty of the board of education to see that a proper notice is given to all parties concerned and that a record of the hearing is properly entered in the records of the board conducting the hearing.

The board of education may designate hearing panels composed of not less than two members of the board to hear and act upon such appeals in the name and on behalf of the board of education.

An appeal of right brought before a local board of education under subdivision (1), (2), (3), or (4) of this subsection may be further appealed to the superior court of the State on the grounds that the local board's decision is in violation of constitutional provisions, is in excess of the statutory authority or jurisdiction of the board, is made upon unlawful procedure, is affected by other error of law, is unsupported by substantial evidence in view of the entire record as



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1 submitted, or is arbitrary or capricious. However, the right of a noncertified employee to appeal
2 decisions of a local board under subdivision (3) of this subsection shall only apply to decisions
3 concerning the dismissal, demotion, or suspension without pay of the noncertified employee. A
4 ~~noncertified employee may request and shall be entitled to receive written notice as to the~~
5 ~~reasons for the employee's dismissal, demotion, or suspension without pay. The notice shall be~~
6 ~~provided to the employee prior to any local board of education hearing on the issue. In cases of~~
7 such disciplinary action, the noncertified employee shall, before the action is taken by the local
8 board of education, be furnished with a statement in writing setting forth in numerical order the
9 specific acts or omissions that are the reasons for the disciplinary action and the employee's
10 appeal rights. A noncertified employee shall have the right to representation by counsel at the
11 employee's expense at a local board of education hearing authorized by this subsection,
12 provided that the employee provide prior notice in accordance with the local board of
13 education's policy. This subsection shall not alter the employment status of a noncertified
14 employee."

15 **SECTION 2.** This act becomes effective October 1, 2009, and applies to
16 administrative decisions on or after that date.