

§ 115C-105.39. Dismissal or removal of personnel; appointment of interim superintendent.

(a) Within 30 days of the initial identification of a school as low-performing by the State Board under G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the school's principal: (i) recommend to the local board that the principal be retained in the same position, (ii) recommend to the local board that the principal be retained in the same position and a plan of remediation should be developed, (iii) recommend to the local board that the principal be transferred, or (iv) proceed under G.S. 115C-325.4 to dismiss or demote the principal. The superintendent may only recommend a principal be retained in the same position without a plan for remediation if the principal has been at the school for less than two years or, in the case of a principal having been at the school for two years or more, if the school has both met student growth and has improved student achievement scores under G.S. 115C-83.15 for the prior school year. The principal shall not be transferred to another principal position unless (i) it is in a school classification in which the principal previously demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation to the principal for at least one year following the transfer to assure the principal does not impede student performance at the school to which the principal is being transferred; and (iii) the parents of the students at the school to which the principal is being transferred are notified. The principal shall not be transferred to another low-performing school in the local school administrative unit. If the superintendent intends to recommend demotion or dismissal, the superintendent shall notify the local board. Within 15 days of (i) receiving notification that the superintendent intends to proceed under G.S. 115C-325.4 or (ii) its decision concerning the superintendent's recommendation, but no later than September 30, the local board shall submit to the State Board a written notice of the action taken and the basis for that action. If the State Board does not assign an assistance team to that school or if the State Board assigns an assistance team to that school and the superintendent proceeds under G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall take no further action. If the State Board assigns an assistance team to the school and the superintendent is not proceeding under G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall vote to accept, reject, or modify the local board's recommendations. The State Board shall notify the local board of its action within five days. If the State Board rejects or modifies the local board's recommendations and does not recommend dismissal of the principal, the State Board's notification shall include recommended action concerning the principal's assignment or terms of employment. Upon receipt of the State Board's notification, the local board shall implement the State Board's recommended action concerning the principal's assignment or terms of employment unless the local board asks the State Board to reconsider that recommendation. The State Board shall provide an opportunity for the local board to be heard before the State Board acts on the local board's request for a reconsideration. The State Board shall vote to affirm or modify its original recommended action and shall notify the local board of its action within five days. Upon receipt of the State Board's notification, the local board shall implement the State Board's final recommended action concerning the principal's assignment or terms of employment. If the State Board rejects or modifies the local board's action and recommends dismissal of the principal, the State Board shall proceed under G.S. 115C-325.12.

(b) The State Board shall proceed under G.S. 115C-325(q)(2) or G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with G.S. 115C-325(q)(2) or G.S. 115C-325.13.

(c) The State Board may appoint an interim superintendent in a local school administrative unit:

- (1) Upon the identification of more than half the schools in that unit as low-performing under G.S. 115C-105.37; or

- (2) Upon the recommendation from an assistance team assigned to a school located in that unit that has been identified as low-performing under G.S. 115C-105.37. This recommendation shall be based upon a finding that the superintendent has failed to cooperate with the assistance team or has otherwise hindered that school's ability to improve.

The State Board may assign any of the powers and duties of the local superintendent and the local finance officer to the interim superintendent that the Board considers are necessary or appropriate to improve student performance in the local school administrative unit. The interim superintendent shall perform all of these assigned powers and duties. The State Board of Education may terminate the contract of any local superintendent entered into on or after July 1, 1996, when it appoints an interim superintendent. The Administrative Procedure Act shall apply to that decision. Neither party to that contract is entitled to damages.

(d) In the event the State Board has appointed an interim superintendent and the State Board determines that the local board of education has failed to cooperate with the interim superintendent or has otherwise hindered the ability to improve student performance in that local school administrative unit or in a school in that unit, the State Board may suspend any of the powers and duties of the local board of education that the State Board considers are necessary or appropriate to improve student performance in the local school administrative unit. The State Board shall perform all of these assigned powers and duties for a period of time to be specified by the State Board.

(e) If the State Board suspends any of the powers and duties of the local board of education under subsection (d) of this section and subsequently determines it is necessary to change the governance of the local school administrative unit in order to improve student performance, the State Board may recommend this change to the General Assembly, which shall consider, at its next session, the future governance of the identified local school administrative unit. (1995 (Reg. Sess., 1996), c. 716, s. 3; 1998-59, s. 2; 2013-360, ss. 9.7(d), (p); 2016-94, s. 8.31(a); 2017-157, s. 2(n).)