



North Carolina State Board of Education

The State Board of Education is charged with supervising and administering "the free public school system and the educational funds provided for its support."

Dismissal/Disciplinary Measures for Public School Employees: Timelines

I. Demotion or Dismissal of Career Employees [GS 115C-325(h)] (except RIF, which is a (j3) hearing)

Abbreviations

ADMR: Career Administrator

BOE: Local Board of Education

CM: Case Manager

DSWP: Disciplinary Suspension Without Pay

EMPL: Career Employee

SSPI : State Superintendent of Public Instruction

SUPT: LEA Superintendent

Day	Action
1	SUPT meets with EMPL, gives EMPL written notice of charges, explains charges to EMPL, and allows EMPL to respond. SUPT may then suspend EMPL up to five days without pay before taking further action.
6	Within 5 days SUPT notifies EMPL of intent to dismiss or demote, or reinstates EMPL immediately and pays EMPL for the period of suspension. If SUPT notifies EMPL of intent to dismiss or demote, EMPL may be continued on suspension without pay.
20	EMPL either makes no response, chooses an immediate BOE hearing or CM hearing. [<i>The BOE hearing is a review of the records only. The CM hearing is an evidentiary hearing.</i>]

Board Hearing [G.S. 115C-325(j2)]

Action

Case Manager Hearing [G.S. 115C-325(j)]

Action

23	At least 7 days before hearing, SUPT shares evidence with EMPL.	Within 2 days after receipt of CM hearing request, SUPT notifies SSPI of CM hearing request.
27	Parties submit written statements to board. Employee shares evidence with superintendent.	Within 3 days after receipt of notice, SSPI designates CM unless EMPL & SUPT have jointly agreed on CM.
30-31	<p>BOE hearing is held.</p> <ul style="list-style-type: none"> ● Hearing is private. ● Hearing is limited to a review of record: <ul style="list-style-type: none"> -documentary evidence of the parties; -SUPT's recommendation & grounds for recommendation. ● The parties may make oral arguments to BOE based on the record. ● No new evidence is allowed unless BOE finds that it is critical and that the party could not reasonably have discovered and produced it earlier. 	At least 5 days before hearing, SUPT shares evidence with EMPL.
27-33	<p>BOE sends written findings and determination to EMPL and SUPT. BOE may:</p> <ul style="list-style-type: none"> ● accept SUPT's recommendation <p>*SUPT may</p>	At least 3 days before hearing, EMPL shares evidence with SUPT.

immediately impose the demotion or dismissal.

- modify SUPT's recommendation

*SUPT must follow BOE's determination, which may include reinstatement; dismissal, where SUPT asked for demotion; DSWP;

- reject SUPT's recommendation

*SUPT must immediately reinstate EMPL, restore pay for the period of suspension, and remove all records of the suspension from EMPL's personnel file.

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Within 10 days of designation by SSPI, CM completes hearing and report and then delivers copies to EMPL and SUPT.

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Within 2 days of receipt of CM report, SUPT either files written recommendation with BOE for action or drops the charges. SUPT notifies EMPL in writing of decision.

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Within 2 days of receipt of SUPT's notice, EMPL decides whether to make written request to SUPT for BOE determination

	under GS 115C-325(j1). BOE sets time, between 7 and 10 days later, and place for hearing and notifies EMPL by certified mail or personally.
48	At least 3 days before BOE hearing, parties submit written statements to BOE.
50	Earliest date for hearing. <ul style="list-style-type: none"> • Hearing is private • Hearing is limited to a review of the record: <ul style="list-style-type: none"> *record from the CM hearing, including transcript; *CM's findings of fact; *CM's recommendations as to whether grounds are substantiated; and *SUPT's recommendation and grounds for the recommendation. • Parties may make oral arguments to BOE based on the record. • No new evidence allowed unless BOE finds that it is critical and that the party could not reasonably have discovered and produced it earlier.
53	Latest date for hearing.
60	BOE may ask CM to address critical factual

issues.
If CM fails to do so within 7 days, BOE decides facts.

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Latest date for BOE to send written findings and determination to EMPL and SUPT. BOE may take action as described at Day 27 in left column.

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II. Dismissal/Demotion Based Upon Reduction in Force [GS 115C-325(e)(2)]

Day	Action
1	SUPT gives EMPL written notice by certified mail or personal delivery of intention to recommend to BOE that EMPL be dismissed or demoted due to a reduction in force. Notice must set forth the grounds that justify the action and must inform EMPL of right to request, within 15 days after receipt of the notice, a review by BOE.
16	Within 15 days after receipt of notice, EMPL files written request with SUPT for BOE hearing within 10 days. BOE hearing is a (j3) hearing. Within 10 days before the hearing, SUPT shares evidence with EMPL.
20	Within 6 days before the hearing, EMPL shares evidence with SUPT.
26	BOE hearing is held. <ul style="list-style-type: none">• Hearing is private.• Parties have right to be present, be heard, have legal counsel, and present evidence.• Rules of evidence do not apply.• No new evidence allowed unless BOE finds that it is critical and that the party could not reasonably have discovered and produced it earlier.• BOE may issue subpoenas.• BOE decides procedural issues.• SUPT must provide transcript of hearing. EMPL may receive free copy of transcript for appeal to court.

Since the statute is silent on this issue, BOE may determine that grounds for dismissal or demotion are true and substantiated at the end of the hearing. SUPT may immediately impose the dismissal or demotion. However, better practice may be for the BOE to make a written determination and send it to EMPL and SUPT within 2 days after the hearing.

The EMPL has priority on all positions in which the EMPL acquired career status and for which the EMPL is qualified which become available in the LEA within the 3 consecutive years succeeding the EMPL's dismissal.

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III. Career Administrator Demotion [G.S. 115C-325 (f2)]

Day	Action
1	SUPT meets with ADMR, gives ADMR written notice of charges, explains charges to ADMR, and allows ADMR to respond. SUPT may then suspend ADMR up to five days without pay before taking further action.
6	SUPT notifies ADMR in writing by certified mail or personal delivery of intent to demote, or reinstates ADMR immediately and pays ADMR for the period of suspension. If SUPT notifies ADMR of intent to demote, ADMR may be continued on suspension without pay.
22	Within 15 days after <u>receipt</u> of the notice, ADMR either makes no response or asks for BOE hearing. [The BOE hearing is a (j3) hearing at which live testimony may be presented.]

At this point there is no clear statement of when SUPT must file the recommendation for demotion with BOE and for the BOE hearing. To be consistent with other hearing procedures under GS 115C-325, the following timelines may be used:

23	At least 10 days before the hearing, SUPT shares evidence with ADMR.
24	Within 2 days after receiving the request for BOE hearing, SUPT sends recommendation for demotion to BOE.
26	Within 2 days after receiving SUPT's recommendation, BOE sets time & place for hearing: 7-10 days later.

27	At least 6 days before the hearing, ADMR shares evidence with SUPT.
33	<p>Earliest date for hearing.</p> <ul style="list-style-type: none"> • Hearing is private. • Parties have right to be present, be heard, have legal counsel, and present evidence. • Rules of evidence do not apply. • No new evidence allowed unless BOE finds that it is critical and that the party could not reasonably have discovered and produced it earlier. • BOE may issue subpoenas. • BOE decides procedural issues. • SUPT must provide transcript of hearing. ADMR may receive free copy of transcript for appeal to court.
36	Latest date for hearing.
38	BOE makes determination based upon the evidence presented at the hearing. If the BOE concludes that SUPT's grounds for demotion are true and substantiated by preponderance of the evidence, the BOE may order the demotion. SUPT may immediately impose the demotion. If BOE finds the grounds for demotion are not true and substantiated, the SUPT must immediately reinstate ADMR, restore pay for the period of suspension, and remove all records of the suspension from ADMR's personnel file.

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IV. Disciplinary Suspension Without Pay [GS 115C-325 ((f)(2)]

A. For 10 days or less and no intentional misconduct [GS 115C-325(j2)]

Day	Action
1	SUPT meets with EMPL, gives EMPL written notice of charges, explains charges to EMPL, and allows EMPL to respond. SUPT may place EMPL on leave without pay.
6	SUPT notifies EMPL of intent to impose DSWP, or reinstates EMPL immediately and pays EMPL for the period of suspension. If SUPT notifies EMPL of intent to impose DSWP for 10 days or less, EMPL may be

placed on suspension with pay (since otherwise suspension without pay would exceed the 10-day period).

21 Within 15 days after SUPT's recommendation, EMPL may request BOE hearing under (j2).

At this point there is no clear statement of when SUPT must file the recommendation for DSWP with BOE and for the BOE hearing. To be consistent with other hearing procedures under GS 115C-325, the following timelines may be used.

23 Within 2 days after receiving the request for BOE hearing, SUPT sends recommendation for DSWP to BOE.

26 Within 2 days after receiving SUPT's recommendation, BOE sets time & place for hearing: 7-10 days later.
At least 7 days before hearing, SUPT shares evidence with EMPL.

30 At least 3 days before the hearing, parties may submit written statements to board.
At least 3 days before the hearing, EMPL shares evidence with SUPT.

33 Earliest date for hearing.

- Hearing is private.
- Hearing is limited to a review of record:

-documentary evidence of the parties;
-SUPT's recommendation & grounds for recommendation.

- The parties may make oral arguments to BOE based on the record.
- No new evidence is allowed unless BOE finds that it is critical and that the party could not reasonably have discovered and produced it earlier.
- Transcript is not required.

36 Latest date for hearing.

38 BOE makes determination based upon the evidence presented at the hearing. If the BOE concludes that SUPT's grounds for DSWP are true and substantiated by preponderance of the evidence, the BOE may order the DSWP. SUPT may immediately impose the DSWP. If BOE finds the grounds for DSWP are not true and substantiated, the SUPT must immediately

true and substantiated, the SUPT must immediately reinstate EMPL, restore pay for the period of suspension, and remove all records of the suspension from EMPL's personnel file.

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B. For more than 10 days or intentional misconduct [GS 115C-325(j3)]

Day	Action
1	SUPT meets with EMPL, gives EMPL written notice of charges, explains charges to EMPL, and allows EMPL to respond. SUPT may then suspend EMPL up to five days without pay before taking further action.
6	Within 5 days SUPT notifies EMPL of intent to impose DSWP, or reinstates EMPL immediately and pays EMPL for the period of suspension. If SUPT notifies EMPL of intent to impose DSWP pay, EMPL may be continued on suspension without pay.
21	Within 15 days after SUPT's recommendation, EMPL may request BOE hearing under (j3).

At this point there is no clear statement of when SUPT must file the recommendation for DSWP with BOE and for the BOE hearing. To be consistent with other hearing procedures under GS 115C-325, the following timelines may be used.

23	Within 2 days after receiving the request for BOE hearing, SUPT sends recommendation for DSWP to BOE. At least 10 days before hearing, SUPT shares evidence with EMPL.
26	Within 2 days after receiving SUPT's recommendation, BOE sets time & place for hearing: 7-10 days later.
27	At least 6 days before the hearing, EMPL shares evidence with SUPT.
33	Earliest date for hearing. <ul style="list-style-type: none">• Hearing is private.• Parties have right to be present, be heard, have legal counsel, and present evidence.• Rules of evidence do not apply.• No new evidence allowed unless BOE finds that it is critical and that the party could not reasonably have discovered and produced it earlier.• BOE may issue subpoenas.

- BOE decides procedural issues.
- SUPT must provide transcript of hearing. ADMR may receive free copy of transcript for appeal to court.

36 Latest date for hearing.

38 BOE makes determination based upon the evidence presented at the hearing. If the BOE concludes that SUPT's grounds for DSWP are true and substantiated by preponderance of the evidence, the BOE may order the DSWP. SUPT may immediately impose the DSWP. If BOE finds the grounds for DSWP are not true and substantiated, the SUPT must immediately reinstate EMPL, restore pay for the period of suspension, and remove all records of the suspension from EMPL's personnel file.

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End Notes

1. Definitions

"**Career employee**" means (i) an employee who has obtained career status with the BOE; (ii) an employee who has obtained career status in an administrative position with that BOE; (iii) a probationary teacher within the term of the contract; and (iv) a school administrator during the term of a school administrator contract. "**Career school administrator**" means a school administrator who has obtained career status in an administrative position.

"**Day**" means calendar day. When computing a time period, the day of the event after which the period starts is not included. When the final day of the period is included unless it falls on a Saturday, Sunday, or legal holiday, in which event the period runs until the next day that is not a Saturday, Sunday, or legal holiday. For periods of time less than seven days, Saturdays, Sundays, or legal holidays that fall within the period are excluded from the computation. "**Demote**" means to reduce the salary of a classroom teacher or school administrator, but does not mean a suspension without pay for further investigation leading to dismissal proceedings, the elimination or reduction of bonus payments or local supplements, or a reduction in salary resulting from the elimination of a special duty such as athletic coach or choral director.

2. "**Suspension without pay**" means a suspension where the SUPT believes (i) that cause exists for dismissing the EMPL and (ii) that immediate suspension is necessary. The SUPT must first meet with the EMPL, give the EMPL written notice of the charges, explain the basis for the charges, and allow the EMPL to respond.

2. CM can extend the time for completion of hearing and report by 5 days upon informing SUPT and EMPL that justice requires greater time for investigation and preparation of the report.

3. SUPT and EMPL can agree to an extension of time for completion of hearing and report of more than 5 days.

4. Either the EMPL, SUPT, or BOE may ask the CM to address a critical factual issue that the report failed to address, but the CM's failure to do so is not a basis for appeal.

- The SUPT must make this request within 3 days after receipt of the CM's report.
- The EMPL must make this request at the same time as the request for a BOE hearing is made.
- The BOE may, during the hearing, find that the CM failed to address a critical factual issue and remand to the CM for a the CM to complete the report within 7 days of receipt of the BOE's request.

5. The SUPT must make a transcript of CM hearings and (j3) hearings [career administrator demotion, disciplinary suspensions without pay for more than 10 days or for intentional misconduct], which are the hearings where live testimony may be presented. No transcript is required for (j2) hearings [EMPL waives CM hearing; EMPL asks for BOE hearing following CM hearing; disciplinary suspensions without pay for 10 days or less].

6. "Intentional misconduct" for a disciplinary suspension without pay includes inappropriate sexual or physical conduct, immorality, insubordination, habitual or excessive use of alcohol or nonmedical use of a controlled substance, any cause that constitutes grounds for the revocation of the EMPL's license, or providing false information.

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