

1 16 NCAC 06G .0308 is readopted as published in 38:23 NCR 1505 as follows:

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3 **16 NCAC 06G .0308 DUE PROCESS PROTECTIONS FOR EMPLOYEES OF LOW PERFORMING**
4 **SCHOOLS**

5 (a) At any hearing conducted by a panel of the ~~SBE~~ State Board of Education (SBE) pursuant to the provisions of ~~G.S.~~
6 ~~115C-325(q)(1), (q)(2), or (q)(2a);~~ G.S. 115C-325(q) and G.S. 115C-325.11, the panel shall sit as an impartial tribunal
7 to receive evidence and to decide ~~on the basis of that evidence~~ based on a preponderance of that evidence whether the
8 principal, assistant principal, teacher, supervisor, ~~or~~ director, or superintendent ~~hereafter~~ (hereinafter referred to as
9 "~~the employee,~~ employee") shall be reinstated, demoted, or dismissed. The assistance team assigned to the school or
10 district where the employee was assigned shall present the case against the employee with the assistance of any staff
11 or legal counsel appointed by the SBE.

12 (b) Both the employee and the assistance team shall have the right:

- 13 (1) to be represented by counsel at the hearing;
14 (2) to subpoena witnesses and documents;
15 (3) to examine and cross-examine witnesses under oath; and
16 (4) to present relevant evidence using witnesses and documents.

17 (c) The panel of the SBE which conducts the hearing shall:

- 18 (1) give written notice to the parties of the time and place of the hearing;
19 (2) make a complete record of the evidence received during the hearing; and
20 (3) issue subpoenas for witnesses and documents on behalf of any party to the proceedings; and
21 (4) ~~enter any procedural orders~~ make any procedural decisions.

22 (d) In any hearing pursuant to the provisions of ~~G.S. 115C-325(q)(2), or (q)(2a);~~ G.S. 115C-325(q) and
23 115C-325.11, the assistance team shall have the burden of proof but, in accordance with G.S. 115C-325(q)
24 or 115C-325.11, the findings and recommendations of the assistance team shall be substantial evidence of
25 the inadequate performance of the employee.

26 (e) The panel's decision shall contain:

- 27 (1) findings of fact;
28 (2) conclusions of law;
29 (3) a description of any disciplinary actions to be imposed on the employee; and
30 (4) a statement that the employee may file a notice of appeal to the full SBE within 10 days of receipt
31 of decision by mailing the notice to the State Board of Education's Office of General Counsel, 6301
32 Mail Service Center, Raleigh, NC 27699-6301., and emailing a copy of the notice of appeal to Office
33 of General for the State Board of Education.

34 (f) ~~Either the employee or the assistance team may within 10 days of notification of the panel's decision give notice~~
35 ~~of appeal to the full SBE. The~~ An appeal from the SBE panel's decision to the full SBE shall be on the record.
36 with no arguments by counsel except in the form of In accordance with a schedule set by the SBE, the employee may
37 submit a written briefs of no more than 25 pages 8,750 words. The assistance team may file a response of no more

1 than 8,750 words within seven business days after service of the employee’s brief. Word counts shall conform to Rule
2 28(j) of the North Carolina Rules of Appellate Procedure and parties shall certify their word counts on the last page
3 of any brief. The SBE shall consider the appeal at its next regularly-scheduled meeting that is at least 20 days following
4 after receipt of notice of the appeal and shall render a decision within 30 days after that meeting is adjourned, unless
5 the SBE determines that good cause, as defined by 26 NCAC 03 .0118, exists to extend the period those periods or
6 the SBE and all the parties agree to extend the any period. The members of the panel which sat and that decided the
7 case shall not be excluded from the full SBE hearing may fully participate in the appeal. The full SBE shall decide the
8 appeal based upon a preponderance of the evidence in the record. The SBE’s decision shall include findings of fact,
9 conclusions of law, and a description of any disciplinary actions to be imposed on the employee. Appeal from the SBE
10 decision shall be in accordance with G.S. 150B-Chapter 150B of the General Statutes.

11 (g) If Before the SBE appoints an interim superintendent, revokes thea superintendent's license, or dismisses
12 terminates the contract of thea superintendent pursuant to G.S. 115C-105.39(c)(2), the SBE shall provide the
13 superintendent with notice of how the superintendent has failed to cooperate with the assistance team or has otherwise
14 hindered the school’s ability to improve. The superintendent shall have ten days to deliver a written response to the
15 charges. the superintendent shall not have the right to a hearing under this Rule but shall have the right to file a
16 contested case petition pursuant to the provisions of G.S. 150B. If the SBE decides to revoke the superintendent’s
17 license or terminate the superintendent’s contract, The the SBE shall make written findings to support those actions.
18 any of these actions taken pursuant to the provisions of G.S. 115C-105.39(e).The SBE’s decision shall constitute a
19 final agency action subject to review under Chapter 150B of the General Statutes.

20 (h) If the SBE revokes or refuses to renew a teacher's license pursuant to G.S. 115C-296(d), the procedures set forth
21 in 16 NCAC 6C .0312 shall apply. Subchapter 06C, Section .0600 shall apply.

22 (i) Any requests, notices, or correspondence from the SBE or parties required or permitted under this Rule shall be
23 served on the SBE and any other party in the manner prescribed in G.S. 1A-1, Rule 5 of the North Carolina Rules of
24 Civil Procedure.

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26 *History Note: Authority G.S. 115C-12(9)c4.; 115C 325(q); 115C-325.11; 115C-105.39(b); 115C-105.39(c);*
27 *Eff. January 2, 1998;*
28 *Amended Eff. August 1, 1999, 1999;*
29 *Readoption Eff. November 1, 2024.*