

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 571
HOUSE BILL 200

AN ACT TO AMEND CHAPTER 115C BY ADDING ARTICLE 21A GOVERNING THE CONFIDENTIALITY OF PERSONNEL FILES OF EMPLOYEES OF LOCAL BOARDS OF EDUCATION AND TO MAKE OTHER CHANGES IN EMPLOYMENT PRACTICES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 115C of the General Statutes is amended by adding a new Article 21A to read:

"Article 21A.

"Privacy of Employee Personnel Records.

"§ 115C-319. **Personnel files not subject to inspection.**—Personnel files of employees of local boards of education, former employees of local boards of education, or applicants for employment with local boards of education shall not be subject to inspection and examination as authorized by G.S. 132-6. For purposes of this Article, a personnel file consists of any information gathered by the local board of education which employs an individual, previously employed an individual, or considered an individual's application for employment, and which information relates to the individual's application, selection or nonselection, promotion, demotion, transfer, leave, salary, suspension, performance evaluation, disciplinary action, or termination of employment wherever located or in whatever form.

"§ 115C-320. **Certain records open to inspection.**—Each local board of education shall maintain a record of each of its employees, showing the following information with respect to each employee: name, age, date of original employment or appointment, current position, title, current salary, date and amount of most recent increase or decrease in salary, date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification, and the office or station to which the employee is currently assigned. Subject only to rules and regulations for the safekeeping of records adopted by the local board of education, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief.

"§ 115C-321. **Confidential information in personnel files; access to information.**—All information contained in a personnel file, except as otherwise provided in this

Chapter, is confidential and shall not be open for inspection and examination except to the following persons:

- (1) The employee, applicant for employment, former employee, or his properly authorized agent, who may examine his own personnel file at all reasonable times in its entirety except for letters of reference solicited prior to employment;
- (2) The superintendent and other supervisory personnel;
- (3) Members of the local board of education and the board's attorney;
- (4) A party by authority of a subpoena or proper court order may inspect and examine a particular confidential portion of an employee's personnel file.

Notwithstanding any other provision of this Chapter, any superintendent may, in his discretion, or shall at the direction of the Board of Education, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to the local board of education or whose personnel file is maintained by the board and the reasons therefor and may allow the personnel file of the person or any portion to be inspected and examined by any person or corporation provided that the board has determined that the release of the information or the inspection and examination of the file or any portion is essential to maintaining the integrity of the board or to maintaining the level or quality of services provided by the board; provided, that prior to releasing the information or making the file or any portion available as provided herein, the superintendent shall prepare a memorandum setting forth the circumstances which he and the board deem to require the disclosure and the information to be disclosed. The memorandum shall be retained in the files of the superintendent and shall be a public record."

Sec. 2. G.S. 115C-47(27) is repealed.

Sec. 3. G.S. 115C-325(f) is amended in the first sentence by deleting the words "and without giving notice and a hearing" and by inserting a new sentence between the first and second sentences to read:

"Before suspending a teacher without pay, the superintendent shall meet with the teacher and give him written notice of the charges against him, an explanation of the bases for the charges, and an opportunity to respond."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 7th day of July, 1987.