

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

Meeting Date: February 20, 2012

AGENDA

ITEM No. 12-02-(2)-13

ACTION ITEM: (Y/N) Y

SUBJECT: Qualified Observers Approval

INFO. CONTACT Ms. Marcie Holland

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ATTACHMENT: 1. Evaluations and Improvement Plans Policy # 7810 (Revised November 21, 2011)
2. General Statute 115C – 333.1
3. Recommended Qualified Observers for the District

PURPOSE: The purpose of this item is to present the list of Qualified Observers for Board approval.

BACKGROUND: During the most recent legislative session, the General Assembly made substantial revisions to the teacher tenure law. Specifically, the new law removed the requirement for an action plan for teachers identified as not meeting performance standards and replaces it with a mandatory improvement plan. In addition, the revised legislation allows the teacher and his/her administrator to select a 'qualified observer' to participate in the review of the teacher's performance. Per legislation, the Board of Education must approve a list of qualified observers, from whom the teacher and his/her administrator may choose.

The process for selecting these candidates was recommended by counsel, Jonathan Blumberg, and is as follows:

- Senior Central Office Staff selected three central office administrators to be recommended based on their credentials and knowledge of teacher performance expectations;
- Senior Central Office Staff selected three (3) school based administrators to be recommended based on their experience and knowledge of teacher evaluation, as well as their fair but rigorous standards of evaluation as evidenced in their evaluation data;
- Principals nominated teachers from their schools to be considered for recommendation based on their knowledge of the teacher evaluation instrument and process, their own performance level, and their fair and accurate assessment of others as peer observers and members of Professional Learning Communities. Senior Central Office Staff reviewed the nominations and selected three (3) elementary representatives, three (3) middle school representatives, and three (3) high school representatives.

FINANCIAL IMPACT: None.

RECOMMENDATION: The Superintendent recommends the Board of Education approve the list of qualified observers as required by General Statute and Orange County Schools Board of Education Policy # 7810.

EVALUATIONS AND IMPROVEMENT PLANS

Date Reviewed/Approved: 11/21/2011 Policy Number: 7810

Rescinds Policy Number: GBI

Issued: 08/12/1985, 06/21/2004, 12/03/2007, 12/07/2009

Evaluations

Evaluation of licensed employees is a mandated duty and responsibility of the administration. The Superintendent is authorized to establish procedures for evaluating licensed employees. All teachers and other licensed staff shall be evaluated according to any rules and regulations established by the Superintendent and any rules and regulations required by law or by the North Carolina State Board of Education. School principals or other evaluators may supplement the evaluation process as appropriate.

Each person employed by the Orange County Board of Education and defined as a "teacher" by G.S. 115C-325(a)(6) shall be evaluated at least annually in accordance with law.

1. Probationary teachers will receive an evaluation by the principal on all standards on the teacher evaluation instrument every year. Career teachers will receive an evaluation on all standards in their license renewal year or when required by the superintendent, designee, or school principal. In any other year, career teachers will receive an evaluation on standards one, four, and six as specified by the State Board of Education.
2. All probationary teachers shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher. Teachers with career status who are scheduled to receive an evaluation on all evaluation standards (summative cycle) will receive, at a minimum, one formal and two informal observations. Teachers with career status who are scheduled to receive an evaluation on standards one, four and six (abbreviated evaluation) shall receive a minimum of two informal observations (a minimum of 20 minutes in the classroom) by the principal or designee.
3. All licensed employees assigned to a school that has been identified as low-performing, but has not received an assistance team, shall be evaluated at least once annually. This evaluation shall occur early enough during the school year to provide adequate time for the development of a mandatory improvement plan if one is needed. If the employee is a teacher as defined under G.S. 115C-325(a)(6), the principal, assistant principal who supervises the teacher, or an assistance team assigned under G.S. 115C-334 shall conduct the initial evaluation.

Improvement Plans

Any certified employee who receives a not demonstrated, developing, below standard, or unsatisfactory rating on an evaluation shall be placed on an improvement plan to address concerns about the employee's performance, unless the employee is recommended for dismissal, demotion or nonrenewal. An improvement plan also may be used whenever appropriate to address performance concerns.

1. The improvement plan shall contain a statement of the employee's performance problem(s) and list specific expectations for improvement. The supervisor may consider input from the certified employee in developing the plan.
2. The improvement plan shall provide for periodic review of the employee's performance in meeting the objectives of the action plan.

3. If the employee's performance fails to meet expectations stated in the plan, the Superintendent and the employee's supervisor shall decide whether to recommend that the employee be dismissed, demoted or nonrenewed.
4. An employee's compliance with the improvement plan is mandatory.
5. An improvement plan constitutes a warning to the employee that the employee must improve his or her performance in order to continue working for the school system.
6. This policy does not limit the Superintendent's authority to recommend dismissal for any reason allowed by law.
7. The improvement plans for teachers are as follows:

Monitored Growth Plans

The Superintendent, designee, or principal may place a teacher on a Monitored Growth Plan at any time to address performance concerns. A teacher shall be placed on a Monitored Growth Plan whenever he or she:

- A. Is rated "Developing" on one or more standards on the Teacher Summary Rating Form; and
- B. Is not recommended for dismissal, demotion, or nonrenewal.

A Monitored Growth Plan shall, at a minimum, identify the standards and elements to be improved, the goals to be accomplished and the activities the teacher should undertake to achieve proficiency, and a timeline.

Directed Growth Plans

The Superintendent, designee, or principals may place a teacher on a Directed Growth Plan to address serious performance concerns or when the teacher does not consistently demonstrate proficient performance while on a Monitored Growth Plan. A teacher shall be placed on a Directed Growth Plan whenever he or she:

- A. Is rated "Not Demonstrated" on any standard on the Teacher Summary Rating Form; or "Developing" on one or more standards on the Teacher Summary Rating Form for two sequential years; and
- B. Is not recommended for dismissal, demotion, or nonrenewal.

A Directed Growth Plan shall, at a minimum, identify the standards and elements to be improved, the goals to be accomplished and the activities the teacher should undertake to achieve proficiency, and a timeline.

Mandatory Improvement Plan

If the school system retains the employment of a teacher who is not proficient in all standards, the teacher has a duty to demonstrate significant and sustained improvement to attain proficient performance on a Monitored Growth Plan or a Directed Growth Plan. A Monitored and/or Directed Growth Plan provide a teacher ample opportunity to attain proficient performance. In order to assure that students receive quality instruction, a teacher who has not attained proficient performance with the benefit of a Monitored and/or Directed Growth plan ordinarily will be recommended for dismissal. In extraordinary situations, the superintendent or designee has the discretion to retain a teacher who has not demonstrated proficient performance despite the benefit of a Monitored and/or Directed Growth Plan, in which case the teacher will be placed on a Mandatory Improvement Plan. Before placing a teacher on a Mandatory Improvement Plan, the superintendent or designee must determine that a Monitored or Directed Growth Plan will not adequately address the deficiencies in the teacher's performance.

A Mandatory Improvement Plan will provide the teacher with notice of specific performance areas that have substantial deficiencies and a set of strategies, including the specific support to be provided the teacher so that the teacher, within a specified period of time, will satisfactorily resolve such deficiencies. The teacher on a Mandatory Improvement Plan will receive an observation from a “qualified observer” in accordance with law. Mandatory Improvement Plans shall be designed to be completed within 90 instructional days or before the beginning of the next school year.

8. Employees in low-performing schools: If a licensed employee in a low-performing school receives a rating on any standard on an evaluation that is below proficient or otherwise represents unsatisfactory or below standard performance, the individual or team that conducted the evaluation shall recommend to the superintendent that (i) the employee receive a Mandatory Improvement Plan or (ii) the superintendent recommend that the employee be dismissed or demoted. The superintendent shall determine whether to develop a Mandatory Improvement Plan or recommend dismissal. If the superintendent recommends a Mandatory Improvement Plan, then:
 - a) The improvement plan shall be developed by the person who evaluated the employee or by the employee’s supervisor. If, however, the evaluation was conducted by an assistance team, the team shall develop the plan in collaboration with the employee’s supervisor.
 - b) The improvement plan shall be designed to be completed within 90 instructional days or before the beginning of the next school year. The teacher does not have a right to an observation by a qualified observer.
 - c) Upon completion of the improvement plan, the superintendent, superintendent’s designee, or assistance team shall reevaluate the employee. At that time, if the employee has failed to become proficient in any of the performance standards articulated in the Mandatory Improvement Plan, or to demonstrate sufficient improvement toward such standards, the superintendent shall recommend that the employee be dismissed or demoted.

Inadequate Performance

This policy does not create any additional rights for teachers and a teacher has no right to a Monitored or Directed Growth Plan or a Mandatory Improvement Plan. A teacher is subject to dismissal for any of the grounds set forth by law including “inadequate performance.” Inadequate performance shall mean (i) the failure to perform at a proficient level on any standard of the evaluation instrument or (ii) otherwise performing in a manner that is below standard. However, for a probationary teacher, a performance rating below proficient may or may not be deemed adequate at that stage of development by a Superintendent or designee. For a career teacher, a performance rating below proficient shall constitute inadequate performance unless the principal noted on the instrument that the teacher is making adequate progress toward proficiency given the circumstances.

9. The Superintendent is authorized to develop procedures to enforce this policy.

Legal References: G.S. 115C-333, -333.1, -325, -334, TCP-C-004, SBE Requirement for Annual Teacher Evaluation, SB 466 (E3)

Adopted: February 7, 2005

Amended: September 12, 2011

§ 115C-333.1. Evaluation of teachers in schools not identified as low-performing; mandatory improvement plans; State Board notification upon dismissal of teachers.

(a) Annual Evaluations. – All teachers who are assigned to schools that are not designated as low-performing and who have not attained career status shall be observed at least three times annually by the principal or the principal's designee and at least once annually by a teacher and shall be evaluated at least once annually by a principal. All teachers with career status who are assigned to schools that are not designated as low-performing shall be evaluated annually unless a local board adopts rules that allow teachers with career status to be evaluated more or less frequently, provided that such rules are not inconsistent with State or federal requirements. Local boards also may adopt rules requiring the annual evaluation of nonlicensed employees. A local board shall use the performance standards and criteria adopted by the State Board and may adopt additional evaluation criteria and standards. All other provisions of this section shall apply if a local board uses an evaluation other than one adopted by the State Board.

(b) Mandatory Improvement Plans for Teachers. – If, in an observation report or year-end evaluation, a teacher receives a rating that is below proficient or otherwise represents unsatisfactory or below standard performance on any standard that the teacher was expected to demonstrate, the principal may place the teacher on a mandatory improvement plan as defined in G.S. 115C-333(b)(1a). The mandatory improvement plan shall be utilized only if the superintendent or superintendent's designee determines that an individual, monitored, or directed growth plan will not satisfactorily address the deficiencies.

If at any time a teacher engages in inappropriate conduct or performs inadequately to such a degree that such conduct or performance causes substantial harm to the educational environment, and immediate dismissal or demotion is not appropriate, then the principal may immediately institute a mandatory improvement plan regardless of any ratings on previous evaluations. The principal shall document the exigent reason for immediately instituting such a plan. The mandatory improvement plan shall be developed by the principal in consultation with the teacher. The teacher shall have five instructional days from receipt of the proposed mandatory improvement plan to request a modification of such plan before it is implemented, and the principal shall consider such suggested modifications before finalizing the plan. The teacher shall have at least 60 instructional days to complete the mandatory improvement plan. The State Board shall develop guidelines that include strategies to assist local boards in evaluating teachers and developing effective mandatory improvement plans. Local boards may adopt policies for the implementation of mandatory improvement plans under this section.

(c) Observation by a Qualified Observer. –

- (1) The term "qualified observer" as used in this section is any administrator or teacher who is licensed by the State Board of Education and working in North Carolina; any employee of the North Carolina Department of Public Instruction who is trained in evaluating licensed employees; or any instructor or professor who teaches in an accredited North Carolina school of education and holds an educator's license.
- (2) The local board of education shall create a list of qualified observers who are employed by that board and available to do observations of employees on mandatory improvement plans. This list shall be limited to names of administrators and teachers selected by the local board of education. The local board of education shall strive to select administrators and teachers with excellent reputations for competence and fairness.
- (3) Any teacher, other than a teacher assigned to a school designated as low-performing, who has been placed on a mandatory improvement plan shall have a right to be observed by a qualified observer in the area or areas of concern identified in the mandatory improvement plan. The affected teacher and the principal shall jointly choose the qualified observer within 20 instructional days after the commencement of

the mandatory improvement plan. If the teacher and the principal cannot agree on a qualified observer within this time period, they each shall designate a person from the list of qualified observers created pursuant to subdivision (2) of this subsection, and these two designated persons shall choose a qualified observer within five instructional days of their designation. The qualified observer shall draft a written report assessing the teacher in the areas of concern identified in the mandatory improvement plan. The report shall be submitted to the principal before the end of the mandatory improvement plan period. If a teacher or administrator from the same local school administrative unit is selected to serve as the qualified observer, the administration of the local school administrative unit shall provide such qualified observer with the time necessary to conduct the observation and prepare a report. If someone who is not employed by the same local school administrative unit is selected to serve as the qualified observer, the teacher who is the subject of the mandatory improvement plan will be responsible for any expenses related to the observations and reports prepared by the qualified observer. The qualified observer shall not unduly disrupt the classroom when conducting an observation.

- (4) No local board of education or employee of a local board of education shall discharge, threaten, or otherwise retaliate against another employee of the board regarding that employee's compensation, terms, conditions, location, or privileges of employment because of the employee's service or completion of a report as an objective observer pursuant to this subsection, unless the employee's report contained material information that the employee knew was false.

(d) **Reassessment of the Teacher.** – Upon completion of a mandatory improvement plan under subsection (b) of this section, the principal shall assess the performance of the teacher a second time. The principal shall also review and consider any report provided by the qualified observer under subsection (c) of this section if one has been submitted before the end of the mandatory improvement plan period. If, after the second assessment of the teacher and consideration of any report from the qualified observer, the superintendent or superintendent's designee determines that the teacher has failed to become proficient in any of the performance standards identified as deficient in the mandatory improvement plan or demonstrate sufficient improvement toward such standards, the superintendent may recommend that the teacher be dismissed or demoted under G.S. 115C-325. The results of the second assessment produced pursuant to the terms of this subsection shall constitute substantial evidence of the teacher's inadequate performance.

(e) **Dismissal Proceedings Without a Mandatory Improvement Plan.** – The absence of a mandatory improvement plan as described in this section shall not prohibit a superintendent from initiating a dismissal proceeding against a teacher under the provisions of G.S. 115C-325. However, the superintendent shall not be entitled to the substantial evidence provision in subsection (d) of this section if such mandatory improvement plan is not utilized.

(f) **State Board Notification.** – If a local board dismisses a teacher for any reason except a reduction in force under G.S. 115C-325(e)(1)l., it shall notify the State Board of the action, and the State Board annually shall provide to all local boards the names of those teachers. If a local board hires one of these teachers, within 60 days the superintendent or the superintendent's designee shall observe the teacher, develop a mandatory improvement plan to assist the teacher, and submit the plan to the State Board. The State Board shall review the mandatory improvement plan and may provide comments and suggestions to the superintendent. If on the next evaluation the teacher receives a rating on any standard that was an area of concern on the mandatory improvement plan that is again below proficient or a rating that otherwise represents unsatisfactory or below standard performance, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d). If on the next evaluation the teacher receives at least a proficient rating on all of the

overall performance standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board that the teacher is in good standing, and the State Board shall not continue to provide the teacher's name to local boards under this subsection unless the teacher is subsequently dismissed under G.S. 115C-325 except for a reduction in force. If, however, on this next evaluation the teacher receives a developing rating on any standards that were areas of concern on the mandatory improvement plan, the teacher shall have one more year to bring the rating to proficient. If, by the end of this second year, the teacher is not proficient in all standards that were areas of concern on the mandatory improvement plan, the local board shall notify the State Board, and the State Board shall initiate a proceeding to revoke the teacher's license under G.S. 115C-296(d).

(g) Civil Immunity. – There shall be no liability for negligence on the part of the State Board of Education or a local board of education, or their employees, arising from any action taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes. (2011-348, ss. 3, 8.6.)

Orange County Schools' Qualified Observers

TEACHERS			
Level	Name	Current School Site	Current Assignment
Elementary	Stacy Beneville	Hillsborough Elementary	4 th Grade
	Martha Brown	Cameron Park Elementary	1 st Grade
	Jessica Honeycutt	New Hope Elementary	5 th Grade
Middle	Jeff Faulkner	C.W. Stanford Middle	Science, 8 th Grade
	Arris Golden	Gravelly Hill Middle	Band, 6 th – 8 th Grade
	Michelle Johnson	A.L. Stanback Middle	Language Arts, 6 th Grade
High	Mitchell Cox	Orange High	English
	Keshetta Henderson	Cedar Ridge High	English
	Jacson Lowe	Cedar Ridge High	Social Studies

ADMINISTRATORS			
Level	Name	School/Department	Current Assignment
School Based	Marcus Gause	Gravelly Hill Middle	Principal
	Greg Mitchell	Cedar Ridge High	Assistant Principal
	Julie Vandiver	Cameron Park Elementary	Principal
Central Office	Patricia Harris	Curriculum & Instruction	Director, Career & Technical Education and Arts Education
	Lisa Napp	Curriculum & Instruction	Director, Elementary Education
	Steven Weber	Curriculum & Instruction	Director, Secondary Education