
PITT COUNTY SCHOOLS

**BOARD
AGENDA**

PITT COUNTY BOARD OF EDUCATION
1717 WEST FIFTH STREET · GREENVILLE, NC 27834



October 24, 2016

Pitt County Board of Education
J.H. Rose High School
Media Center
October 24, 2016

The Pitt County Board of Education will hold a Special Called Meeting on Monday, October 24, 2016, at 4:15 p.m. in the Media Center, J. H. Rose High School. The following items have been placed on the Agenda:

Immediately following the Special Called Board Meeting, the Pitt County Board of Education will then hold a Board Work Session.

AGENDA

		Page
1. <u>Start of Meeting</u>		
A. Call to Order	Chairman Forrest	
2. <u>New Business</u>		
A. First Reading of the New 7000-B Policy Section	Cynthia Grady	1
3. <u>Closed Session</u>	Mary Blount Williams	85
4. <u>Additional Action Items or Announcements, if necessary</u>		
5. <u>Adjourn</u>	Chairman Forrest	

Please note: Since this is a Special Called Board Meeting there will be no Public or Board Member Comment

PITT COUNTY BOARD OF EDUCATION

DATE: October 24, 2016

TOPIC: First Reading of New Policy Section 7000-B

BACKGROUND:

Cynthia Grady, In-House Counsel, will be present to respond to any questions concerning the New Policy Section 7000-B. This will be the First Reading of this New Policy Section.

SUPERINTENDENT'S RECOMMENDATION:
No Board action is required

DRUG-FREE AND ALCOHOL-FREE WORKPLACE

Policy Code:

7240

The board of education recognizes that reducing drug and alcohol abuse in the workplace improves the safety, health, and productivity of employees. It is the policy of the board of education that a drug-free and alcohol-free workplace must be maintained.

A. PROHIBITED ACTIVITIES

The board prohibits employees from engaging in the unlawful manufacture, sale, distribution, dispensing, possession, or use of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, anabolic steroid, alcohol, stimulants, synthetic cannabinoids, counterfeit substance, or any other controlled substance as defined in (1) schedules I through VI of the North Carolina Controlled Substances Act or in (2) schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and further defined by regulation at 21 C.F.R. 1300.01 through 1300.04 and 21 C.F.R. 1308.11 through 1308.15. Employees must not be under the influence of alcohol or be impaired by the excessive use of prescription or nonprescription drugs at any time this policy is applicable. This policy is not violated by an individual's proper use of a drug lawfully prescribed for that individual by a licensed health-care provider.

B. APPLICABILITY

This policy governs each employee before, during, and after school hours while the employee is on any property owned or leased by the board of education; at any time during which the employee is acting in the course and scope of his or her employment with the board of education; and at any time that the employee's violation of this policy has a direct and adverse effect upon his or her job performance. This policy does not apply to an employee's consumption of alcoholic beverages that are served at a reception or other similar function that occurs outside the regular workday and that the employee is authorized or required to attend as a part of his or her employment duties.

C. REASONABLE SUSPICION TO SEARCH

An employee may be subjected to a search of his or her person or belongings or school property under the employee's control if there is reasonable suspicion that the employee has violated this policy. An employee also may be required to submit to a drug or alcohol test when there is reasonable suspicion of drug or alcohol use by the employee in violation of this policy. Reasonable suspicion shall be based on specific, contemporaneous observations concerning the physical, behavioral, speech, and/or performance indicators of drug or alcohol use. The observations must be made by a trained supervisor.

All drug and alcohol testing will be done with procedures that ensure the confidentiality and privacy interests of the employee and in accordance with law. Employees who

refuse to submit to a search or a test to detect alcohol or drug use after reasonable suspicion is established may be suspended immediately pending consideration of a decision to terminate employment.

In addition, any employee, volunteer, or independent contractor who operates a commercial motor vehicle in the course of duties for the board may be subject to drug testing in accordance with policy 7241, Drug and Alcohol Testing of Commercial Motor Vehicle Operators.

The board will cover the cost of any required employee testing.

D. DUTY TO REPORT

An employee must notify his or her supervisor in writing of any conviction under any criminal drug statute for a violation occurring within the scope of Section B of this policy. Notification must be given no later than the next scheduled business day after such conviction, in accordance with policy 7300, Staff Responsibilities. Within 10 days of receiving a notice of conviction by an employee whose position is funded in any part by a federal grant, the director of human resources or designee shall notify the funding agency of the conviction. "Conviction" as used in this policy includes the entry in a court of law or military tribunal of: (1) a plea of guilty, *nolo contendere*, no contest, or the equivalent; (2) a verdict or finding of guilty; or (3) a prayer for judgment continued ("PJC") or a deferred prosecution.

E. CONSEQUENCES

Violation of this policy will subject an individual to disciplinary action by the board of education that could result in non-renewal or termination of employment with the school system or the requirement that the employee participate satisfactorily in a drug or alcohol abuse assistance or rehabilitation program approved by the board of education or federal, state, or local health, law enforcement, or other appropriate agency. Information concerning available counseling, rehabilitation, and re-entry programs will be provided to employees.

F. PRE-EMPLOYMENT SCREENING

All other offers of employment will be contingent upon satisfactorily passing of a drug screening test. All applicants considered for employment will be requested to sign a consent release form authorizing the Pitt County Schools to have its designated clinic, hospital, or laboratory perform the drug screening test. Applicants refusing to sign the consent form or whose test results are an unjustified positive will not be considered for employment. Additionally, all re-hired employees who have a break in Pitt County Schools' service for more than 91 days are required to retake drug screening tests.

The cost of the pre-employment drug screening test will be borne by the applicant.

All employees shall ~~receive a copy~~ be made aware of this policy.

Legal References: 21 U.S.C. 812; 41 U.S.C. 701 *et seq.*; 21 C.F.R. 1300.01-.04 and 1308.11-1308.15; G.S. 20-138.2B; 90-89 to -94; 115C-36; *O'Connor v. Ortega*, 480 U.S. 709 (1987)

Cross References: Drug and Alcohol Testing of Commercial Motor Vehicle Operators (policy 7241), Staff Responsibilities (policy 7300)

Adopted:

PROHIBITION AGAINST RETALIATION

Policy Code: 1760/7280

Board members and employees are expected to be honest and ethical in the performance of their duties and to comply with applicable federal, state, and local laws, policies, and regulations. The board encourages employees to report possible financial improprieties, ethical violations, and other illegal practices and intends that employees who report such matters in good faith will not be subject to retaliation or other adverse employment consequences.

If an employee reasonably believes that (1) there has been a violation of federal, state, or local law, policy, or regulation, public policy, or an individual's ethical duties and (2) the violation is due to a practice, policy, act, or omission of the board of education, an individual board member, a school system employee, or an entity/person with whom the school system has a business relationship, the employee should report that matter to the superintendent or designee in accordance with policy 1750/7220, Grievance Procedure for Employees, or policy 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure. Any complaint report alleging a violation by the superintendent or the board should be filed with the board chair for investigation. The board chair will report the complaint to the board, and the board will authorize a prompt and thorough investigation or other action as necessary.

The board of education prohibits and will not tolerate any form of reprisal, retaliation, or discrimination against any employee who (1) in good faith, has made or intends to make a report of wrongdoing as described above in this policy; ~~that there has been a violation of federal, state, or local law, regulation, or public policy due to a practice, policy, act, or omission of the board of education, of a school system employee, or of an entity/person with whom the school system has a business relationship;~~ or (2) has refused to carry out a directive which may constitute a violation of federal, state, or local federal law, rule policy, or regulation, or poses a substantial or specific danger to public health and safety.

An employee who reasonably believes that they have been retaliated against in violation of this policy ~~any such violation exists~~ may file a grievance in accordance with policy 1750/7220, Grievance Procedure for Employees, or a complaint in accordance with policy 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure.

To be protected by this policy, employees who report violations or suspected violations must be acting in good faith based on a reasonable belief that the reported information represents an unlawful activity, policy, or practice. The protection extends to those whose allegations are made in good faith but prove to be mistaken. The board reserves the right to discipline employees who know or have reason to believe that the report is inaccurate. Further, except as otherwise required by law, the provisions of this policy apply only to those situations in which an employee brings the alleged unlawful activity, policy, or practice to the attention of school officials or the board and provides school officials or the board with a reasonable opportunity to investigate and correct the alleged unlawful activity. If necessary, school officials or the board may specify reasonable steps to protect the complaining employee from retaliation.

Each employee will be made aware of this policy and each new employee will receive a copy of

~~this policy and~~ sign a statement verifying his or her receipt and understanding of this policy.

Legal References: Sarbanes-Oxley Act, 18 U.S.C. 1513(e); G.S. 115C-335.5; 126-5(c5), -84, -85, -86, -87, -88

Cross References: Discrimination, Harassment, and Bullying Complaint Procedure (policy 1720/4015/7225), Grievance Procedure for Employees (policy 1750/7220), [Code of Ethics for School Board Members \(policy 2120\)](#), [Board Member Conflict of Interest \(policy 2121\)](#), [Ethics and the Purchasing Function \(policy 6401\)](#), [Staff Responsibilities \(policy 7300\)](#), [Employee Conflict of Interest \(policy 7730\)](#)

Adopted: September 21, 2015

Revised:

SUBSTITUTE TEACHERS

Policy Code:

7430

A. GENERAL EMPLOYMENT OF SUBSTITUTES

The school system will employ substitute teachers as deemed appropriate by the administration and in accordance with State Board policies. The board recognizes the importance of employing licensed teachers as substitutes and highly recommends the use of licensed teachers in long-term (more than 10 days) substitute positions will give first priority to substitutes who hold or have held any teaching license and second priority to those who have completed Effective Teacher Training or comparable professional development courses. Successful completion of thirty-two (32) college semester hours one year of college credit is required of all substitute teachers. Teaching experience also will be considered. Retired teachers of the Pitt County School System who apply for substitute work and who were successful while they were active will automatically be placed on the substitute list.

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A criminal history check will be conducted on applicants for substitute teaching positions in accordance with policy 7100, Recruitment and Selection of Personnel, and administrative procedures.

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New non-licensed substitute teachers are required to attend a staff development workshop within their first year to remain an active substitute teacher. All substitutes will be evaluated annually as indicated in the Substitute Handbook.

Hours of work may be determined and/or limited based on the guidelines of the Affordable Care Act.

B. TEACHER ASSISTANTS AS SUBSTITUTES

A teacher assistant may serve as a substitute teacher in the classroom(s) in which the assistant is regularly assigned and will be paid additional compensation according to state policies.

C. PARENTAL NOTIFICATION

In accordance with policy 1320/3560, Title I Parent Involvement, school principals shall notify the parent of any child who receives instruction in a core academic subject for four or more consecutive weeks from a substitute teacher who does not meet the definition of "highly qualified" under the No Child Left Behind Act.

Legal References: No Child Left Behind Act, 20 U.S.C 6311(h)(6)(B)(ii); G.S. 115C-12, -36, -47, -332; 16 N.C.A.C. 6C .0313, 16 N.C.A.C. 6C .0403; State Board of Education Policy TCP-A-001, TCP-D-005

Cross References: Title I Parent Involvement (policy 1320/3560), Recruitment and Selection of

Personnel (policy 7100)

Adopted:

A. WORK SCHEDULES

Conformity to a definite minimum schedule is required for all licensed and professional personnel. The length of the school day for licensed and professional staff will be a minimum of seven hours and thirty minutes and will continue until professional responsibilities to the student and school are completed. Administrative meetings, curriculum development, pupil supervision, assigned duties, parent conferences, group or individual planning, and extracurricular activities may require hours beyond the stated minimum. The work day schedule will be identified and posted in each school.

Hours of work and schedule for teacher assistants will be determined by the board on an annual basis, based upon program needs and availability of funds and may be determined and/or limited based on the guidelines of the Affordable Care Act. Work schedules for other employees will be defined by the superintendent or designee, consistent with the Fair Labor Standards Act and the provisions of this policy.

B. WORKWEEK DEFINED

Working hours for all employees not exempted under the Fair Labor Standards Act (FLSA), including secretarial, cafeteria, janitorial, and maintenance personnel, will conform to federal and state regulations. The superintendent shall ensure that job positions are classified as exempt or non-exempt and that employees are made aware of such classifications. Supervisors shall make every effort to avoid circumstances that require non-exempt employees to work more than 40 hours each week. For purposes of FLSA Compliance, the workweek for school system employees will be 12:00 a.m. Saturday Monday until 11:59 p.m. Friday Sunday. A copy of the FLSA and any administrative procedures established by the superintendent will be available to employees in the human resources office.

C. OVERTIME AND COMPENSATORY TIME

The board of education discourages overtime work by non-exempt employees. A non-exempt employee may not work overtime without the express approval of his or her supervisor. All overtime work must be approved by the superintendent or designee. All supervisory personnel shall monitor overtime use on a weekly basis and report such use to the superintendent or designee. Principals and supervisors shall monitor employees' work, shall ensure that overtime provisions of this policy and the FLSA are followed, and shall ensure that all employees are compensated for any overtime worked. Principals or supervisors may need to adjust daily schedules to prevent non-exempt employees from working more than 40 hours in a workweek.

Employees shall maintain accurate daily records of their hours worked on forms provided by the school system. Any employee who falsifies work records will be subject to

disciplinary action up to and including dismissal. Accurate and complete timesheets of actual hours worked during the workweek must be signed by each employee and submitted to the finance ~~officer~~department. The finance ~~officer~~department and employee supervisors shall review work records of employees on a regular basis to make an assessment of overtime use.

In lieu of overtime compensation, non-exempt employees may receive compensatory time off at a rate of not less than one and one-half hours for each one hour of overtime worked, if such compensatory time (1) is agreed to by the employee before the overtime work is performed and (2) is authorized by the immediate supervisor. Employees must be allowed to use compensatory time within a reasonable period after requesting such use (see policy 7510, Leave). Employees may accrue a maximum of 240 compensatory time hours before they must be provided overtime pay at the appropriate rate. In addition, upon leaving the school system, an employee must be paid for any unused compensatory time at the rate of not less than the higher of (1) the average regular rate received by the employee during his or her last three years of employment or (2) the final regular rate received by the employee.

Non-exempt employees whose workweek is less than 40 hours will be paid at the regular rate of pay for time worked up to 40 hours. Such employees will be provided overtime pay or compensatory time as provided above for working more than 40 hours in a workweek.

Employees will be made aware ~~provided a copy~~ of this policy and each new employee will be required to sign this policy to acknowledge their understanding of overtime and compensatory time provisions. Such signed policy will constitute the agreement required in this section.

D. ATTENDANCE EXPECTATIONS

All employees are expected to be present during all working hours. Absence without prior approval, chronic absences, habitual tardiness, or abuses of designated working hours are all considered neglect of duty and will result in disciplinary action up to and including dismissal.

Legal References: The Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201, *et seq.*; G.S. 115C-47(18), -288, -307; *North Carolina Public School Personnel Employee Salary and Benefits Manual* (most current version), North Carolina Department of Public Instruction, Division of School Business, available at <http://www.ncpublicschools.org/fbs/finance/salary/>

Cross References: Leave (policy 7510)

Adopted:

COMPLIANCE WITH STATE BOARD OF EDUCATION EMPLOYMENT POLICIES

Policy Code:

7505

It is the policy of the board to comply with the benefits and employment policies promulgated by the State Board of Education or the Department of Public Instruction in the most current edition of the *North Carolina Public Schools Benefits and Employment Policy Manual*, as supplemented by any applicable local board policy.

In the event that changes to State or federal law or regulation conflict with current State Board or local board policies, the board intends that its benefits and employment policies be modified to the extent necessary to comply with current law until such time as conforming changes to State Board and/or local board policies are made.

Legal References: *North Carolina Public Schools Benefits and Employment Policy Manual* (N.C. Dept. of Public Instruction, current version), available at <http://www.ncpublicschools.org/district-humanresources/key-information>

Cross References: Specific Employment Relationships Policies (7400 series), Workday and Absences Policies (7500 series)

Adopted:

LEAVE

Policy Code:

7510

The board of education believes that it is important for employees to have leave available to attend to personal, civic, and professional matters as well as to meet family commitments. This need for leave is to be balanced with the need to provide an effective instructional program for students. No employee may be discharged, demoted, or otherwise subjected to adverse employment action for taking leave in accordance with board policies and administrative procedures.

All requests for leave, with or without pay, must be addressed in accordance with state and federal law, as well as policies promulgated by the State Board of Education, including those specified in the most current edition of the *North Carolina Public Schools Benefits and Employment Policy Manual*, available at <http://www.ncpublicschools.org/district-humanresources/key-information>.

In addition to applicable laws and regulations, the following board policies apply to leave requests. The superintendent is directed to develop administrative procedures and make them available to any employee upon request.

A. MINIMUM LEAVE TIME

An employee may take any type of leave in increments of hours unless otherwise specified in this policy.

B. CONTINUOUS LEAVE OF MORE THAN 10 DAYS

An employee must comply with the notice and verification requirements provided in policy 7520, Family and Medical Leave, for continuous leave of more than 10 days if: (1) the leave also is eligible for leave under the Family and Medical Leave Act (FMLA), defined in policy 7520, and (2) the leave is designated as FMLA-eligible at the time it is taken or as soon as is feasible thereafter.

C. SICK LEAVE

The superintendent or designee may require a statement from a medical doctor or other acceptable proof that the employee was unable to work due to illness. Employees who anticipate using sick leave for more than a single day must inform the principal or immediate supervisor in advance so that arrangements may be made to reassign the employee's duties during the period of absence. See Section 4.1.2 of the *North Carolina Public Schools Benefits and Employment Policy Manual* for other permitted uses of sick leave.

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D. PERSONAL LEAVE

Teachers earn personal leave at a rate of .20 days for each full month of employment, not

to exceed two days per year. Unused personal leave may be carried forward from one year to another and may be accumulated without limitation until June 30 of each year. On June 30, personal leave in excess of five days shall be converted to sick leave so that a maximum of five days of personal leave is carried forward to July 1. At the time of his or her retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement.

Personal leave must be used in half or whole day units. Personal leave may be requested by application in accordance with the policies of the State Board of Education and may be used only upon the authorization of the teacher's immediate supervisor. A teacher shall not take personal leave on the first day he or she is required to report for the school year, on a required teacher workday, on days scheduled for state testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal. On all other days, if the request is made at least five days in advance, the request will be automatically granted subject to the availability of a substitute teacher. The teacher cannot be required to provide a reason for the request.

E. VACATION LEAVE

The superintendent or designee has the authority to approve the vacation schedules of all personnel. To promote the efficient operation of the schools, the superintendent may designate certain periods during the nonacademic year as preferred vacation periods for 12-month employees. Vacation earned by 12-month teachers during the two months of "extended employment" may be taken only upon the authorization of the employee's immediate supervisor and in accordance with procedures established by the superintendent. Vacation earned by teachers and other 10-month employees during the 10-month school-year employment may be taken as outlined in the school-year calendar. If a teacher schedules vacation leave in accordance with the school calendar, the board and/or principal must give the teacher at least 14 calendar days' notice before requiring the teacher to work on the scheduled day(s), unless the teacher waives the notice requirement.

Annual vacation leave may be accumulated without any applicable maximum until June 30 of each calendar year. On June 30, accumulated annual vacation leave in excess of 30 days will be converted to sick leave so that only 30 workdays of annual vacation leave are carried forward.

An employee who has unused vacation time from another school system in North Carolina may have the vacation time transferred to this school system.

Instructional personnel who must be replaced by a substitute may not take earned vacation on days when school is in session for students unless the employee's absence is due to the employee's own catastrophic illness and the employee has exhausted all of his or her sick leave or unless the employee qualifies as a new parent. In such instances, the employee will not be required to pay the substitute.

Within any given year, instructional personnel who do not require a substitute may be granted a maximum of five vacation days when students are in attendance. Such days may not be consecutive. Leave will not be granted for days immediately before or immediately following days when students are out of school. Leave will not be granted on mandatory staff development days. An exception to these restrictions may be made when an employee is absent due to a catastrophic illness and the employee has exhausted all of his or her sick leave.

The superintendent shall establish procedures for reviewing requests for the use of vacation leave for catastrophic illness by instructional personnel.

F. CHILD-SCHOOL INVOLVEMENT LEAVE

Any full-time or permanent part-time employee working four or more hours per day may take up to eight hours (or a pro rata share for part-time for employees) of paid leave per year in increments of not less than one hour to attend or otherwise be involved in the school of a child for whom the employee is a parent, guardian, or person standing in loco parentis. Leave not taken in a fiscal year will be forfeited. The employee is not entitled to any payment for this leave upon separation.

All other employees may take up to four hours of unpaid leave per year to attend or otherwise be involved in the school of a child for whom the employee is a parent, guardian, or person standing in loco parentis.

G. JURY DUTY

When absent from work to serve on jury duty, employees shall receive their full pay. Employees will also be entitled to the pay awarded to jurors.

G.H. COMPENSATORY LEAVE

Because professional employees are expected to fulfill all job duties, compensatory leave should apply only in extraordinary circumstances.

Employees who are not exempt from the provisions of the Fair Labor Standards Act may accrue compensatory time (comp time) at a rate of one and one-half hours for every one hour worked in lieu of receiving overtime pay for each hour worked beyond 40 in a given workweek. For the purpose of compliance with the Fair Labor Standards Act, the workweek for school system employees will be from 12:00 a.m. ~~Saturday~~ Monday until 11:59 p.m. ~~Friday~~ Sunday. Supervisors shall arrange for employees to take comp time within one pay period following the time it is earned, if possible. The superintendent or designee may exempt certain employees or categories of employees from this comp time provision when deemed necessary for the proper administration of the school system.

An employee must obtain approval from his or her immediate supervisor before taking compensatory leave.

H.I. MILITARY LEAVE

Employees may take up to 15 workdays of paid military leave during the federal fiscal year, which runs from October 1 through September 30. Paid military leave may be used for: (1) active duty training in the Reserve Components of the U.S. Armed Forces, including the National Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, and the Coast Guard Reserve; (2) required physical examinations relating to membership in a reserve component; and (3) regularly scheduled unit assemblies, also referred to as drills. For infrequent special activities in the interest of the state when authorized by the Governor or designee, members of the National Guard may be paid for up to 30 days in addition to the 15 days allowed for training.

H.J. LEAVE OF ABSENCE WITHOUT PAY

An employee may be granted a leave of absence without pay for the following reasons and for a period of time of up to one calendar year, renewable at the discretion of the superintendent with approval from the board:

1. military leave (see also policies 7520, Family and Medical Leave, and 7530, Military Leave);
2. personal illness in excess of sick leave;
3. family leave (see also policy 7520);
4. professional leave; and
5. other reasons at the discretion of the superintendent with the approval of the board.

An employee seeking leave is responsible for making necessary arrangements as provided ~~herein, in the administrative procedures.~~ Except in the case of an emergency, an employee who desires a leave of absence without pay shall provide at least 60 days' notice and shall submit a request in writing to the ~~board~~ **superintendent or designee** stating the beginning and ending dates of the desired leave of absence. The employee is expected to consult with the principal or his or her immediate supervisor. The superintendent may request documentation from the employee in support of his or her request. In determining the length of absence without pay that will be approved, with the exception of military and family leave, due and proper consideration must be given to the welfare of the students as well as the employee. The superintendent ~~or designee~~ may require the employee to give notice of his or her intent to return to work at reasonable time intervals during the leave.

Once a leave of absence without pay has been requested by an employee and approved ~~by the board~~, the dates are binding unless both parties agree to a change.

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Legal References: G.S. 95-28.3; 115C-12, -36, -47, -84.2, -285, -302.1, -316, -336, -336.1; 16 N.C.A.C. 6C .0405; State Board of Education Policy TCP-D-003, *North Carolina Public Schools Benefits and Employment Policy Manual* (N.C. Dept. of Public Instruction, current version), available at <http://www.ncpublicschools.org/district-humanresources/key-information>

Cross References: Family and Medical Leave (policy 7520), Military Leave (policy 7530), Voluntary Shared Leave (policy 7540), Absences Due to Inclement Weather (policy 7550)

Adopted:

All eligible employees will be provided leave as required by the federal Family and Medical Leave Act of 1993 (FMLA), as amended, and applicable state laws and State Board of Education policies. The FMLA allows eligible employees to take job-protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of 12 workweeks (or 26 workweeks in certain cases) in any 12-month period for certain qualifying conditions or events. The employee may continue to participate in the school system's group insurance plan while on FMLA leave.

This policy is intended for guidance only and is not intended to alter or expand the school system's responsibilities beyond the requirements of law. If any provision of this policy is inconsistent with federal law or regulation, the federal rule must take precedence. The superintendent is authorized to develop additional regulations for FMLA leave consistent with the requirements of the law and this policy. Employees can find more information about FMLA leave in the North Carolina Public Schools *Benefits and Employment Policy Manual*.

The board strictly prohibits interfering with, restraining or denying the ability of any employee to exercise any right provided by the FMLA. The board also strictly prohibits any type of discrimination against or discharge of an employee who has filed a complaint in regard to the FMLA. A copy of this policy will be provided to each employee upon hiring.

A. DEFINITIONS

1. Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities.

2. Continuing Treatment

Subject to certain conditions, the continuing treatment requirement in the above definition of "serious health condition" may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment or incapacity due to pregnancy or a chronic condition. Other conditions may meet the definition of continuing treatment.

3. Other Terms

Unless otherwise noted, all terms in this policy must be defined in accordance with 29 C.F.R. pt. 825.

B. ELIGIBILITY

Generally, employees are eligible for unpaid FMLA leave if they have:

1. been employed by the school system for at least 12 months (not necessarily consecutively); and
2. worked at least 1,250 hours during the previous 12 months.

Further information about these requirements can be found in the Code of Federal Regulations at 29 C.F.R. 825.110.

C. QUALIFYING CONDITIONS

Except in cases of leave to care for a covered servicemember with a serious illness or injury, an eligible employee is entitled to a total of 12 workweeks of FMLA leave during any 12-month period for any one or more of the following reasons:

1. the birth and first-year care of the employee's child;
2. adoption or foster placement of a child with the employee;
3. a serious health condition of the employee or the employee's spouse, child, or parent;
4. a qualifying exigency (see Section F) arising out of the fact that the spouse or a son, daughter, or parent of the employee has been deployed, or is on notice of an impending deployment to a foreign country as a member of the regular Armed Forces on active duty or as a member of the Reserve components of the Armed Forces under a federal call or order to active duty in support of a contingency operation; or
5. to care for a covered servicemember with a serious illness or injury ("covered servicemember" and "serious injury or illness" are defined in federal regulation 29 C.F.R. 825.127). An employee who is a spouse, son, daughter, parent, or next of kin of the servicemember may take leave for a period of up to 26 workweeks under this provision.

D. DETERMINING THE 12-MONTH LEAVE PERIOD

The 12-month period during which an employee is eligible for FMLA leave will be from July 1 to June 30. Exception: The period for leave to care for a covered servicemember with a serious injury or illness begins on the first day the employee takes leave for this reason and ends 12 months later.

E. ENTITLEMENT TO LEAVE

Eligible employees may take leave as follows:

1. **Medical leave for serious health conditions:** A combined total of 12 workweeks during a 12-month period. The leave may be taken intermittently or on a reduced leave schedule as is medically necessary.
2. **Family leave for pregnancy, birth of a child or placement of a child for foster care or adoption:** A combined total of 12 consecutive workweeks during a 12-month period. Eligibility for FMLA leave expires 12 months from the birth, foster care placement, or adoption of the child. Leave must be used in a single block of time unless the board agrees to another arrangement.
3. **Military service exigency:** A combined total of 12 workweeks during a 12-month period. The leave may be taken intermittently or on a reduced leave schedule.
4. **Leave to care for injured servicemember:** A combined total of no more than 26 workweeks during a single 12-month period. The leave may be taken intermittently or on a reduced leave schedule. If combined with other types of FMLA leave, the total leave taken in a single 12-month period still may not exceed 26 weeks.
5. **Spouses employed by the school system:** Spouses who are both employed by the school system and eligible for FMLA leave are limited in the amount of family leave they may take for the birth and care of a newborn child, for the placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 weeks (or 26 weeks if leave to care for a covered servicemember with a serious injury or illness is also used).

F. QUALIFIED MILITARY SERVICE EXIGENCIES

A military service exigency that qualifies for FMLA leave must be defined in accordance with federal regulations. Qualified exigencies may include:

1. short-notice deployment;
2. military events and related activities;
3. school and childcare activities;
4. financial and legal arrangements;
5. counseling;

6. rest and recuperation leave;
7. post-deployment activities;
8. parental care; and
9. additional activities agreed upon by the board and employee.

G. INTERMITTENT OR REDUCED WORK SCHEDULE

1. An employee may take FMLA leave on an intermittent or reduced leave schedule as required for the health of the employee or family member, due to a qualifying exigency, or as otherwise approved by the superintendent. The employee must make a reasonable effort to schedule treatment so as not to disrupt unduly the operations of the school. Whenever possible, the employee should discuss scheduling with his or her immediate supervisor prior to scheduling any medical treatment in order to accommodate the work schedule.
2. An employee who requests intermittent or reduced leave time for medical treatment of a serious health condition may be required to give the reasons for the intermittent or reduced leave schedule and the schedule for treatment.
3. To better accommodate an employee's need for intermittent or reduced leave for a serious health condition, the school system may require an employee to take an alternative position during the period of leave. The alternative position must have equal pay and benefits, but it does not have to have equivalent duties.
4. Employees may take intermittent leave in increments of one hour.
5. Instructional personnel are subject to special rules for taking intermittent or reduced leave. (See Section H.)

H. INSTRUCTIONAL PERSONNEL

The following special rules apply to instructional personnel only. For the purposes of this policy, instructional personnel are teachers, athletic coaches, driving instructors, special education assistants and any other employees whose principal function is to teach and instruct students.

1. Use of Intermittent or Reduced Schedule Leave
 - a. Instructional employees may use intermittent or reduced schedule leave only when the employee and the school system have reached an agreement on how the leave will be used.

- b. If an instructional employee requests intermittent or reduced schedule leave for more than 20 percent of the workdays of the duration of a leave due to medical treatment, the school system may require the employee to take continuous leave for up to the entire duration of the scheduled leave or to transfer to an alternative position with equivalent pay and benefits for the period of leave.
- c. Instructional employees who take intermittent or reduced schedule leave that constitutes 20 percent or less of the workdays during the leave period are not subject to transfer to an alternative position.

2. Extension of FMLA Leave at School System Discretion

The school system may require instructional personnel to continue leave through the end of the school semester if any of the following conditions exist:

- a. the leave will begin more than five weeks before the end of the term; the leave will last at least three weeks; and the employee would return to work in the last three weeks of the academic term;
- b. the leave is for a purpose other than the employee's own serious health condition or for a military exigency; the leave will begin in the last five weeks of the term; the leave will last more than two weeks; and the employee would return to work during the last two weeks of the academic term; or
- c. the leave is for a purpose other than the employee's own serious health condition or for a military exigency; the leave will begin in the last three weeks of the term; and the leave will last at least five days.

If the school system requires an instructional employee to take leave until the end of the academic term, only the period of leave until the employee is ready and able to return to work will be charged against the employee's FMLA entitlement.

I. EMPLOYEE'S RESPONSIBILITY WHEN REQUESTING LEAVE

To ensure that employees receive proper notification of their rights and responsibilities and that leave is properly designated, all employees requesting any type of leave must make the request to the assistant superintendent of human resources or designee.

- 1. Employee's Responsibilities When Leave is Foreseeable
 - a. The employee must provide 30 days' advance notice of the need to take FMLA leave when the need is foreseeable. If this amount of notice is not possible, then notice must be given as soon as practicable, taking into account all of the facts and circumstances.

- b. The employee must provide sufficient information for the school system reasonably to determine (1) whether the FMLA may apply to the leave request and (2) the anticipated timing and duration of the leave. This information would include, for example, notice that the employee is unable to perform job functions, notice that the family member is unable to perform daily activities, notice of the need for hospitalization, or continuing treatment by a health care provider or notice of circumstances supporting the need for military family leave.
 - c. If the employee does not provide 30 days' notice and there is no reasonable justification for the delay, the school system may delay the FMLA leave until at least 30 days after the employee provides notice of the need for FMLA leave.
 - d. If an instructional employee fails to give the required notice of foreseeable leave for an intermittent or reduced leave schedule, the school system may require the employee to take continuous leave for the duration of his or her treatment or may temporarily transfer the employee to an alternative position for which the employee is qualified and that has the same benefits. (See Section H.)
2. Employee's Responsibilities When Leave is Not Foreseeable
- a. When leave is not foreseeable, the employee must comply with the usual school system procedures for notifying his or her supervisor of the absence and requesting leave, including any applicable requirements established by policy 7510, Leave. If the employee fails to do so, the leave may be delayed or denied.
 - b. When giving notice of an absence, the employee must inform the supervisor if the requested leave is for a reason for which FMLA leave was previously taken or certified.
 - c. The employee also must notify the assistant superintendent of human resources or designee of the need for FMLA leave as soon as practicable.
 - d. All employee responsibilities in the FMLA for notice, medical certification, fitness for duty certification and notice of intent to return to work apply as specified in this policy and policy 7510.

J. SCHOOL SYSTEM'S DESIGNATION AND NOTICE TO EMPLOYEE

1. Whether or not the employee specifically requests FMLA leave, the assistant superintendent of human resources or designee is responsible for asking any questions of the employee necessary to make a determination of whether the leave

is FMLA-eligible, unless the employee has already requested and received FMLA leave or certification for the same condition or event. The assistant superintendent may require the employee to provide notice of the need and the reason for leave.

2. The assistant superintendent for human resources or designee shall provide all legally-required notices to the employee within five days of receiving this information or otherwise learning that an employee's leave may be for an FMLA-qualifying reason, unless there is a justifiable delay, such as a delay for documentation.

The required notices must indicate whether the employee is eligible under the FMLA. If the employee is eligible, the notice must specify any additional information required from the employee and must explain the employee's rights and responsibilities under the FMLA. If the employee is not eligible, the notice must provide a reason for the ineligibility. The required notices also must state whether the leave will be designated as FMLA-protected and, if so, the amount of leave that will be counted against the employee's leave entitlement.

3. Leave may be designated as both FMLA-eligible and as leave under the school system's paid leave policy if paid leave has been substituted. Such leave would be counted toward the employee's 12-week FMLA entitlement. In addition, the assistant superintendent of human resources may designate an absence (taken as paid or unpaid leave) that meets the criteria for an FMLA-qualifying absence as part of the employee's total FMLA entitlement, whether or not the employee has requested FMLA leave. (See Section M.)
4. Leave that has been taken for an FMLA-qualifying reason may be retroactively designated as FMLA leave with appropriate notice to the employee, provided that such designation does not cause harm or injury to the employee.

K. CERTIFICATION

The school system reserves the right to require employees to provide certification of any FMLA-qualifying event or condition of the employee or the employee's spouse, child, parent or next of kin, including certification for military exigency leave. The school system will not request more medical certification information than that allowed by the FMLA and the Americans with Disabilities Act. The assistant superintendent may request a second or third opinion at the school system's expense if reason to doubt the validity of a medical certification exists. The school system may require periodic recertification to support the leave, as permitted by law.

L. RETURN TO WORK

The school system may require an employee to periodically report on his or her status and intent to return to work. Any employee who is taking leave through the end of an

academic semester must report on his or her intent to return to work no later than four weeks before the end of the academic semester. In addition, the school system may require the employee to report on his or her intent to return to work on a regular basis while on FMLA leave.

Before an employee returns to work from FMLA leave taken for the employee's own serious health condition, the employee must present a "fitness-for-duty" certification that states that the employee is able to return to work. This requirement does not apply to an employee taking intermittent leave unless the employee's condition presents a reasonable safety concern.

M. SUBSTITUTION OF PAID LEAVE

1. The school system will substitute appropriate paid leave, including sick leave, personal leave, and vacation time for unpaid, FMLA leave to the extent allowed by law and policy, giving proper notice to the employee that the leave is designated as FMLA. If an employee has exhausted his or her accrued paid leave but an FMLA-qualifying reason for absence continues, the school system will designate resulting absences as protected FMLA leave until the employee has used all allowable FMLA leave. Such absences will be unpaid.
2. When an employee has an absence (taken as paid or unpaid leave) that meets the criteria for an FMLA-qualified absence, the school system may, with proper notice to the employee, designate the absence as part of the employee's total annual FMLA entitlement. If the absence continues for more than 10 days, all employee responsibilities in the FMLA to provide notice for foreseeable and unforeseeable leave, medical certification, fitness for duty certification and notice of intent to return to work apply as specified in this policy and policy 7510.
3. An employee must not be permitted to exhaust paid leave before beginning FMLA leave if it has been determined that the employee's reason for using paid leave meets the FMLA eligibility requirements.

N. RESTORATION TO EQUIVALENT POSITION

1. Generally

Employees, except "key" employees, will be restored to the same or an equivalent position upon return from FMLA leave.

The equivalent position will have virtually identical pay, benefits, and working conditions, including privileges, perquisites, and status, as the position the employee held prior to the leave. The position also must involve substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority. All positions within the same job classification are considered "equivalent positions" for the purposes of this policy,

so long as these conditions are met. For licensed employees, all positions with the same salary and licensure requirements also will be considered equivalent positions, so long as these conditions are met.

2. Key Employees

Key employees do not have the right to be restored to the same or an equivalent position upon their return from FMLA leave. Key employees are salaried FMLA-eligible employees who are among the highest paid 10 percent of all employees. If restoring a key employee would result in substantial and grievous economic injury to the school system, then the school system has no obligation to restore the employee to the same or an equivalent position.

An employee will be informed at the time leave is taken if he or she is considered a key employee and will be informed once a determination is made that the employee will not be restored to the same or an equivalent position upon return from FMLA leave. A key employee who has been informed that he or she will not be restored still has the right to health benefits for the full period in which he or she is eligible for FMLA leave.

O. CONTINUATION OF HEALTH BENEFITS

Health care coverage and benefits will be continued for the duration of an employee's FMLA leave on the same conditions as would have been provided if the employee had continued working. Employees do not have the right to the accrual of earned benefits during FMLA leave. If an employee takes intermittent or reduced leave, he or she has the right to maintain the same health care benefits, but earned benefits may be reduced in proportion to hours worked when such a reduction is normally based upon hours worked.

The school system may recover from the employee the cost of health insurance premiums paid on behalf of the employee while the employee was on unpaid FMLA leave if the employee does not return to work after the leave, so long as the reason for not returning does not relate to a serious health condition or to circumstances beyond his or her control.

P. POSTING REQUIREMENT

The superintendent or designee shall ensure that notices of FMLA provisions and information on procedures for filing complaints are posted in places that are readily accessible to employees and applicants.

Q. RECORDKEEPING REQUIREMENT

The human resources department will maintain records of the following information for at least three years: basic payroll and identifying employee data, the dates (or hours) of FMLA leave taken by each employee, and premium payments of employee benefits.

Medical information, such as that relating to medical certifications, also will be maintained in the human resources department in confidential medical records.

The assistant superintendent shall maintain for at least three years copies of employee notices, including general and specific notices, any other documents describing employee benefits or policies and records of disputes between the school system, and any employee regarding designation of FMLA leave.

R. ENFORCEMENT

An employee may file a complaint with the U.S. Department of Labor or bring a private lawsuit against the school system for violations of the FMLA.

FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law that provides greater family or medical leave rights.

S. OUTSIDE EMPLOYMENT/FALSIFICATION OF RECORDS

The school system may deny FMLA benefits to an employee who engages in self-employment or employment for any employer while on continuous leave if the employee fraudulently obtained FMLA leave. Falsification of records and failure to correct records known to be false are violations of this policy and will result in discipline, which may include termination from employment.

Legal References: Americans With Disabilities Act, 42 U.S.C. 12101 *et seq.*; Family and Medical Leave Act of 1993, as amended, 29 U.S.C. 2601 *et seq.*; 29 C.F.R. pt. 825; National Defense Authorization Act for 2008, Pub. L. 110-181 sec. 585; *North Carolina Public Schools Benefits and Employment Policy Manual*, N.C. Department of Public Instruction (current version)

Cross References: Leave (policy 7510)

Adopted:

An employee will be eligible for all considerations of military leave in accordance with State Board of Education policy and the federal Uniformed Services Employment and Reemployment Rights Act (USERRA).

Employees are encouraged to schedule short periods of required active duty during vacation periods so as not to interfere with regular duties of the individual's employment. If an employee is going to be absent due to military obligations, the employee must provide to the superintendent advance written or oral notice, except in cases of emergency assignment or other conditions that make notice impossible or unreasonable. For leave periods exceeding 30 days, the employee must also either provide written documentation evidencing performance of military duty or identify the military command in order for the school system to verify the request.

In accordance with State Board of Education policy, an employee may take up to 15 workdays of paid military leave per federal fiscal year, which runs from October 1 through September 30. After an employee has used all of his or her paid military leave, the employee may choose to use any accumulated vacation leave, bonus leave, or comp time during the period of military service; however, no employee will be forced to use such paid leave during military service. Employees may take extended leaves of absence for state or federal military duty under honorable services status, for required training, or for special emergency management. During these extended military leaves, which must not exceed five years plus any period of additional service imposed by law, the employee will be paid the difference in military base pay and state salary, including non-performance-based bonuses, when the military pay is less than the state salary. Differential pay will be paid from the same source of funds as the employee's public school salary. An employee may not receive differential pay while absent on any type of paid leave.

If the individual reapplies following separation from military duty, his or her reemployment is governed by the provisions of the USERRA. Under certain circumstances, an employee may receive teaching experience credit and retirement credit for service in the military, in accordance with State Board regulations.

Legal References: Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*; G.S. 115C-47, -302.1(g), -302.1(g1); 16 N.C.A.C. 6C .0406; *North Carolina Public Schools Benefits and Employment Policy Manual*, §§ 9.6 – 10.4 (2008-2009)

Cross References: Leave (policy 7510)

Adopted:

VOLUNTARY SHARED LEAVE

Policy Code:

7540

The purpose of voluntary shared leave is to enable employees to donate earned leave to a fellow employee who has exhausted all earned leave and continues to be absent due to serious medical conditions.

Donations made pursuant to this policy are voluntary. No employee should feel pressured or coerced to participate. The donating employee may not receive compensation in any form for the donation of leave. Any employee found guilty of giving or receiving compensation may be subject to dismissal as outlined in applicable state law.

Administrative procedures in conformance with State Board of Education policies will be developed and made available in the human resources office.

Legal References: G.S. 115C-12.2, -47, -325 (applicable to career status teachers), -325.1 *et seq.* (applicable to non-career status teachers), -336; 16 N.C.A.C. 6C .0402; *North Carolina Public Schools Benefits and Employment Policy Manual* (N.C. Dept. of Public Instruction, current version), available at <http://www.ncpublicschools.org/district-humanresources/key-information>

Cross References:

Adopted:

ABSENCES DUE TO INCLEMENT WEATHER

Policy Code:

7550

On a day that employees have the option to report for a workday but pupils are not required to attend school due to inclement weather, employees have the following options:

1. report to work;
2. take accumulated annual (vacation) leave;
3. take accumulated personal leave, if available (teachers only);
4. take leave without pay;
5. use compensatory leave already accumulated; or
6. make up the time missed.

If an employee elects to make up time, it must be at a mutually agreed upon time between the employee and the immediate supervisor **and within the same TACS pay period**. ~~For 10-month employees, it must be within the regular 10-month employment.~~

When the school system is closed to staff and students due to inclement weather, the board will consider options for addressing the missed days, giving the greatest weight to how to best maintain the opportunity and environment for student learning.

Legal References: G.S. 115C-84.2, -302.1

Cross References: Emergency Closing (policy 5050)

Adopted:

PERMITTED SALARY DEDUCTIONS FOR ABSENCES AND DISCIPLINE OF EXEMPT EMPLOYEES

Policy Code:

7560

The board will comply with the salary basis requirements of the Fair Labor Standards Act (FLSA) and applicable state laws and State Board of Education policies. School employees who are classified as exempt under the FLSA must be paid on a salary basis, which means that the employee regularly receives a predetermined amount of compensation each pay period. This predetermined amount may not be reduced because of variations in the quality or quantity of the employee's work.

Subject to the exceptions listed below, an exempt employee must receive the full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work.

The board prohibits making improper deductions from the salaries of exempt employees. The provisions provided in this policy do not require a deduction if an employee has applicable leave available under the school's leave policies.

A. DEDUCTIONS FROM PAY

1. Deductions from the pay of an exempt employee are permissible in the following circumstances:
 - a. for absences of one or more full day(s) for personal reasons other than sickness or disability;
 - b. for absences of one or more full day(s) due to sickness or disability if the deduction is made in accordance with the school's leave policies;
 - c. to offset amounts employees receive as jury or witness fees or for military pay; or
 - d. for unpaid disciplinary suspension of one or more full days imposed in good faith for workplace conduct rule infractions.
2. In addition, the board may make partial day or full day deductions from salary in the following circumstances:
 - a. during the initial or final week of employment;
 - b. for penalties imposed in good faith for infractions of safety rules of major significance; or
 - c. for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act.

B. REPORTING IMPROPER DEDUCTIONS

If an employee believes that an improper deduction has been made to his or her salary, the employee should report this information to his or her direct supervisor as soon as possible. Any supervisor who receives a report of an alleged improper deduction must notify the payroll department immediately.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be promptly reimbursed for the improper deduction.

If the complaining employee is not satisfied with the investigation concerning improper deductions, he or she may file a grievance pursuant to policy 1750/7220, Grievance Procedure for Employees.

Legal References: The Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201 *et seq.*

Cross References: Grievance Procedure for Employees (policy 1750/7220), Leave of Absence (policy 7510), Family and Medical Leave (policy 7520), Military Leave (policy 7530), Voluntary Shared Leave (policy 7540)

Adopted:

The board will provide for the defense of any civil or criminal action or proceeding brought against an employee in his or her official or individual capacity, or both, on account of an act done or an omission so long as all of the following conditions are met.

1. The act or omission occurred in the scope and course of employment.
2. Defense of the action would not create a conflict of interest between the board and the employee.
3. The employee did not act or fail to act because of fraud, corruption, or malice on his or her part.

In order for the board to provide for the defense pursuant to this policy, the employee must provide a written request to the superintendent as soon as possible upon learning of the claim or action.

The superintendent, with advice from the board attorney, shall make a recommendation to the board as to whether the board will provide legal representation for the employee. Board approval of an employee's request to provide legal representation will only relate to the initial trial or proceeding. The employee must make an additional request in writing to the board for legal representation at each subsequent stage of the appeal of the action or proceeding.

If an employee's request for legal representation in any civil or criminal action or proceeding is denied and subsequently the employee is found not to be liable or guilty, the board may reimburse the employee a reasonable attorney's fee upon written request of the employee.

To protect its own financial resources, the board will provide for sufficient liability coverage for personnel, workers' compensation coverage, and unemployment compensation insurance.

Legal References: G.S. 115C-43

Cross References:

Adopted:

To assist employees in managing their financial affairs and meet state and federal legal requirements, the finance officer is authorized to make the following salary deductions:

1. federal income taxes (federal requirement);
2. state income taxes (state requirement);
3. federal social security taxes (state requirement);
4. North Carolina State Retirement System contributions (required by G.S. 135-8);
5. court-ordered child support payments;
6. federal, state and local government garnishments;
7. health insurance premiums authorized by state law (authorized by G.S. 115C-340);
8. tax sheltered (deferred) annuities, 403(b) option offered by local boards of education (authorized by G.S. 115C-341), and/or 403(b) option offered through the North Carolina Public School Teachers' and Professional Educators' Investment Plan (authorized by G.S. 115C-341.2);
9. Supplemental Retirement Income Plan of North Carolina, 401(k) (authorized by G.S. 135-93);
10. flexible benefits plan (authorized by G.S. 115C-341.1);
11. North Carolina State Employees Credit Union deductions (authorized by G.S. 115C-342);
12. group life insurance premiums (optional, authorized by G.S. 115C-340, -342);
13. group dental insurance premiums (optional, authorized by G.S. 115C-340, -342);
14. other deductions as may be approved by the board (additional possible deductions include dues for employees' associations or charities).

The human resources office will make information available to all employees regarding possible payroll deductions and any procedures or requirements for particular types of deductions. Any employee who would like the board to consider additional salary deductions should contact the superintendent or designee, who shall review such requests and make recommendations to the board.

Legal References: G.S. 115C-339 to -342; 135-8, -93; 143B-426.40A(g), (i)

Cross References:

Adopted:

The board supports the practice of bringing employees back to work after a work-related injury or illness as soon as they are medically able in order to enhance the employees' recovery while minimizing the impact of work-related injuries on school system operations.

The superintendent is directed to establish a return to work program that is consistent with federal and state law, board policy, and State Board of Education requirements. The objectives of the program will be to:

1. assist employees who are recovering from a work-related temporary injury or illness to safely return to full duty without restrictions at the earliest possible time;
2. assist recovering employees who have temporary work restrictions to return to a temporary, time-limited transitional work assignment of modified or alternate duties approved by the authorized health care provider, when practicable and in the best interests of the school system to do so;
3. assist employees with permanent work restrictions to find available suitable employment within the school system; and
4. maintain close communication, coordination, and cooperation between the employee, school system representatives, and others working to expedite the employee's recovery and return to work.

The superintendent shall provide specific procedures to guide all employees in carrying out the return-to-work program. All supervisory employees are expected to fully comply with the program procedures and to assist in meeting the program's objectives. Employees experiencing work-related injuries or illnesses shall fulfill all responsibilities assigned to them under the return-to-work program and shall fully comply with the applicable requirements of the North Carolina Workers Compensation Act.

If an employee refuses an approved transitional duty assignment or other suitable employment offered under this policy or under the return-to-work program required by this policy, the superintendent or designee shall notify the workers' compensation administrator who may apply to terminate the employee's workers' compensation benefit payments in accordance with the North Carolina Workers' Compensation Act. In addition, the employee will be subject to disciplinary action to the extent consistent with law.

This policy and any procedures developed by the superintendent to implement this policy are not intended to, and do not, confer any additional employment rights on any employee, including any right to a transitional duty assignment, nor will they be construed as recognition by the school system that any employee who participates in the return-to-work program has a disability as defined by the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973, or the North Carolina Persons with Disabilities Protection Act. Furthermore, nothing in this policy

shall be construed to require the superintendent to create an employment position for an employee returning to work with restrictions that prevent the employee from completing the essential functions of his or her previous position.

Legal References: Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. Part 35; Family and Medical Leave Act of 1993, 29 U.S.C. 2601 *et seq.*, 29 C.F.R. Part 825; Rehabilitation Act of 1973, 29 U.S.C. 701 *et seq.*, 34 C.F.R. Part 104; North Carolina Persons with Disabilities Protection Act, G.S. ch. 168A; North Carolina Workers' Compensation Act, G.S. 97, art. 1; 115C-12(43), -337; State Board of Education Policy TCS-Q-001

Cross References: Family and Medical Leave (policy 7520)

Adopted:

EMPLOYEE TRAVEL AND OTHER EXPENSE REIMBURSEMENT

Policy Code:

7650

The board may reimburse employees for reasonable and necessary travel and other expenses incurred while performing school system business. All employee requests for reimbursement for travel or other expenses are subject to this policy. The superintendent and finance officer are responsible for developing and disseminating forms for requesting travel and other expense reimbursement, for maintaining and disseminating current information concerning applicable reimbursement rates, and for establishing any procedures or regulations necessary to implement this policy.

A. EMPLOYEE RESPONSIBILITY FOR CONTROLLING TRAVEL EXPENSES

The board intends that its employees who are required to travel do so in reasonable comfort. All employees traveling on school system business are expected to exercise good judgment in distinguishing between reasonable comfort and extravagance and to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds.

Reimbursement will not be approved for excess costs or additional expenses that are for the convenience or personal preference of the employee. Unless specifically approved by the board in advance, unauthorized expenses include, but are not limited to, alcohol or tobacco, entertainment activities (e.g., sporting events, pay TV, movies), personal services (e.g., spa, laundry), personal items (e.g., toiletries, magazines, souvenirs), supplemental insurance on rental cars, fines for traffic violations, and meals, lodging, or other expenses for spouses, children, guests, or pets. Employees are responsible for being aware of applicable reimbursement rates and any other limitations established by the superintendent or finance officer prior to travel.

Multiple school system employees traveling outside the county to the same meeting, conference, or other school system function are expected to carpool using ~~a school system/county vehicle (preferred)~~ or a privately owned vehicle, unless extenuating circumstances require otherwise. The following could be considered extenuating circumstances that justify not carpooling: (1) employees attending conference/function on different dates; (2) employee health reasons; (3) employee safety reasons; and (4) vehicle limitations. Employee convenience or personal preferences are not extenuating circumstances. In the event that an employee does not want to carpool due to extenuating circumstances, prior written approval must be obtained from the superintendent or designee in order to receive a mileage reimbursement. Such written approval must be submitted with the claim for reimbursement.

B. APPROVAL FOR TRAVEL

Out-of-county travel by any employee except the superintendent must receive prior written approval of the ~~employee's supervisor~~superintendent or designee on the

designated travel authorization form. ~~Out-of-state travel also requires the superintendent's prior written approval.~~ The superintendent's travel, ~~whether~~ out-of-county ~~or out-of-state~~, must receive prior approval from the board chair ~~on the designated travel authorization form unless such travel is authorized in the superintendent's employment contract with the board.~~ The request for approval must include an estimate of the anticipated cost of the travel and related expenses. Travel requests that exceed the amount budgeted for such purposes will be denied.

C. REIMBURSEMENT FOR TRAVEL EXPENSES

Employees may request reimbursement of actual expenses for mileage, meals, lodging, and other business-related expenses, such as conference registration fees and parking fees, incurred on approved trips for official school system business. Travel that does not directly benefit the school system is not reimbursable.

The reimbursement rates for mileage, meals, lodging, and other travel expenses will be in accordance with those established for state employees. Reimbursements will not exceed the annual budget allocated to the respective employee or department. All reimbursements are contingent upon funds available.

All claims for reimbursement of travel expenses must (1) include a copy of the approved travel request form; (2) be in writing, itemized, and supported with original receipts, except that no receipt is required for meals that will be reimbursed at the state-approved flat rates; (3) document the official school business purpose for which the expenses were incurred; (4) include a copy of the agenda if the travel was to a conference, meeting, or similar event; (5) be signed by the employee; and (6) be approved by the employee's supervisor, or in the case of the superintendent, by the board chair. If reimbursement is to be paid from federal funds, documentation of the business purpose must include the reason the claimant's travel is necessary to the federal program. All claims must be submitted in accordance with any additional requirements, procedures, or deadlines established by the superintendent or finance officer.

In extenuating circumstances, such as when lodging is not reasonably available at the state-approved rate, authorization for reasonable costs in excess of the state-approved rates may be approved by the employee's supervisor and the superintendent or designee, or in the case of the superintendent, by the board chair.

D. ADVANCEMENT OF TRAVEL EXPENSES

The board discourages providing an advance travel allowance to employees. In extraordinary circumstances, an advancement of funds not to exceed the estimated travel expense with a limit of \$500 for an approved trip may be made to an employee provided the employee makes a written request no later than one month prior to the departure date. The request must be approved by the employee's supervisor and the superintendent or designee except that advances for the superintendent must be approved by the board chair. The advance will be forwarded to the employee no sooner than five working days

before the scheduled departure date.

Funds advanced may be used only for expenses that are otherwise reimbursable and documented in accordance with this policy. Upon return from the trip, the employee must provide a reconciliation of the actual expenses incurred as compared to the amount advanced in accordance with procedures and any applicable deadline established by the finance officer. The employee shall be responsible for returning any funds advanced in excess of the employee's documented reimbursable trip expenses.

An employee who fails to file a complete reconciliation by the applicable deadline or who does not return travel funds owed to the school system may be subject to disciplinary action and/or to recovery actions for the amount owed.

E. CANCELLED TRIPS

If an employee cancels a trip for which (1) a travel advance has been extended, (2) trip-related expenses have been prepaid by the school system, or (3) a penalty or charge resulting from the cancellation is incurred, the employee ~~is~~ may be responsible for reimbursing the school system for all funds advanced or expended by the school system as a result of the cancellation unless otherwise approved by the superintendent or designee. Failure to reimburse the school system as required may result in disciplinary action and/or actions to recover the amounts owed.

F. MILEAGE REIMBURSEMENT FOR USE OF PERSONAL VEHICLE

Employees who use their personal vehicle to travel in the performance of their official job duties will be reimbursed at the rate for state employees for mileage incurred when traveling for job-related activities, subject to budgetary limitations. The superintendent may establish criteria for determining which employees are eligible for this mileage reimbursement. Reimbursement will not be authorized for travel between the employees' residence and the first or last scheduled work-related stop of the day within Pitt County.

Mileage reimbursement requests for all employees except the superintendent must be approved by the employee's immediate supervisor and submitted as directed by the finance officer or superintendent. The superintendent's mileage reimbursement requests must be approved by the board chair and submitted to the finance officer at least quarterly.

In addition, the board may authorize certain personnel to receive reimbursements for in-county travel expenses at a flat allowance per month. These personnel include the superintendent's office supervisory personnel, resource teachers, vocational teachers, and teachers assigned daily to two or more schools.

G. REIMBURSEMENT OF OTHER BUSINESS EXPENSES

Employees purchasing merchandise or other items on behalf of the school system should

first secure a purchase order. with Personal funds can only be used with the ~~must have~~ prior approval of their supervisor and may be reimbursed for reasonable costs, up to a limit of \$50. Expenses of greater than \$50 must be approved in advance by the superintendent or designee, or in the case of the superintendent, by the board chair. Requests for reimbursement must follow the procedures established by the finance officer. All requests for reimbursement must be accompanied by a statement of the business purpose for the expense and a detailed receipt. Employees who are authorized to use school system procurement cards will not be reimbursed for purchases made using personal funds without prior approval of the superintendent or designee.

H. RESPONSIBILITY FOR MONITORING COMPLIANCE WITH THIS POLICY

The superintendent or designee is responsible for monitoring employee compliance with this policy. The superintendent's expenditures for travel and other expenses will be reviewed at least quarterly by the board chair.

Legal References: G.S. 115C-36, -47(21), 138-6; 2 C.F.R. 200.474

Cross References: Board Member Compensation and Expenses (policy 2130)

Other References: *North Carolina Budget Manual*, Section 5 (Office of State Budget and Management), available at <https://www.osbm.nc.gov/library>

Adopted: November 7, 2016.7

MEMBERSHIP IN PROFESSIONAL ORGANIZATIONS

Policy Code: **7710**

Every employee will have the right to freely join and support any professional organization. The board and administration of the school system will not attempt to influence a teacher's or other employee's decision as to whether to join any organization or association.

School personnel should not participate in membership activities while school is in session for students or while they are expected to be performing job-related duties unless specifically authorized by the principal.

Legal References: U.S. Const., amend. I; G.S. 115C-36, -47; 16 NCAC 6C.0404, .0405

Cross References:

Adopted:

The employee's right of citizenship, involving registering, discussing political issues, voting, campaigning for candidates or issues, running for or serving in public office, and participating on a committee or board that seeks to serve the welfare of the community, will not be infringed upon due to employment by the school system.

These political activities must not:

1. take place during school time;
2. involve school monies or materials; or
3. make use of an official school position to encourage or to coerce students or other employees of the system to support in any way a political party, candidate, or issue.

This policy should not be construed as prohibiting the impartial study and discussion of political or other controversial issues in the classroom setting.

Legal References: G.S. 115C-47(18)

Cross References:

Adopted:

Employees are expected to avoid engaging in any conduct that creates or gives the appearance to the public of creating a conflict of interest with their job responsibilities with the school system. Although there may be other conflicts of interests, employees must, at a minimum, follow board directives in the following areas.

A. FINANCIAL INTERESTS

An employee shall not engage in or have a financial interest, directly or indirectly, in any activity that conflicts with duties and responsibilities in the school system.

1. Contracts with the Board

An employee shall not do any of the following:

- a. obtain a direct benefit from a contract that he or she is involved in making or administering on behalf of the board, unless an exception is allowed pursuant to G.S. 14-234 or other law;
- b. influence or attempt to influence anyone who is involved in making or administering a contract on behalf of the board; or
- c. solicit or receive any gift, favor, reward, service, or promise of reward, including a promise of future employment, in exchange for recommending, influencing, or attempting to influence the award of a contract by the board.

An employee is involved in administering a contract if he or she oversees the performance of the contract or has authority to interpret or make decisions regarding the contract. An employee is involved in making a contract if he or she participates in the development of specifications or terms of the contract or participates in the preparation or award of the contract. An employee derives a direct benefit from a contract if the employee or his or her spouse does any of the following: (1) has more than a 10 percent ownership or other interest in an entity that is a party to the contract; (2) derives any income or commission directly from the contract; or (3) acquires property under the contract.

2. Non-School Employment

The board recognizes that some employees may pursue additional compensation on their own time. Any such employee shall not engage in the following:

- a. non-school employment that adversely affects the employee's availability or effectiveness in fulfilling job responsibilities;

- b. work of any type in which the sources of information concerning customer, client, or employer originate from any information obtained through the school system;
- c. work of any type that materially and negatively affects the educational program of the school system;
- d. any type of private business using system facilities, equipment, or materials, unless prior approval is provided by the superintendent; or
- e. any type of private business during school time or on school property.

The superintendent may grant prior approval for work performed under subsections d and e above if such work enhances the employee's professional ability or professional growth for school-related work. The superintendent may establish reporting procedures that require employees to notify the school system of any non-school employment.

B. RECEIPT OF GIFTS

No school employee may accept gifts from any person or group desiring to do or doing business with the school system, unless such gifts are instructional products or advertising items of nominal value that are widely distributed. No school employee may solicit or accept any gifts from any potential provider of E-rate services or products in violation of federal gifting rules.

Legal References: G.S. 14-234, -234.1; 115C-47(18); 133-32; 47 C.F.R. 54.503; FCC Sixth Report and Order 10-175

Cross References: Board Member Conflict of Interest (policy 2121)

Adopted:

It is the responsibility of the board to maintain and improve the quality of the administrative leadership of the school system. A primary method used to carry out this responsibility is to assist the superintendent in improving his or her effectiveness. To this end, the board shall annually evaluate the superintendent against the performance standards described below. The board may use the evaluation process and guidelines established by the State Board of Education, including the *Rubric for Evaluating North Carolina Superintendents*, or such other processes and evaluation tools as the board chooses. Except in extraordinary circumstances, every board member shall be involved in the evaluation.

A. SUMMARY OF PERFORMANCE STANDARDS

The board sets for the superintendent the following standards as established by the State Board.

1. Strategic Leadership

The superintendent shall continually reevaluate and adjust, as necessary, expectations, processes, and plans in an effort to help every student graduate from high school, globally competitive for work and postsecondary education and prepared for life in the 21st century. The superintendent shall promote a climate of inquiry that challenges the community to build on the school system's core values and beliefs about the preferred future and develop a pathway to reach it.

2. Instructional Leadership

The superintendent shall set high standards for instruction and shall create professional learning communities that result in highly engaging instruction and improved student learning. The superintendent shall set specific achievement targets for schools and students and then require the consistent use of research-based instructional strategies to reach the targets.

3. Cultural Leadership

The superintendent shall recognize the effect a school system's culture has on school performance. The superintendent shall gain an understanding of the people in the school system and community, their history, and their traditions and motivate them to actively support the school system's efforts to achieve individual and collective goals. While supporting and valuing the history, traditions, and norms of the school system and community, the superintendent shall "reculture" the school system, if necessary, to improve learning and infuse the work of the adults and students with passion, meaning, and purpose.

4. Human Resource Leadership

The superintendent shall create within the school system a professional learning community with processes and systems in place that provide for the recruitment, induction, support, evaluation, development, and retention of a high-performing, diverse staff. The superintendent shall use distributed leadership to support learning and teaching, plan professional development, and engage in school system leadership succession planning.

5. Managerial Leadership

The superintendent shall ensure that the school system has processes and systems in place for budgeting, staffing, problem solving, communicating expectations, and scheduling that organize the work of the school system and give priority to student learning and safety. The superintendent must solicit operating and capital resources, monitor their use, and assure the inclusion of all stakeholders in decisions about resources so as to meet the 21st century needs of the school system.

6. External Development Leadership

The superintendent, in concert with the local board, shall design structures and processes that result in broad community engagement with, support for, and ownership of the school system vision. Acknowledging that strong schools build strong communities, the superintendent shall proactively create opportunities for parents, community members, government leaders, and business representatives to invest resources, assistance, and good will in the school system.

7. Micropolitical Leadership

The superintendent shall promote successful teaching and learning by understanding, responding to, and influencing the larger political, social, economic, legal, ethical, and cultural contexts. The superintendent shall bring his or her knowledge to the board and work with the board to define mutual expectations, policies, and goals for the success of the school system.

The board may also provide the superintendent with additional specific standards, expectations, goals, and objectives.

B. EVALUATION PROCESS

Each year, the superintendent must conduct a self-assessment of his or her own performance needs using the *Rubric for Evaluating North Carolina Superintendents* or another instrument selected by the board. This self-assessment will become the basis for setting preliminary goals for the upcoming school year.

The superintendent shall then meet with the board and share the results of the self-

assessment and his or her plans for the next school year. Such plans should address areas that need improvement as well as areas of strength that should be expanded and enhanced. At this meeting, the superintendent and the board will establish the conditions of the annual evaluation, including (1) the scope and timeline of the evaluation; (2) the goals and other performance expectations of the board; (3) the evidence and documentation necessary to demonstrate the expected level of performance; (4) the potential consequences of poor performance; and (5) the potential benefits of exemplary performance. The superintendent may develop, suggest, or submit additional goals or initiatives for consideration by the board.

In preparation for the evaluation, the superintendent shall collect, analyze, and synthesize the evidence and documentation needed to demonstrate his or her performance throughout the year. This information will be provided to the board at least 30 days before the date of the annual evaluation.

Board members will independently rate the superintendent's performance using the *Rubric for Evaluating North Carolina Superintendents* or another instrument selected by the board. They will then meet to discuss their individual ratings and agree upon a single rating for each standard and each element associated with the standard. The board will make every effort to achieve consensus on the superintendent's ratings.

The superintendent and the board will meet to discuss the superintendent's self-assessment and the board's evaluation of the superintendent. Should additional data or documents need to be brought into the discussion, the board and superintendent will agree on the information needed for the review and a timeline for providing it for the board's consideration. At this meeting, the superintendent and the board will agree upon performance goals and recommendations for the subsequent school year.

Legal References: G.S. 115C-47, -271, -333(f); *North Carolina Superintendent Evaluation Process* (North Carolina Department of Public Instruction, September 2, 2010), available at <http://www.dpi.state.nc.us/docs/effectiveness-model/ncees/instruments/super-eval-manual.pdf>

Cross References: Board and Superintendent Relations (policy 2010), Superintendent Contract (policy 7420)

Adopted:

The board recognizes that an effective staff is critical to the smooth operation of the school system and to creating a learning environment in which students can succeed. The board further believes that students will not excel in performance unless those who most directly affect students, including school administrators, teachers, and other licensed professionals, excel in their performance. It is the intent of the board to employ only those licensed employees who continuously exhibit a pattern of behavior that exemplifies excellent performance.

The board places a high priority on securing the most competent personnel available and, once they are employed, in assisting them in their professional growth and development throughout their careers. An effective evaluation program that clearly describes an employee's performance is a critical aspect of professional growth and assistance. Further, performance evaluation data is an important factor for consideration in decisions regarding continued employment. The superintendent must be able to substantiate any recommendation for continued employment with evaluation data, among other factors.

The superintendent is directed to develop and implement an effective evaluation system for licensed personnel that is consistent with State Board of Education policies. School administrators who are responsible for conducting evaluations shall comply with all state requirements with regard to the type and frequency of evaluation, including as applicable, the processes for evaluating licensed employees in schools designated as low performing. The school principal shall evaluate teachers and may incorporate any guidelines or strategies developed by the State Board to assist in the evaluations. The principal shall provide teachers' access to EVAAS data as required by law and shall notify teachers at least annually when the data is updated to reflect teacher performance from the previous school year. The superintendent or designee shall evaluate principals and assistant principals.

All licensed personnel must be evaluated at least annually using state-approved evaluation instruments in conformance with the processes established by the State Board in the North Carolina Educator Evaluation System for that class of personnel. Teachers with fewer than three consecutive years of experience shall be evaluated annually in accordance with the comprehensive evaluation cycle established in State Board Policy TCP-C-004. For teachers with three or more years of experience, the abbreviated evaluation process established in State Board Policy TCP-C-004 satisfies the annual evaluation requirement; however, a teacher receiving an abbreviated evaluation may request that the evaluator conduct a formal observation. In addition, in any given year, the principal may elect to use the comprehensive or standard evaluation processes set forth in State Board Policy TCP-C-004 or require additional formal or informal observations to evaluate a teacher with three or more years of experience. The principal also may supplement the State Board evaluation processes for other categories of licensed personnel by requiring additional observations or other evaluation measures. The annual evaluation of principals and assistant principals must include a mid-year review.

The evaluation system must incorporate the following directives.

1. Evaluators must clearly identify exemplary performance as well as deficiencies in performance.
2. Evaluators are encouraged to use supplementary means of assessing and documenting performance in addition to the state performance standards, assessment rubrics, and evaluation instruments, including, but not limited to, additional formal observations, informal observations, conferences, reviews of lesson plans and grade books, interactions with the employee, plans of growth or improvement, and any other accurate indicators of performance.
3. Student performance and growth data will be considered as a part of the evaluation of licensed personnel, as provided in the assessment rubric for the class of employees under evaluation. For teachers, such data shall include analysis of student work for performance-based courses and student performance as measured by the statewide growth model for educator effectiveness or as otherwise authorized by the State Board of Education and approved by the local board. Multiple means of assessing student performance must be used whenever possible. If only one method is used to measure student performance, it must be a clearly valid tool for evaluating an employee's impact on student performance.
4. Peer observations of teachers with fewer than three consecutive years of experience must be conducted as required by law using the evaluation instrument and process established by the State Board and must be considered by the school administrator in evaluating teacher performance.
5. Supervisors and principals should facilitate open communication with employees about performance expectations.
6. An employee who is unclear about how performance is being assessed or who desires additional evaluation opportunities should address these issues with his or her immediate supervisor.
7. Evaluators will be held accountable for following the evaluation system and all applicable state guidelines on the evaluation of employees.
8. Evaluation data will be submitted to the central office personnel file in accordance with state law and policy 7820, Personnel Files.
9. Evaluation data will be used in making employment decisions, including decisions related to professional and staff development (see policy 1610/7800, Professional and Staff Development) and suspension, demotion, and dismissal of employees (see policy 7930, Professional Employees: Demotion and Dismissal and policy 7940, Classified Personnel: Suspension and Dismissal). Employment decisions may be made by the board and administrators regardless of whether evaluators have followed the evaluation system, so long as there is a legally sufficient basis for the decisions.

10. The superintendent and all evaluators are encouraged to develop ways to recognize distinguished performance and to capitalize on the abilities of such exemplary employees in helping other employees. The superintendent and evaluators are encouraged to involve employees in developing these processes.

The superintendent shall develop any other necessary procedures and shall provide training, as necessary, to carry out the board's directives and to meet state requirements.

Legal References: G.S. 115C-47(18), -286.1, -325, -333, -333.1, -333.2; State Board of Education Policies TCP-C-004, -005, -006, -022

Cross References: Professional and Staff Development (policy 1610/7800), School Administrator Contracts (policy 7425), Plans for Growth and Improvement of Licensed Employees (policy 7811), Personnel Files (policy 7820), Professional Employees: Demotion and Dismissal (policy 7930), Classified Personnel: Suspension and Dismissal (policy 7940)

Adopted:

PLANS FOR GROWTH AND IMPROVEMENT OF LICENSED EMPLOYEES

Policy Code:

7811

The board expects all professionally licensed employees to maintain high levels of performance. If an employee does not meet this standard, the superintendent and administrative staff shall address any identified performance or other deficiencies through appropriate means, including placing the employee on a monitored growth, directed growth, or mandatory improvement plan when required by state law, State Board policy or this policy, or when otherwise deemed necessary.

Growth and mandatory improvement plans as defined by law and this policy are valuable tools to promote the professional development of licensed employees. The board recognizes, however, that not all conduct and performance issues require the development of a plan. Administrators and supervisory personnel are authorized to address inappropriate conduct and/or inadequate performance using such other lawful means as they may deem appropriate. This policy should not be interpreted to limit in any way the authority of administrators or other supervisory personnel to direct and reprimand licensed employees for inappropriate conduct or inadequate performance.

Further, the superintendent may move to recommend nonrenewal, dismissal, or demotion of a licensed employee whether or not the employee has been first placed on a growth or other improvement plan. (See policies 7930, Professional Employees: Demotion and Dismissal, and 7950, Non-Career Status Teachers: Nonrenewal.)

The superintendent shall require administrative staff to implement the requirements of this policy in accordance with state law and State Board guidelines.

A. DEFINITIONS

1. As used in this policy, “teacher” means an individual defined as a teacher in G.S. 115C-325(a)(6) (for career status teachers) or G.S. 115C-325.1(6) (for non-career status teachers).
2. As used in this policy, “licensed employee(s)” includes principals, assistant principals, and other school administrators as defined in G.S. 115C-325.1(5) and teachers.
3. “The North Carolina Educator Evaluation System” refers to the professional standards, processes, and rubrics approved by the State Board of Education for each educator role in North Carolina public schools.

B. INDIVIDUAL, MONITORED, AND DIRECTED GROWTH PLANS FOR TEACHERS

1. Use of Growth Plans for Teachers

Teachers who receive an overall rating of at least “proficient” on all standards on the North Carolina Educator Evaluation System rubric as indicated on the Summary Rating Form shall develop an individual growth plan designed to improve performance on specifically identified standards and elements.

A teacher who is performing below a proficient level on the Summary Rating Form will be placed on a monitored growth plan or a directed growth plan unless dismissal, demotion, nonrenewal, or placement on a mandatory improvement plan (see Section D, below) is warranted. A monitored growth plan developed in accordance with State Board policy is required for a teacher who is rated “developing” on one or more standards of the North Carolina Educator Evaluation System rubric. State Board policy also requires that a teacher who is rated “not demonstrated” on any standard or who is rated “developing” on any standard for two sequential years be placed on a directed growth plan. The board or superintendent may establish other criteria that will be deemed evidence that performance is below a proficient level or otherwise represents unsatisfactory or below standard performance and warrants placement on either a monitored growth plan or a directed growth plan.

Unless otherwise limited by state law or State Board policy, the principal is authorized to place a teacher on a monitored or directed growth plan or other plan of assistance at any point during the school year if the principal, **after consultation with the Human Resources Department**, determines that the teacher is performing below the expected level.

2. Components of Growth Plans for Teachers

Individual growth plans may contain, but are not limited to, any of the components listed below. However, monitored or directed growth plans must include at least the following components.

a. Identification of Performance Deficiencies

All performance deficiencies, including conduct deficiencies and all specific standards and elements of the Teacher Evaluation Rubric identified for improvement during the teacher’s evaluation, must be identified and addressed in the growth plan.

b. Performance Expectations and Goals

For each performance deficiency identified, the growth plan must include a statement of the expected level of performance and/or other goals to be accomplished.

c. Strategies

The growth plan must set forth a strategy or strategies designed to correct each identified performance deficiency. The strategies should be specific and clearly state the activities the teacher should undertake to achieve the expected level of performance. The strategies also should identify all individuals responsible for implementing the plan.

d. Dates for Monitoring and Completion

The growth plan must include dates upon which the teacher's progress under the plan will be reviewed and the date by which performance or conduct is to be improved to the expected level. Under a monitored growth plan, the teacher must achieve proficiency within one school year. A directed growth plan may provide for a shorter period to achieve proficiency, not to exceed one school year.

3. Review of Growth Plans

Individual growth plans should be reviewed at least annually with the teacher's principal or supervisor.

In the case of a teacher's monitored or directed growth plan, once the designated time period for completion of a plan has elapsed, the principal or supervisor shall review the teacher's performance, including the results of any subsequent evaluation and determine whether the teacher continues to perform below the expected level in any area or whether the teacher's performance has improved sufficiently. If the teacher's performance remains below proficient, the principal or supervisor shall recommend to the superintendent one of the following:

- a. the board non-renew, dismiss, or demote the teacher, or transfer the teacher to a position in which the teacher can be successful;
- b. the teacher be placed on a mandatory improvement plan in accordance with the provisions of Section D below; or
- c. the teacher be moved to a new monitored or directed growth plan or continue on a previous growth plan that has been revised as necessary, provided the principal or supervisor determines that:
 - 1) the teacher's continuing performance problems are not having an adverse impact on student learning or the school environment, or
 - 2) the teacher is making good progress toward improvement in deficient areas and is likely to improve to an acceptable level within a reasonable, additional time period.

C. PROFESSIONAL GROWTH PLANS FOR PRINCIPALS AND ASSISTANT PRINCIPALS**1. Professional Growth Plans**

Professional growth plans will be developed for principals and assistant principals as provided in State Board policy. The professional growth plan will include mutually agreed upon performance goals and recommendations based upon the principal or assistant principal's self-assessment, the consolidated assessment, and the summary evaluation using the *North Carolina School Executive; Principal and Assistant Principal Evaluation Process*. Development of the professional growth plan will be discussed at a meeting between the principal or assistant principal and the superintendent or designee when completing the annual evaluation process. The superintendent or designee should review the professional growth plan with the employee at least annually.

2. Optional Action Plan Component to the Professional Growth Plan

a. The superintendent may incorporate an action plan into the principal or assistant principal's professional growth plan to address performance or conduct deficiencies. The action plan must include the following:

i. Identification of Performance Deficiencies

All performance and conduct deficiencies identified in the employee's evaluation must be identified and addressed in the action plan.

ii. Performance Expectations and Goals

For each performance deficiency identified, the action plan must include a statement of the expected level of performance and/or other goals to be accomplished.

iii. Strategies

The action plan must set forth a strategy or strategies designed to correct each identified performance or conduct deficiency. The strategies should be specific and clearly stated and should identify all individuals responsible for implementing the plan.

iv. Dates for Monitoring and Completion

The action plan must include the dates upon which the employee's progress under the plan will be reviewed and the date by which performance is to be improved to the expected level, which will be

no less than 60 calendar days and no longer than the end of the current school year.

- b. Upon completion of the action plan, the superintendent or designee shall reevaluate the employee and determine whether the employee continues to perform below the expected level in any area or whether the employee's performance has improved sufficiently. If the employee is within the final year of his or her contract, the reevaluation must occur prior to the statutory deadline for notice of contract non-renewal. If the employee's performance remains below proficient, the superintendent shall either:
 - i. recommend that the board non-renew, dismiss, demote, or transfer the employee to a position in which the employee can be successful; or
 - ii. retain the employee in the current position if the superintendent determines that the employee is making good progress toward improvement in deficient areas and is likely to improve to an acceptable level within a reasonable period of time. A principal or assistant principal who is retained in his or her position after demonstrating performance below proficiency on the reevaluation must be given a new action plan and reevaluated as described in subsection C.2.b, above.

D. MANDATORY IMPROVEMENT PLANS

A mandatory improvement plan is an instrument designed to improve a licensed employee's performance by providing the employee with notice of specific performance areas that have substantial deficiencies and a set of strategies, including the specific support to be provided to the employee, so that he or she may satisfactorily resolve such deficiencies within a reasonable timeframe.

The use of mandatory improvement plans as provided in this policy is discretionary and will be determined on a case-by-case basis. Nothing in this policy will be interpreted so as to require the use of mandatory improvement plans in addition to, or in lieu of, growth plans or other disciplinary action, including non-renewal or dismissal from employment as provided by law.

- 1. Initiating a Mandatory Improvement Plan
 - a. Licensed Employees in Low-Performing Schools

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 board that the employee be dismissed, demoted (if a career teacher), or nonrenewed (if the teacher is on a contract), or (iii) a proceeding for immediate dismissal or demotion be instituted against the employee for conduct or performance that causes substantial harm to the educational environment. If the individual or team that conducted the evaluation elects not to make any of the above recommendations, the individual or team evaluator shall notify the superintendent of this decision. The superintendent shall determine whether to develop a mandatory improvement plan, to recommend nonrenewal of the employee's contract, or to recommend a dismissal proceeding.

b. Teachers in Schools Not Identified as Low-Performing

If, in an observation report or year-end evaluation, a teacher in a school not identified as low-performing receives a rating that is below proficient or otherwise represents unsatisfactory or below standard performance on any standard that the teacher was expected to demonstrate, the principal may place the employee on a mandatory improvement plan. The mandatory improvement plan will be utilized only if the superintendent or designee determines that an individual, monitored, or directed growth plan would not satisfactorily address the deficiencies.

c. Any Licensed Employees Engaging in Inappropriate Conduct or Performance

A principal may recommend to the superintendent or designee that a licensed employee be placed immediately on a mandatory improvement plan if the employee engages in inappropriate conduct or performs inadequately to such a degree that the conduct or performance causes substantial harm to the educational environment, but immediate dismissal or demotion of the employee is not appropriate. The principal must document the exigent reason for immediately instituting such a plan.

2. Components of the Plan

A mandatory improvement plan for any licensed employee must include the following components.

a. Identification of Performance Deficiencies

The performance or conduct areas in which the employee is deficient must be identified and addressed in the mandatory improvement plan.

b. Performance Expectations

For each performance or conduct deficiency identified, the plan must include a statement of the expected level of performance.

c. Strategies

The plan must establish a strategy or strategies designed to correct each identified performance or conduct deficiency. The strategies should be specific and clearly state the activities the employee should undertake to achieve the expected level of performance or conduct and the specific support to be provided to the employee. The strategies also should identify all individuals responsible for implementing the plan.

d. Dates for Monitoring and Completion

The plan must include dates upon which the employee's progress under the plan will be reviewed and the date by which performance is to be improved to the expected level.

3. Development and Implementation of the Plan

a. Licensed Employees in Low-Performing Schools

When directed by the superintendent, a mandatory improvement plan to improve the performance of a licensed employee will 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 will be designed to be completed within 90 instructional days or before the beginning of the next school year.

b. Teachers in Schools Not Identified As Low-Performing

When a principal decides to put a teacher on a mandatory improvement plan, the principal shall develop the plan in consultation with the teacher. The teacher shall have five instructional days after receiving the plan to request a modification to the plan before it is implemented. The principal must consider the requested modification before finalizing the plan. The teacher shall have at least 60 instructional days to complete the mandatory improvement plan.

A teacher has five workdays after finalization of the mandatory improvement plan within which to submit a request to the principal for a

qualified observer, as defined in G.S. 115C-333.1(c)(1), to observe the teacher in the area or areas of concern identified in the plan. In accordance with G.S. 115C-333.1(c)(2), the board will create and maintain a list of qualified observers who are employed by the board and available to conduct observations. The board will strive to limit the list to administrators and teachers who have excellent reputations for competence and fairness. Selection of the qualified observer and submission of the qualified observer's report to the principal will be in accordance with G.S. 115C-333.1(c)(3).

4. Reassessment

a. Licensed Employees in Low-Performing Schools

After the expiration of the time period for the mandatory improvement plan, the superintendent or designee or the assistance team shall assess the employee's performance. If the assessor determines that the employee has failed to become proficient in any of the performance or conduct standards articulated in the mandatory improvement plan or to demonstrate sufficient improvement toward such standards, the superintendent shall recommend that the employee be dismissed, demoted, or nonrenewed under applicable state law, or that the employee be immediately dismissed for conduct or performance that causes substantial harm to the educational environment.

b. Teachers in Schools Not Identified As Low-Performing

Upon completion of a mandatory improvement plan, the principal or supervisor shall assess the performance of the employee. The principal shall also review and consider any report provided by the qualified observer if one has been submitted before the end of the mandatory improvement plan period. If, after the assessment of the employee and consideration of any report from the qualified observer, the superintendent or designee determines that the teacher has failed to become proficient in any of the performance or conduct standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that the employee be dismissed, demoted, or nonrenewed under applicable state law or that the employee be immediately dismissed for conduct or performance that causes substantial harm to the educational environment.

Legal References: G.S. 115C-325 (applicable to career status teachers), -325.1 *et seq.* (applicable to non-career status teachers), -333, -333.1; State Board of Education Policy TCP-C-004, TCP-C-005

Cross References: Professional and Staff Development (policy 1610/7800), Evaluation of

Licensed Employees (policy 7810), Professional Employees: Demotion and Dismissal (policy 7930), Non-Career Status Teachers: Nonrenewal (Policy 7950)

Adopted:

EVALUATION OF NON-LICENSED EMPLOYEES

Policy Code:

7815

The board attaches a high priority to securing the most competent personnel available and, once they are employed, in assisting them in their growth and development throughout their careers. Evaluations of non-licensed employees' performance must conform to the following board directives.

1. Exemplary performance as well as deficiencies in performance should be clearly identified.
2. Each employee shall sign his or her job description during the hiring process. The duties and responsibilities outlined within the job description will be included as components of the designated evaluation. Supervisors and principals administrators should facilitate open communication with employees about performance expectations.
3. An employee who is unclear about how performance is being assessed or desires additional evaluation opportunities should address these issues with his or her immediate supervisor. The immediate supervisor has the first level of responsibility; however it is ultimately the responsibility of the head of the department or principal to address the employee's concerns.
4. Each non-licensed employee will receive a minimum of one evaluation per year using the evaluation instrument adopted by the board. Any non-licensed employee who has been rated "Below Standard" on an element on an evaluation must be evaluated twice the following school year. The supervisors and administrators have the authority to perform additional evaluations if deemed necessary. The evaluations should be completed before the end of the yearly employment period.
5. A newly hired non-licensed employee will receive the first evaluation at the end of the probationary period (first 90 days of employment) to determine continued employment. The employee is expected to perform the duties and responsibilities as assigned.
6. The employee's immediate supervisor, in consultation with the head of the department or the principal, is responsible for the evaluation. All evaluators are encouraged to develop ways to recognize exemplary performance and capitalize on the abilities of exemplary employees.
7. The evaluation process will include: a supervisor/employee pre-evaluation conference; a formal evaluation using the an evaluation instrument approved by the Human Resources Department; and a supervisor/employee post evaluation conference. The employee will have an opportunity to record written comments, discuss strategies to improve job performance, set goals for future performance, and sign the evaluation. Singing Signing the evaluation indicates that the evaluation has been seen and discussed. If the employee does not agree with the evaluation, the employee must put his or her concerns in writing

on the evaluation instrument and sign the evaluation.

8. If continued performance deficiencies are noted, a performance improvement plan will may be developed to address the areas that need improvement. The ~~building-level~~ administrator or supervisor shall seek advisement from the appropriate human resources personnel concerning the development and monitoring of the performance improvement plan. If improvement is not demonstrated within 60 to 90 days from the date the performance improvement plan, the ~~building-level~~ administrator shall proceed with the process designated in policy 7940, Classified Personnel: Suspension and Dismissal.
9. Evaluation data, along with commendations and reprimands regarding job performance, will be submitted to the central office personnel file in accordance with state law and policy 7820, Personnel Files.
5. Evaluation data may be used in making employment decisions, including transfers, promotions and dismissal and demotion of employees (policy 7940).
6. The superintendent and all evaluators are encouraged to develop ways to recognize exemplary employees and to capitalize on the abilities of exemplary employees in helping other employees.

The superintendent shall develop any other necessary procedures and shall provide training, as necessary, to carry out these board directives.

Legal References: G.S. 115C-47(18), -333.1

Cross References: Personnel Files (policy 7820), Classified Personnel: Suspension and Dismissal (policy 7940)

Adopted:

Personnel files, which may consist of paper or electronic records, will be maintained in the human resources office for all employees as provided by law. The superintendent and all supervisors are directed to ensure that all appropriate employment-related information is submitted to the files. Employees will be provided with all procedural protections as provided by law.

The superintendent has overall responsibility for granting or denying access to personnel records consistent with this policy.

A. RECORDS MAINTAINED

The following records must be maintained in the personnel file:

1. evaluation reports made by the administration;
2. commendations for and complaints against the employee (see Section C);
3. written suggestions for corrections and improvements made by the administration;
4. certificates;
5. employee's standard test scores;
6. employee's academic records;
7. application forms;
8. any request to the State Board of Education to revoke the employee's teaching license; and
9. other pertinent records or reports.

B. CERTAIN EMPLOYEE RECORDS MAINTAINED SEPARATELY

The following employee information must be kept separate from the employee's general personnel information, in accordance with legal and/or board requirements:

1. Pre-Employment Information

Letters of reference about an employee obtained before his or her employment and, for teachers, any other pre-employment information collected, must be filed separately from the employee's general personnel information and must not be made available to the employee.

2. Criminal Record Check

Data from a criminal history check must be maintained in a locked, secure location separate from the employee's personnel file. The superintendent shall designate which school officials have a need to know the results of the criminal history check. Only those officials so designated may obtain access to the records.

3. Medical Information

Employee medical information, including the following, must be kept in a separate confidential file and may be subject to special disclosure rules:

- a. health certificates (see policy 7120, Employee Health Certificate);
- b. drug test results, except that drug use or alcohol use contrary to board policy or law also may be documented in the employee's personnel file (see policy 7241, Drug and Alcohol Testing of Commercial Motor Vehicle Operators);
- c. information related to an employee's communicable disease/condition or possible occupational exposure to bloodborne pathogens (see policies 7260, Occupational Exposure to Bloodborne Pathogens, and 7262, Communicable Diseases – Employees);
- d. medical information related to leave under the Family and Medical Leave Act (see policy 7520, Family and Medical Leave); and
- e. genetic information, as defined by the Genetic Information Nondiscrimination Act of 2008.

4. Complaints/Reports of Harassment or Discrimination

The superintendent or designee shall maintain records of all reports and complaints of harassment and discrimination and the resolution of such complaints. Allegations of harassment or discrimination must be kept confidential to the extent possible. Employees involved in the allegations will be identified only to individuals who need the information to investigate or resolve the matter, or to ensure that due process is provided to the accused employee (see policies 1710/4021/7230, Prohibition Against Discrimination, Harassment, and Bullying, and 1720/4015/7225, Discrimination, Harassment, and Bullying Complaint Procedure).

If the allegations are substantiated through investigation, the superintendent or designee shall ensure that the provisions of Section C, below, are followed to the extent that they do not conflict with the rights of any individual.

C. PLACEMENT OF RECORDS IN PERSONNEL FILE

All evaluations, commendations, complaints, or suggestions for correction or improvement must be placed in the employee's central office personnel file after the following requirements are met:

1. the comment is signed and dated by the person who made the evaluation, commendation, complaint, or suggestion;
2. if the comment is a complaint, the employee's supervisor has attempted to resolve the issue raised therein and documentation of such efforts is attached with the supervisor's recommendation to the superintendent as to whether the complaint contains any invalid, irrelevant, outdated, or false information; and
3. the employee has received a copy of the evaluation, commendation, complaint, or suggestion five days before it is placed in the file.

All written complaints that are signed and dated must be submitted regardless of whether the supervisor considers the complaint to be resolved.

The supervisor is expected to use good judgment in determining when a document should be submitted to the file immediately and when a delay is justified, such as when there exists a plan of improvement that is frequently revised. However, all evaluations, commendations, complaints, or suggestions for correction or improvement should be submitted by the end of the school year or in time to be considered in an evaluation process, whichever is sooner. The supervisor or principal should seek clarification from the ~~associate~~ assistant superintendent of human resources as necessary to comply with this policy.

The employee may offer a written denial or explanation of the evaluation, commendation, complaint, or suggestion, and any such denial or explanation will become part of his or her personnel file, provided that it is signed and dated.

The superintendent may exercise statutory authority not to place in an employee's file a letter of complaint that contains invalid, irrelevant, outdated, or false information, or a letter of complaint when there is no documentation of an attempt to resolve the issue.

As provided in policy 7900, Resignation, if a career employee who has been recommended for dismissal under the applicable state law resigns without the written consent of the superintendent, then: (1) the superintendent shall report the matter to the State Board of Education; (2) the employee shall be deemed to have consented to the placement of the written notice of the superintendent's intention to recommend dismissal

in the employee's personnel file; and (3) the employee shall be deemed to have consented to the release to prospective employers, upon request, of the fact that the superintendent has reported this employee to the State Board of Education. For purposes of this provision, "career employee" means (1) a teacher or an administrator with career status, or (2) an administrator or a non-career status teacher during the term of his or her contract.

D. ACCESS TO PERSONNEL FILE

1. Every employee has the right to inspect his or her personnel file, including any portions of the file maintained in electronic format only, during regular working hours, provided that three days' notice is given to the human resources office.
2. The following persons may be permitted to access a personnel file without the consent of the employee about whom the file is maintained:
 - a. school officials involved in the screening, selection, or evaluation of the individual for employment or other personnel action;
 - b. members of the board of education, if the examination of the file relates to the duties and responsibilities of the board member;
 - c. the board attorney;
 - d. the superintendent and other supervisory personnel;
 - e. the hearing officer in a demotion or dismissal procedure regarding the employee; and
 - f. law enforcement and the District Attorney to assist in the investigation of a report made to law enforcement pursuant to G.S. 115C-288(g) or regarding an arson; an attempted arson; or the destruction of, theft from, theft of, embezzlement from, or embezzlement of any personal or real property owned by the board. Five days' written notice will be given to the employee prior to such disclosure.
3. No other person may have access to a personnel file except under the following circumstances:
 - a. when an employee gives written consent to the release of his or her records, which specifies the records to be released and to whom they are to be released;
 - b. pursuant to a subpoena or court order;

- c. when the board has determined, and the superintendent has documented, that the release or inspection of information is essential to maintaining the integrity of the board or the quality of services provided by the board; or
 - d. the superintendent or designee determines that disclosure to a court of law, or a state or federal administrative agency having a quasi-judicial function, is necessary to adequately defend against a claim filed by a current or former employee against the board or a school official or employee for any alleged act or omission arising during the course and scope of his or her official duties or employment. Such disclosures will be limited to those confidential portions of the personnel file of the employee who filed the claim and only to the extent necessary for the defense of the board.
- 4. Each request for consent to release records must be handled separately.
- 5. It is a criminal violation for an employee or board member to do either of the following:
 - a. knowingly, willfully, and with malice, permit any unauthorized person to have access to information contained in a personnel file; or
 - b. knowingly and willfully examine, remove, or copy a personnel file that he or she is not specifically authorized to access pursuant to G.S. 115C-321.

E. INFORMATION AVAILABLE TO PARENTS OF STUDENTS ATTENDING TITLE I SCHOOLS

The following information about a student's teacher(s) or paraprofessional(s) providing services to a student must be provided upon request to the parent of a student attending a Title I school:

- 1. whether the teacher has met North Carolina qualification and licensing criteria for the grade level(s) and subject area(s) in which the teacher provides instruction;
- 2. whether the teacher is teaching under emergency or other provisional status through which North Carolina qualification or licensing criteria have been waived;
- 3. whether the teacher is teaching in the field of discipline of his or her certification; and
- 4. the qualifications of any paraprofessional providing services to the student.

F. PUBLIC INFORMATION

- 1. The following information contained in an employee's personnel file must be open to inspection upon request by members of the general public:

- a. name;
 - b. age;
 - c. the date of original employment or appointment;
 - d. the terms of any past or current contract by which the employee is employed, whether written or oral, to the extent that the board has the written contract or a record of the oral contract in its possession;
 - e. current position;
 - f. title;
 - g. current salary (includes pay, benefits, incentives, bonuses, deferred compensation, and all other forms of compensation paid to the employee);
 - h. the date and amount of each increase or decrease in salary with the board;
 - i. the date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the board;
 - j. the date and general description of the reasons for each promotion with the board;
 - k. the date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the board, and if the disciplinary action was a dismissal, a copy of the written notice of the final decision of the board setting forth the specific acts or omissions that are the basis of the dismissal; and
 - l. the office or station to which the employee is currently assigned.
- 2. The name of a participant in the North Carolina Address Confidentiality Program is not a public record, is not open to inspection, and must be redacted from any records released.
 - 3. Volunteer records are not considered public records.
 - 4. Unless an employee submits a written objection to the human resources office, the board also may make the following information available about each employee as part of an employee directory:
 - a. address;

- b. telephone number;
 - c. photograph;
 - d. participation in officially recognized activities and sports; and
 - e. degrees and awards received.
5. Employees will be notified of their right to object before any such directory is compiled or revised.
6. Under no circumstances will the following be released pursuant to a public records request or as part of an employee directory:
- a. personal identifying information, as defined in policy 4705/7825, Confidentiality of Personal Identifying Information; or
 - b. the name, address, or telephone number of a participant in the North Carolina Address Confidentiality Program.

G. REMOVAL OF RECORDS

An employee may petition the board to remove any information from his or her personnel file that the employee deems invalid, irrelevant, or outdated.

Legal References: Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff *et seq.*; Elementary and Secondary Education Act, 20 U.S.C. 6312(e)(1)(A); G.S. 115C-36, -47(18), -209.1, -288(g), -319 to -321, -325(b) and (o) (applicable to career status teachers), -325.2 and -325.9 (applicable to non-career status teachers); 143B-931; 16 N.C.A.C. 6C .0313

Cross References: Prohibition Against Discrimination, Harassment, and Bullying (policy 1710/4021/7230), Discrimination, Harassment, and Bullying Complaint Procedure (policy 1720/4015/7225), Confidential Information (policy 2125/7315), North Carolina Address Confidentiality Program (policy 4250/5075/7316), Confidentiality of Personal Identifying Information (policy 4705/7825), Public Records – Retention, Release, and Disposition (policy 5070/7350), Employee Health Certificate (policy 7120), Drug and Alcohol Testing of Commercial Motor Vehicle Operators (policy 7241), Occupational Exposure to Bloodborne Pathogens (policy 7260), Communicable Diseases – Employees (policy 7262), Family and Medical Leave (policy 7520), Petition for Removal of Personnel Records (policy 7821), Resignation (policy 7900)

Adopted:

PETITION FOR REMOVAL OF PERSONNEL RECORDS

Policy Code:

7821

Any employee may petition the board of education to have removed from his or her personnel file any information that the employee believes to be invalid, irrelevant, or outdated. The board may order the superintendent to remove said information if it finds the information is invalid, irrelevant, or outdated.

1. The petition must be in writing, signed by the employee, and submitted to the assistant superintendent of human resources.
2. The petition must identify the specific information in question and the reasons for claiming it is invalid, irrelevant, or outdated.
3. The written petition and the information in question, together with a recommendation from the superintendent or designee, must be submitted by the administration to a panel of the board consisting of not less than two members appointed by the chairperson.
4. The board panel must review the petition and the information in question and may make a decision including, but not limited to, the following:
 - a. deny the request for removal;
 - b. make a specific finding that the information in question is “invalid, irrelevant, or outdated” and instruct the superintendent to remove the information in question from the employee’s personnel file;
 - c. make a specific finding that the information in question is “invalid, irrelevant, or outdated”, but decide to leave the information in question in the employee’s personnel file and add to the personnel file a copy of the petition, the superintendent’s recommendation, and the panel’s findings;
 - d. request more written information from the petitioner and/or the person who submitted the information in question for placement in the petitioner’s personnel file;
 - e. schedule a hearing to allow both parties to present additional information; or
 - f. such other appropriate action as the panel may deem proper.
5. The decision of the panel will constitute the decision of the full board.

Legal References: G.S. 115C-36, -47, -325(b) (applicable to career status teachers), -325.2 (applicable to non-career status teachers)

Cross References:

Adopted:

A. PROFESSIONAL EMPLOYEES

Professional employees who intend to resign for any reason are encouraged to indicate their plans in writing at as early a date in the school year as possible, such as when plans become firm and/or the decision to leave the school system is made. A resignation becomes effective at the end of the school year in which it is submitted. A resignation for any other time requires 30 days' notice unless the superintendent consents to a shorter notice period.

If a teacher has not been recommended for dismissal but fails to meet the notice requirements and the superintendent does not consent to a waiver of notice, the superintendent shall inform the board and recommend to the board whether a request should be made to the State Board of Education to revoke the teacher's license for the remainder of the school year. The superintendent shall place a copy of the request in the teacher's personnel file.

If a teacher who has been recommended for dismissal under the applicable state law resigns without the written consent of the superintendent, then: (1) the superintendent shall report the matter to the State Board of Education; (2) the employee shall be deemed to have consented to the placement of the written notice of the superintendent's intention to recommend dismissal in the employee's personnel file; (3) the employee shall be deemed to have consented to the release to prospective employers, upon request, of the fact that the superintendent has reported this employee to the State Board of Education; and (4) the employee shall be deemed to have voluntarily surrendered his or her license pending an investigation by the State Board of Education to determine whether to seek action against the employee's license.

B. ALL EMPLOYEES

Letters of resignation must be submitted to the superintendent. Resignations may be accepted, on behalf of the board, by the superintendent or designee. Resignation by classified personnel should be made at least two weeks prior to vacating the position. To help ensure the smooth operation of the schools, 30 days' notice is requested whenever possible.

Each employee who is leaving the school system will be asked to complete an exit survey and may arrange to meet with any director, supervisor, or administrator to discuss his or her reasons for leaving and to identify any practices or policies that he or she feels are detrimental to the objectives of the school system. To the extent possible, statements made by employees will be confidential.

Legal References: G.S. 115C-47, -325(e) and -325(o) (applicable to career status teachers), -325.4 and -325.9 (applicable to non-career status employees)

Cross References: Personnel Files (policy 7820), Professional Employees: Demotion and Dismissal (policy 7930)

Adopted:

RETIREMENT

Policy Code:

7910

Retirement will be in accordance with the Teacher's and State Employees' Retirement System of North Carolina. No employee will be required to retire at any age.

Any employee who plans to retire must notify the human resources department at least 90 days prior to his or her intended retirement date, except in cases in which health or other extenuating circumstances make shorter notice necessary.

Legal References: 29 U.S.C. 621-634; G.S. 135, art. 1

Cross References:

Adopted:

REDUCTION IN FORCE: TEACHERS AND SCHOOL ADMINISTRATORS

Policy Code:

7920

The purpose of this policy is to establish an orderly procedure for a reduction in force. This policy applies to (1) employees with career status and (2) all other teachers and school administrators, as defined in the relevant statutes, during the terms of their contracts. A reduction in force among any other employees will be accomplished in accordance with policy 7921, Classified Personnel Reduction, or, as applicable, in accordance with any conflicting terms of an individual employee's contract.

A. GROUNDS FOR REDUCTION IN FORCE

A reduction in force may be implemented when the board determines that any of the following circumstances have resulted in the need to decrease the number of positions held by employees to whom this policy applies.

1. System Reorganization

System reorganization is defined as (a) the closing, consolidation, or reorganization of schools, school buildings, or facilities; (b) the elimination, curtailment, or reorganization of a curriculum offering, program, or school operation; or (c) the merger of two or more school systems.

2. Declining Enrollment

Declining enrollment exists (a) when the enrollment or projected enrollment for the next succeeding school year causes a decrease in the number of teaching or administrative positions allocated by the State or any other funding source; or (b) when the enrollment or projected enrollment of a curriculum offering or program for the next succeeding school year is inadequate to justify continuation of the course or program.

3. Financial Exigency

Financial exigency means (a) any significant decline in the board's financial resources that compels a reduction in the school system's current operational budget; (b) any significant decrease or elimination in funding for a particular program; or (c) any insufficiency in funding that would render the board unable to continue existing programs at current levels.

B. PRELIMINARY DETERMINATION

1. The superintendent shall determine whether or not a reduction in force for employees subject to this policy is necessary, appropriate, or in the best interests of the school system.

2. If the superintendent decides to recommend to the board a reduction in force, he or she shall first determine which positions shall be subject to the reduction. In making that determination, the superintendent shall account for both:
 - a. structural considerations, such as identifying positions, departments, courses, programs, operations, and other areas where there are (1) less essential, duplicative, or excess personnel; (2) job responsibility and/or position inefficiencies; (3) opportunities for combined work functions; and/or (4) decreased student or other demands for curriculum, programs, operations, or other services; and
 - b. organizational considerations, such as anticipated organizational needs of the school system and program/school enrollment.
3. The superintendent shall then present a recommendation to the board. The recommendation must include:
 - a. the grounds for a reduction in force;
 - b. the positions to be reduced, categorized by area(s) of licensure and/or program responsibility; and
 - c. the background information, data, and rationale for the recommendation.
4. The board will review the superintendent's recommendation and will determine whether to reduce the number of employees or to reduce their terms of employment.
5. If the board, after exploring, considering, and discussing a variety of ways to avoid a reduction in force, determines that a reduction in force of employees subject to this policy is necessary, the superintendent shall recommend to the board which individuals are to be dismissed, demoted, or reduced to part-time employment, based on the criteria set forth below.

C. CRITERIA

The primary consideration in any reduction in force will be the maintenance of a sound and balanced educational program that is consistent with the functions and responsibilities of the school system. The superintendent shall consider a variety of factors in determining which employees will be included in the reduction in force, including the following:

1. work performance and evaluation ratings;
2. areas of licensure;

3. highly qualified status;
4. program enrollment;
5. service in extra duty positions and ability to fill such positions;
6. length of service, with higher priority given to service in this school system; and
7. degree level.

The superintendent shall develop a system for using the above-mentioned factors to determine which employees will be recommended to the board for inclusion in the reduction in force. Highest priority will be given to work performance and evaluation ratings, areas of licensure, highly qualified status, and program enrollment. If identification of employees based on the aforementioned criteria would reduce employment for two or more employees with similar qualifications, the following criteria will be used to break the tie between the employees: service in extra duty positions, length of service, and degree level.

D. PROCEDURE FOR TERMINATION

The board will consider the superintendent's recommendation and may, by resolution, order dismissal or demotion of an individual or reduce an individual to part-time employment. All requirements of G.S. 115C-325 (for teachers with career status) and 115C-325.6 (for non-career status teachers) will be met, including the time limits and procedures for notice and the opportunity for a hearing, when any teacher with career status (as defined in G.S. 115C-325) or teacher or administrator (as defined in G.S. 115C-325.1) is terminated, demoted, or reduced to part-time employment due to a reduction in force.

E. TERMINATION/REEMPLOYMENT OF A TEACHER WITH CAREER STATUS

When a teacher with career status is dismissed in accordance with this policy, his or her name will be placed on a list of available employees to be maintained by the board.

F. NONRENEWAL OF AN EMPLOYEE

The board, upon recommendation of the superintendent, may refuse to renew the contract of a non-career status teacher; to offer a new, renewed, or extended contract to a school administrator; or to reemploy any non-career status teacher who is not under contract for any cause it deems sufficient (see policy 7950, Non-Career Status Teachers: Nonrenewal). A decision (1) not to renew a non-career status teacher's contract, (2) not to renew, extend, or offer a new contract to a school administrator, or (3) to not reemploy any non-career status teacher who is not under contract is not considered a "termination"

under this policy. In such circumstances the procedures set forth in this policy are not required to be followed before the board's decision.

Legal References: G.S. 115C-287.1, -325 (applicable to career status teachers), -325.4, -325.6 to -325.9 (applicable to non-career status teachers)

Cross References: Non-Career Status Teachers: Nonrenewal (policy 7950)

Adopted:

With prior board approval, the superintendent may terminate or reduce the term of employment of classified employees in order to reduce staff. In such circumstances, the following procedure will apply:

1. The superintendent shall first reduce staff through normal attrition.
2. The superintendent shall recommend reductions in force to the board based upon the following criteria:
 - a. job performance as indicated on formal evaluations and other documentation;
 - b. degrees, licenses, or other indications of an employee's potential to contribute and progress in the school system;
 - c. seniority in the same or related positions within the system as a whole;
 - d. other criteria determined to be relevant by the superintendent.

The superintendent shall use his or her discretion in weighing these factors; however, proven job performance will be the most significant factor.

The board will approve, disapprove or modify the superintendent's recommendation for reduction in force. All employees affected by the reduction will be notified in writing of the board's decision. Such notice must include information regarding the opportunity for any employee terminated pursuant to this policy to submit his or her name for other positions as they become open. Such submission does not offer any guarantee of employment; however, a positive work experience with the school system will be favorably reviewed in regard to any application for employment.

Legal References: G.S. 115C-47

Cross References:

Adopted:

PROFESSIONAL EMPLOYEES: DEMOTION AND DISMISSAL

Policy Code:

7930

The board recognizes that an effective professional staff is critical to the smooth operations of the school system and to creating a learning environment where students are able to succeed. When a licensed employee is unable or unwilling to meet performance expectations, the supervisor and superintendent should consider whether dismissal or demotion is appropriate.

Evaluators of licensed employees are expected to follow policy 7810, Evaluation of Licensed Employees, policy 7820, Personnel Files, and policy 7811, Plans for Growth and Improvement of Licensed Employees. Evaluators should provide the superintendent with carefully documented evidence concerning a person's inadequacies and lack of competencies when such deficiencies have led to the recommendation and contemplation of dismissal or demotion. These documents also should show ways in which the evaluator has endeavored to help the employee become a more effective professional. In the interest of students and the welfare of the school system, dismissal or demotion may be pursued regardless of whether the evaluator has met these expectations and regardless of whether the employee has first been placed on a growth plan or mandatory improvement plan, so long as the legal grounds for seeking dismissal or demotion can be sufficiently demonstrated.

All legally required procedures, including those prescribed in the applicable state law, will be followed in the dismissal or demotion of employees. Career status teachers, non-career status teachers during the terms of their contracts, and school administrators during the terms of their contracts may be dismissed only for the following reasons:

1. inadequate performance, as defined by the applicable state statute;
2. immorality;
3. insubordination;
4. neglect of duty;
5. physical or mental incapacity;
6. habitual or excessive use of alcohol or non-medical use of a controlled substance as defined in Article 5, Chapter 90 of the General Statutes;
7. conviction of a felony or a crime involving moral turpitude;
8. advocating the overthrow of the government of the United States or of the state of North Carolina by force, violence, or other unlawful means;
9. failure to fulfill the duties and responsibilities imposed upon teachers or school administrators by the General Statutes;

10. failure to comply with such reasonable requirements as the board may prescribe;
11. any cause that constitutes grounds for the revocation of an employee's teaching or school administrator license;
12. a justifiable decrease in the number of positions due to school system reorganization, decreased enrollment, or decreased funding, provided that there is full compliance with other statutory requirements;
13. failure to maintain one's license in current status;
14. failure to repay money owed to the state in accordance with the provisions of Article 60, Chapter 143 of the General Statutes; and
15. providing false information or knowingly omitting a material fact on an application for employment or in response to a pre-employment inquiry.

Resignation by a teacher who has been recommended for dismissal under the applicable state statute is subject to the provisions of policy 7900, Resignation.

Legal References: G.S. 90 art. 5; 115C-287.1, -307, -325 (applicable to career status teachers), -325.1 *et seq.* (applicable to non-career status teachers), -333, -333.1; 143 art. 60; 16 N.C.A.C. 6C .0502

Cross References: Professional and Staff Development (policy 1610/7800), Staff Responsibilities (policy 7300), Job Descriptions (policy 7400), Evaluation of Licensed Employees (policy 7810), Plans for Growth and Improvement of Licensed Employees (policy 7811), Personnel Files (policy 7820), Resignation (policy 7900), Non-Career Status Teachers: Nonrenewal (policy 7950)

Adopted:

CLASSIFIED PERSONNEL: SUSPENSION AND DISMISSAL

Policy Code:

7940

Classified positions are critical to the effective operation of the school system. The board encourages open communication between classified employees and their supervisors. When performance problems arise, supervisors are encouraged to communicate clearly in oral or written form the nature of the deficiencies and to provide a reasonable opportunity to improve. Any written notices or reprimands will be included in the employee's central office personnel file. All employees are expected to meet job requirements and to seek clarification and guidance when needed to fulfill these requirements.

A. SUSPENSION

The superintendent or designee may suspend an employee without pay as a disciplinary sanction. The superintendent shall provide written notice of the suspension without pay to the employee. This notice will be placed in the personnel file. The suspension without pay may begin immediately. An employee has 10 calendar days from the date of receiving written notice of the superintendent's decision to take the following actions: (1) request written notice of the reason(s) for the superintendent's decision and (2) request an appeal before the board of education regarding the decision to suspend without pay. If notice of the reason(s) for the suspension is requested, such notice must be provided prior to any board hearing on the decision. If an appeal is not made within this time, an appeal is deemed to be waived. An employee may appeal a suspension on the grounds that there was no rational basis for the suspension; the suspension was discriminatory or was used for harassment; or board policies were not followed.

Upon receiving a request for an appeal, the chairperson may designate a panel of three board members to review the decision. The chairperson of the board or the panel may establish rules for an orderly and efficient hearing. The employee will be notified in writing of the decision of the board to uphold, reverse, or modify the superintendent's decision. An employee will receive back pay for any period of suspension without pay that is not upheld by the board.

B. TERMINATION

As "at will" employees, employees in classified positions may be terminated on any nondiscriminatory basis, including inadequate performance, misconduct, failure to follow board policies, or a reduction in staff. All terminations to reduce staff will be in accordance with policy 7921, Classified Personnel Reduction. All other terminations will be made pursuant to this policy. The superintendent has the authority to terminate at-will employees. The superintendent should provide written notice to the employee and the board of the decision to terminate. An employee has 15 calendar days from the date of receiving notice of the superintendent's decision to take the following actions: (1) request written notice of the reason(s) for the superintendent's decision and (2) request an appeal of the decision to the board of education. If notice of the reason(s) for the

termination is requested, such notice must be provided prior to any board hearing on the termination. The termination is effective during the period of appeal.

Upon receiving a request to appeal the superintendent's decision to terminate, the chairperson may appoint a panel of three board members to review the decision. The employee has the burden of establishing that the termination was based on an illegal discrimination. The superintendent may offer evidence to substantiate that the dismissal was for a nondiscriminatory reason, such as prior warnings or remedial efforts.

The hearing procedures established in policy 2500, Hearings Before the Board, will be followed. The chairperson will provide written notice of the decision to the employee and the superintendent as soon as practicable after reaching a decision. The board may uphold the superintendent's decision or reinstate the employee for any reason it deems proper, so long as the board's reason is not discriminatory.

Any employee who has been dismissed for cause will be ineligible for reemployment.

This policy is not intended to create any property rights or an implied or express contract between the board and the employee other than what is provided by law.

Legal References: 29 U.S.C. 621 *et seq.*; 29 U.S.C. 794 *et seq.*; 42 U.S.C. 1981; 42 U.S.C. 12101; G.S. 115C-45(c), -47

Cross References: Hearings Before the Board (policy 2500), Classified Personnel Reduction (policy 7921), Annual Independent Audit (policy 8310)

Adopted:

NON-CAREER STATUS TEACHERS: NONRENEWAL

Policy Code:

7950

The board may refuse to renew the contract of any non-career status teacher for any cause it deems sufficient, so long as the cause is not arbitrary, capricious, discriminatory, prohibited by state or federal law, or for personal or political reasons.

If the superintendent decides to recommend nonrenewal of a non-career status teacher, the superintendent shall provide written notice of the recommendation no later than June 1. The teacher may, within 10 days of receipt of the superintendent's recommendation, request written notice of the reasons for the superintendent's recommendation for nonrenewal and the information that the superintendent may share with the board to support the recommendation for nonrenewal. If a teacher files a timely request, the superintendent shall provide the requested information, and the teacher will be permitted to submit supplemental information to the superintendent and board prior to the board's decision.

A non-career status teacher has the right to petition the board for a hearing no later than 10 days after receiving notice of the superintendent's recommendation for nonrenewal. If the ~~any other~~ teacher requests a hearing, ~~the a hearing panel of the board will confer and determine whether such a hearing will be granted. board chair and vice chair will confer and determine whether such a hearing will be granted. If the chair and vice chair cannot agree, a hearing will be granted. [Note: It is within the board's discretion to determine how it will decide whether to grant a discretionary hearing. This method is a suggestion, and it may be modified to incorporate the board's current practice. (The board should DELETE THIS NOTE prior to adopting the policy.)]~~ The board hearing panel or school board attorney will notify the teacher of its the decision whether to grant a hearing.

If a hearing is granted, the human resources committee of the board will serve as the hearing panel. The hearing will be informal, and formal rules of evidence will not apply. The teacher and the superintendent may be represented by legal counsel and may present witnesses. Unless otherwise modified by the board or hearing panel, each side will be allowed thirty minutes to make a presentation. The superintendent shall make his or her presentation first, followed by the teacher. Either party may reserve time for rebuttal. The hearing panel may limit or exclude duplicative or irrelevant evidence. A record of the hearing will be made and maintained by the board. The hearing panel may will uphold the superintendent's recommendation if it finds that the reason(s) for the recommendation is not arbitrary, capricious, discriminatory, personal, political, or otherwise prohibited by law.

In considering a recommendation of the superintendent to offer a teacher a new, renewed, or extended contract, the board may review any information that was in the teacher's personnel file at the time of the superintendent's recommendation. If the board determines that it needs additional information to reach a decision, it will notify the teacher of the board's concerns and of the additional information that it is considering and provide an opportunity for the teacher to respond to the additional information.

The board will notify the non-career status teacher whose contract will not be renewed for the next school year of its decision by June 15. If, however, a teacher is granted a hearing, the board will provide the nonrenewal notification within 10 days of the hearing or such later date upon the written consent of the superintendent and teacher.

Non-career status teachers may be demoted or dismissed during the terms of their contracts only in accordance with policy 7930, Professional Employees: Demotion and Dismissal.

Legal References: G.S. 115C-45(c), -325.1 *et seq.*

Cross References: Hearings Before the Board (policy 2500), Teacher Contracts (policy 7410), Reduction in Force: Teachers and School Administrators (policy 7920), Professional Employees: Demotion and Dismissal (policy 7930)

Adopted:

PITT COUNTY BOARD OF EDUCATION

DATE: October 24, 2016

TOPIC: Motion to go into Closed Session

I move that we go into Closed Session pursuant to General Statute 143.318.11 for the following purposes:

- ☐ under subsection (a)(1) to prevent the disclosure of privileged or confidential student information. (*G.S. 115C-402; 20 U.S.C. §1232g (FERPA)*)
- ☒ under subsection (a)(1) to prevent the disclosure of privileged or confidential personnel information. (*G.S. 115C-319 et seq.*)
- ☐ under subsection (a)(3) to consult with our attorney:
 - ☐ to preserve the attorney-client privilege.
 - ☐ to consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action.
 - ☐ to consider and give instructions concerning a judicial action titled _____ v. Pitt County Board of Education.
- ☐ under subsection (a)(5) to establish or instruct the staff or agent concerning the negotiation of the price and material terms of a contract concerning the acquisition of real property.
- ☐ under subsection (a)(5) to establish or instruct the staff or agent concerning the negotiation of the amount of compensation and other material terms of an employment contract or proposed employment contract.
- ☐ under subsection (a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment or initial employment of a public officer or employee or a prospective public officer or employee.
- ☐ under subsection (a)(6) to hear or investigate a complaint, charge, or grievance by or against a public officer or employee.
- ☐ under subsection (a)(8) to formulate plans relating to emergency response to incidents of school violence or to formulate and adopt the school safety components of school improvement plans.