

**ORANGE COUNTY
BOARD OF EDUCATION
AGENDA ITEM ABSTRACT**

Meeting Date: May 2, 2011

AGENDA
ITEM No. 11-05-14

ACTION ITEM: (Y/N) Y

SUBJECT: Probationary Teachers: Nonrenewal Policy # 7949 Revised – 1st Reading Approval

INFO. CONTACT Ms. Marcie Holland PHONE: 919-732-8126

ATTACHMENT: 1. Probationary Teachers: Nonrenewal Policy # 7949.

PURPOSE: To revise the Probationary Teachers: Nonrenewal Policy # 7949.

BACKGROUND: The recommended revisions to Policy # 7949 are being provided for first reading, discussion, and approval. The revisions reflect the North Carolina School Boards Association policy on nonrenewal of probationary teachers. The recommended revisions include:

1. Addresses changes to General Statute 115C-325(m)(3) that requires the board to have a policy that provides for the orderly exchange of information.
2. The new policy includes information regarding appeals to the board and any hearings according to General Statute 115C-45(c).
3. Editorial changes to different paragraphs to clarify the policy.
4. Cross references to the Career Status Policy # 7410, the Professional Personnel Reduction in Force Policy # 7920, and the Professional Employees: Demotion and Dismissal Policy # 7930 are included.

This revised policy has been reviewed by counsel.

FINANCIAL IMPACT: None.

RECOMMENDATION: The Superintendent recommends the Board of Education approve the revised Probationary Teachers: Nonrenewal Policy #7949 for 1st reading approval.

**PROBATIONARY
TEACHERS:
NONRENEWAL**

Date Reviewed/Approved: 05/17/2010 Policy Number: 7949

Rescinds Policy Number:

Issued:

The board, upon recommendation of the superintendent, may refuse to renew the contract of any probationary teacher or to reemploy any teacher who is not under contract for any cause it deems sufficient, so long as the cause is not arbitrary, capricious or discriminatory or for personal or political reasons. Probationary teachers during the term of their contract will be demoted or dismissed only in accordance with policy 7930, Professional Employees: Demotion and Dismissal.

A. Teacher Rights Upon Nonrenewal

By no later than May 15, the superintendent shall provide written notice to the a probationary teacher of the superintendent's ~~intent to recommend~~ recommendation for nonrenewal. The notice shall inform the teacher of and the teacher's right; to file a written request to the superintendent within 10 days of (a) the reasons and documents in support of the superintendent's recommendation and (b) a hearing before the board if the teacher is eligible at the time for a career status decision. ~~receipt of the superintendent's recommendation, to request and receive written notice of the reasons for the superintendent's recommendation for nonrenewal and the information that the superintendent may share with the board to support the recommendation for nonrenewal.~~ There is no right to a hearing if the reason for the recommended nonrenewal is a decrease in the number of positions due to district reorganization, decreased enrollment, or decreased funding. The failure to file a timely request within 10 days shall result in a waiver of the right to this information. If a teacher files a timely request, the superintendent shall provide the requested information, and the teacher shall be permitted to submit supplemental information to the superintendent and board prior to the board's decision.

A probationary teacher, whose contract is not in the final year before the probationary teacher is eligible for career status, has the right to petition the board for a hearing regarding the superintendent's recommendation for nonrenewal. The board will notify the probationary teacher of its decision whether to grant a hearing. ~~For all proceedings initiated after August 31, 2010, teachers eligible for career status have the right to a hearing before the board if the superintendent recommends that the board not grant the teacher career status for any reason other than a reduction in force.~~

The board will notify the probationary teacher whose contract will not be renewed for the next school year of its decision by June 15. If, however, a teacher submitted a request for information or a hearing, the board shall provide the nonrenewal notification by July 1 or a later date upon the written consent of the superintendent and teacher.

~~Probationary teachers during the term of their contract shall be demoted or dismissed only in accordance with Policy 7930, Professional Employees: Demotion and Dismissal.~~

B. HEARING PROCEDURE

If a probationary teacher eligible for a career status decision files a timely request for a hearing, or if any other probationary teacher is granted a discretionary hearing following the filing of a timely petition, the following procedure shall apply:

1. The board may designate a hearing panel of at least three board members to hear the appeal. The decision of the board panel shall be final.
2. The teacher and superintendent will be notified of the time, date, and place of the hearing. At least two work days before the day of the hearing, the teacher and superintendent shall provide to the board and to one another copies of all documents to be presented at the hearing. Documents not exchanged in advance of the hearing may not be used as evidence without the consent of both parties or by a majority vote of the board or board panel. The teacher shall include with these documents a statement of the specific reasons for challenging the superintendent's recommendation.
3. A record of the hearing shall be made and maintained by the board.
4. The hearing shall be informal. Formal rules of evidence do not apply. The teacher and the superintendent may be represented by legal counsel and may present witnesses. Unless otherwise modified by the board or board panel, each side will be allowed 30 minutes to make a presentation. The superintendent shall make his/her presentation first, followed by the teacher. Either party may reserve time for rebuttal. The board or board panel may limit or exclude duplicative or irrelevant evidence.

C. NONRENEWAL DUE TO REDUCTION IN FORCE: PROBATIONARY STATUS

The provisions in this section apply to full-time permanent probationary teachers who (1) are non-renewed because of a decrease in the number of school system positions resulting from decreased funding, decreased enrollment or school system reorganization and (2) are subsequently rehired by the board within three years of their nonrenewal.

The provisions in this section also apply to full-time permanent probationary teachers who (1) resign in good standing effective at the end of the school year after receiving documentation that their position may be eliminated because of a decrease in the number of school system positions resulting from decreased funding, decreased enrollment or school system reorganization and (2) are subsequently rehired by the board.

1. Teachers Not Eligible for Career Status at the Time of Nonrenewal
The intervening years when the teacher was not employed by the board shall not be deemed to constitute either a break in continuity of years of service or a consecutive year of service for purposes of determining eligibility for career status, provided the teacher gives notice as required in subsection B.3, below.
2. Teachers Eligible for Career Status at the Time of Nonrenewal
Teachers who have met all service requirements to be eligible for career status pursuant to policy 7410 at the time of their nonrenewal shall be eligible for a career status decision after one additional year of employment upon being rehired, provided the teacher gives notice as required in subsection B.3, below.

3. Required Notice

- a. Within 60 calendar days of the teacher's first day of employment upon being rehired, the teacher must:
- (1) give written notice to the assistant superintendent for human resources that the teacher's nonrenewal did not constitute a break in service because it was pursuant to policy 7920, Professional Personnel Reduction in Force; and
 - (2) provide information establishing to the satisfaction of the superintendent that the teacher was non-renewed because of a decrease in the number of positions triggered by decreased funding or enrollment or due to school system reorganization.
- b. The superintendent or designee shall notify the teacher of the 60-day deadline using a method reasonably calculated to provide actual notice. If the superintendent or designee fails to provide notice within 30 calendar days after the teacher's first day of employment upon rehiring, the teacher's obligation to provide notice shall not commence until such time that the teacher is notified by the superintendent or designee of the 60-day deadline.
- c. The superintendent is not authorized to waive the notice required from the teacher by this subsection without the prior approval of the board.

4. Superintendent's Decision and Board Review

- a. The superintendent shall issue a written decision to the teacher within a reasonable period of time upon receiving the information required by this section.
- b. Within 10 calendar days of receipt, the teacher may petition the board in writing for review of the superintendent's decision.
- c. The board will review the matter on the record and issue a written decision.

Legal References: G.S. 115C-45(c), -325

Cross References: Career Status (policy 7410), Professional Personnel Reduction in Force (policy 7920), Professional Employees: Demotion and Dismissal (policy 7930)