

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

3

SENATE BILL 532
Second Edition Engrossed 4/12/01
House Committee Substitute Favorable 6/4/01

Short Title: Clarify Sch. Bd. Apps./Noncert. E'ees Notice.

(Public)

Sponsors:

Referred to:

March 19, 2001

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE RIGHT TO APPEAL TO A LOCAL BOARD OF
EDUCATION, AND TO REQUIRE NOTICE OF THE DISMISSAL, DEMOTION,
OR SUSPENSION WITHOUT PAY OF NONCERTIFIED EMPLOYEES.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

4 ~~An appeal shall lie from the decision of a local board of education to the superior~~
5 ~~court of the State in any action of a local board of education affecting one's character or~~
6 ~~right to teach.~~An appeal of right brought before a local board of education under
7 subdivision (1), (2), (3), or (4) of this subsection may be further appealed to the superior
8 court of the State on the grounds that the local board's decision is in violation of
9 constitutional provisions, is in excess of the statutory authority or jurisdiction of the
10 board, is made upon unlawful procedure, is affected by other error of law, is
11 unsupported by substantial evidence in view of the entire record as submitted, or is
12 arbitrary or capricious. However, the right of a noncertified employee, as defined in
13 G.S. 115C-315.1, to appeal decisions of a local board under subdivision (3) of this
14 subsection shall only apply to decisions concerning the dismissal, demotion, or
15 suspension without pay of the noncertified employee."

16 **SECTION 2.** G.S. 115C-305 is repealed.

17 **SECTION 3.** Article 21 of Chapter 115C of the General Statutes is amended
18 by adding a new section to read:

19 "**§ G.S. 115C-315.1. Noncertified employees; notice of dismissal, demotion, or**
20 **suspension without pay.**

21 Before recommending to a local board the dismissal, demotion, or suspension
22 without pay of a noncertified employee, the superintendent shall give written notice to
23 the noncertified employee of the specific reasons for that recommendation. As used in
24 this section, the term "noncertified employee" means a full-time employee of a local
25 board of education who is employed in a position that the State Board does not require
26 to be held by a person who holds or is qualified to hold a certificate."

27 **SECTION 4.** This act becomes effective July 1, 2001, and applies to final
28 administrative or school board decisions made on or after that date.