

**ORANGE COUNTY  
BOARD OF EDUCATION**

**AGENDA ITEM ABSTRACT**

**Meeting Date:** February 25, 2013

**AGENDA ITEM No.** 13-02-(2)-15

**ACTION ITEM: (Y/N)** Y

**SUBJECT:** Superintendent Search Services - N.C. School Boards Association

**INFO. CONTACT:** Donna Coffey, Allison Schafer **PHONE:** 919-732-8126

- ATTACHMENTS:**
1. February 19, 2013 letter from Allison Schafer, N.C. School Boards Association.
  2. Sample Timeline.
  2. Documents provided by NCSBA during the 2/11/13 board meeting.

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**PURPOSE:** The purpose of this agenda item is to provide the Board of Education an opportunity to approve a contract with the North Carolina School Boards Association for superintendent search services.

**BACKGROUND:** On February 11, 2013, the board received a presentation on superintendent search services provided by Allison Schafer, Chief Legal Counsel with the North Carolina School Boards Association. Additionally, Attorney Jonathan Blumberg provided an overview of the legal requirements associated with a superintendent search.

Board Policy # 2005 School Superintendent Appointment states: 'The appointment of the superintendent is a function of the Board. It may seek the advice and counsel of interested individuals or of an advisory committee, and it may hire consultants to assist in selection. However, final selection shall rest with the Board after a thorough consideration of qualified applicants.'

NCSBA's superintendent search service provides professional assistance with this critically important school board responsibility. The fee-based services include: developing a proposed timeline, designing an application form, advertising for the position nationwide, sending out application packets to prospective candidates, collecting and duplicating application information, speaking with potential or actual applicants, helping with community and staff surveys, arranging interviews, checking references, ensuring the confidentiality of the process and generally helping the board with the process as they request.

**FINANCIAL IMPACT:** Projected cost for the search is \$20,000.

**RECOMMENDATION:** The Superintendent recommends the Board approve the contract with the North Carolina School Boards Association for superintendent search services.



## ***PUBLIC EDUCATION: NORTH CAROLINA'S BEST INVESTMENT***

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*Dr. Christine Fitch, 1996-97*

ALLISON SCHAFFER  
*Legal Counsel/Director of Policy*

February 19, 2013

via email only  
donna.coffey@orange.k12.nc.us

Donna Coffey, Chairperson  
Orange County Board of Education  
200 East King Street  
Hillsborough, NC 27278

Dear Donna:

I would like to express my utmost gratitude for the opportunity to speak to your Board earlier this month regarding our Superintendent Search Services. I really enjoyed our meeting and I am delighted to come back on March 11, 2013 to officially get started. Assuming the Board votes to hire us as a search consultant, as we discussed, we will use this upcoming meeting to walk the Board through the initial steps of the process. We plan to address certain preliminary matters such as: a tentative timeline; the means of advertising and publicizing the vacancy; the content of your vacancy announcement; the methods by which to obtain community input; the content of your application; and an application deadline.

In fact, we have already developed sample drafts of these documents to help the process along and provide a foundation for the Board to build upon. For example, attached to this letter is our proposed timeline. This should give you a general idea of how things proceed and how long we recommend for each stage of the process. Of course, all of these documents are meant to be customized and modified to suit the particular needs of your Board and your school system.

Again, it was a pleasure meeting with the Board and we look forward to assisting you with this very important undertaking.

Best regards,

Allison B. Schaffer

cc: Jonathan Blumberg, Board Attorney

**ORANGE COUNTY BOARD OF EDUCATION  
SUPERINTENDENT SEARCH  
SAMPLE TIMELINE**

<b>March 12, 2013</b>	<b>Advertising of Vacancy Begins</b>
<b>March 12, 2013– April 24, 2013</b>	<b>Community and Staff Online Surveys. Community Forums and Statements from Organizations Received</b>
<b>May 6, 2013</b>	<b>APPLICATION DEADLINE</b>
<b>May 13, 2013*</b>	<b>Open Meeting to Review Survey Results, Open Comments and Statements from Organizations and Draft Superintendent Leadership Profile</b>  <b>NCSBA Brings Application Packets to Board Members</b>
<b>May 13-28, 2013</b>	<b>Board Reviews Applications</b>
<b>May 28, 2013*</b>	<b>Meeting on Applications to Choose First Round Interviewees and to Select Questions (Closed)</b>
<b>June 10-21, 2013</b>	<b>Meeting(s) for Initial Interviews and to Select Finalists and Final Round Questions (Closed)</b>
<i>During the period between the completion of the first round of interviews and the finalist's interviews, NCSBA conducts complete and thorough reference checks and requires the criminal and credit background checks of the finalists in compliance with applicable laws, including the Federal Fair Credit Reporting Act.</i>	
<b>July 15-19, 2013</b>	<b>Meeting for Final Interviews and to Decide on Terms of Offer (Closed)</b>
<b>July 19-July 29, 2013</b>	<b>Contract Discussions</b>
<b>July 29, 2013</b>	<b>Announcement and Introduction of Superintendent</b>  <i>(Prior to this meeting, NCSBA will send regret letters to all unsuccessful applicants on behalf of the Board.)</i>
<b>August 15, 2013</b>	<b>Employment to Begin No Later than This Date</b>

\*Regularly scheduled board meeting.



**PUBLIC EDUCATION: NORTH CAROLINA'S BEST INVESTMENT**

ALLISON SCHAFER  
*Legal Counsel/Director of Policy*

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**MEMORANDUM**

To: Members of the Orange County Board of Education  
From: Allison Schafer  
Re: Superintendent Search Services  
Date: January 22, 2013

This memorandum is in response to your request for information about how we might assist your board with a superintendent search to replace Patrick Rhodes, who will be retiring on June 30, 2013. First of all, we would be happy to come speak with your board about the superintendent search process generally. We have an informational booklet we can share with the board. That service is without charge as it is part of your membership in the Association. If you would like us to come, please let us know, and we will arrange that.

As you know, we also offer to contract with our member boards to assist in the administration of your search for a new superintendent. We would be delighted to assist your board with its process. We believe we provide an excellent search service at a very, very reasonable cost.

NCSBA has now provided superintendent search administrative services to 69 North Carolina school boards in the 14 years that I have been at the Association. Because many boards have chosen to use our services several times, we actually have helped with 109 searches across the state. We believe this repeat business clearly demonstrates a great satisfaction with the services we provide. Our number of completed searches also makes us the most experienced provider of superintendent search services in the state of North Carolina.

While we only assist school boards in our state, we do not confine our outreach to North Carolina applicants; we seek out qualified candidates from across the country. In fact, a number of the searches we have completed for North Carolina school boards in the last few years have resulted in the boards hiring strong candidates from outside North Carolina.

Administration of the searches is handled through the legal department at NCSBA. The cost for searches conducted during the spring of 2013 is \$14,500, plus any expenses incurred. The expenses generally include about \$740 in advertising costs (currently most advertising is free on the Internet); travel expenses for candidates the board wishes to interview; and anything greater than

incidental out-of-pocket expenses, such as large-scale copying (which usually ranges between \$300 and \$500, depending on the number of applications received and copied and the number of board members), the cost of any due diligence and background checking services, mileage for our staff, and meeting room and food costs.

We find our charges are significantly lower than what you would pay for searches conducted by private search firms. The final amount will vary depending on the number of out-of-state or distant in-state candidates you invite to interview and whether you decide to pay for those travel costs. We would anticipate your total bill being no more than \$20,000, unless the board decided to pay an unusual amount in travel costs for candidates.

Our service includes: developing a proposed timeline, designing an application form, advertising for the position nationwide, sending out application packets to prospective candidates, collecting and duplicating application information, speaking with potential or actual applicants, helping with community and staff surveys, arranging interviews, checking references, ensuring the confidentiality of the process and generally helping the board with the process as they request. Note that we do not get involved with the drafting and negotiating of the superintendent's contract for legal reasons. However, we can provide you and/or your board attorney with sample contracts from school systems around the state and share with you some of the problematic issues we have run into with these contracts. As we go through the search process, we stay in close touch with the board chair, or whoever is designated as the contact person.

I wanted to provide you a list of the school boards from across the state with which we have worked. We are currently working with the Randolph, Newton-Conover, Winston-Salem/Forsyth and Person boards. Within the last year, we assisted the Craven, Edgecombe, Hertford, Catawba, Union, Clinton City, Washington and Macon school boards with their superintendent searches. In the past, we have worked with your board, as well as the Alamance-Burlington, Anson, Beaufort, Bertie, Bladen, Brunswick, Burke, Cabarrus, Camden, Carteret, Chapel Hill-Carrboro City, Chatham, Cherokee, Cleveland, Cumberland, Currituck, Davie, Duplin, Durham, Granville, Halifax, Harnett, Hickory City, Iredell-Statesville, Johnston, Jones, Kannapolis City, Lee, Lenoir, Lexington City, Lincoln, Martin, Montgomery, Moore, Mooresville City, Nash-Rocky Mount, New Hanover, Northampton, Onslow, Pamlico, Pender, Person, Pitt, Richmond, Roanoke Rapids, Robeson, Rowan-Salisbury, Sampson, Shelby, Stanly, Tyrrell, Vance, Wake, Warren, Weldon City, Whiteville City and Wilson school boards. Note that three of the last five North Carolina Superintendents of the Year were candidates selected in searches we conducted for their respective boards.

We are also providing you with contact information for the chairs of some of the boards with whom we have worked so you may discuss our services with them if you would find it to be helpful.

The names and telephone numbers of some references are as follows:

Dean Arp, Former Chair  
Union County Board of Education  
Cell: (704) 242-3997  
Email: [dean@deanarp.com](mailto:dean@deanarp.com)

Ann Kent, Chair  
Edgecombe County Board of Education  
Cell: (252) 904-3927  
Email: [nemothernature@aol.com](mailto:nemothernature@aol.com)

Carr Ipock, Chair  
Craven County Board of Education  
& NCSBA Board of Directors  
Home: (252) 637-3322  
Email: [carr\\_ipock@hotmail.com](mailto:carr_ipock@hotmail.com)

Ed Hatley, Former Chair  
Lincoln County Board of Education  
Home: (704) 732-1510  
Email: [edandcindyhatley@gmail.com](mailto:edandcindyhatley@gmail.com)

Evelyn Bulluck, Chair  
Nash-Rocky Mount Board of Education  
& NCSBA President  
Home: (252) 442-8109  
Email: [evelynb2@embarqmail.com](mailto:evelynb2@embarqmail.com)

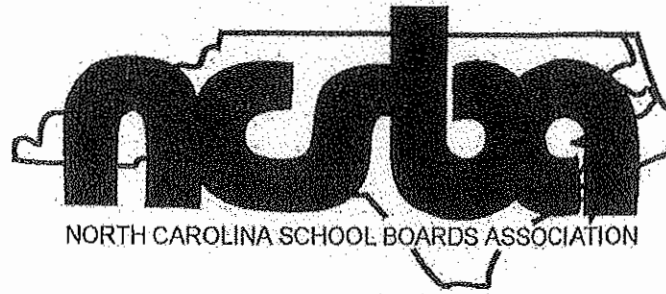
Joyce Spencer, Former Chair  
Catawba County Board of Education  
Cell: (828) 234-0395  
Email: [jdspencer@charter.net](mailto:jdspencer@charter.net)

Kathy Farren, Former Chair  
Moore County Board of Education  
Home: (910) 295-4656  
Email: [kathyfarren@nc.rr.com](mailto:kathyfarren@nc.rr.com)

Terry Renegar, Former Chair  
Davie County Board of Education  
Work: (336) 765-8327  
Email: [tr@efrcpa.com](mailto:tr@efrcpa.com)

Please feel free to speak with these folks or members of any of the boards with which we have worked. It is our experience that, by offering this service, NCSBA has been able to significantly reduce superintendent search costs to school systems while increasing the number of qualified applicants and the amount of service provided.

I will be happy to answer any questions you may have about our services or anything else that you may wish to discuss. If your board chooses to work with us, we welcome the opportunity. If not, we will be happy to support the board through its process in other ways as we can. Please let me know if you need any additional information as you consider your options.



# Superintendent Selection Process

*NOTE: The information contained herein is not intended as legal advice, and no person should take any action that may be in reliance on that information without obtaining legal counsel.*

Revised: 8/2011

## I. INTRODUCTION

Many local school board members, at some time during their term of office, will have the duty of searching for and selecting a new superintendent. Whether this duty arises out of the previous superintendent's death, retirement, resignation, or termination, it should be viewed as an opportunity to reassess the needs and goals of the community and to bring a person qualified into the school system to help fulfill those goals.

This booklet is not intended as a rigid set of rules, but as a guideline for a local school board to use in designing its own, unique search and selection process. The information and suggestions contained herein are offered to help attain three goals:

- a. an orderly and expeditious search and selection of a new superintendent;
- b. attraction of an appropriate number of qualified candidates; and
- c. retention by the board of its responsibility to make the final selection.

## II. TIMETABLE WITH TARGET DATES

Most boards will need at least four months to complete their selection process; some will need longer. The board should establish a schedule for selecting its new superintendent, being sure to include some allowance for unforeseen developments. The following is a sample timetable:

<b>July 1, 2011</b>	Advertising of vacancy begins
<b>July 1 - August 1, 2011</b>	Community Surveys and/or Community Forums
<b>August 8, 2011</b>	Meeting to review survey results and decide on desired leadership profile, experience and skills for new superintendent
<b>August 29, 2011</b>	Application Deadline
<b>September 7, 2011</b>	Consultant copies and sends application materials and screening tools to individual board members for review
<b>September 21, 2011</b>	Meeting on applications to choose interviewees (Closed)
<b>October 5- 12, 2011</b>	Meeting(s) for initial interviews and to select finalists (Closed)



<b>October 26 - November 2, 2011</b>	Meeting(s) for final interviews and/or to decide on terms of offer (Closed)
<b>November 2 - 9, 2011</b>	Contract Discussions
<b>November 9, 2011</b>	Meeting to announce selection of Superintendent
<b>January 2, 2012</b>	Employment to begin no later than this date

### III. ADOPT A BUDGET

The cost of your selection process will be determined by a number of variables, including the means used to advertise the vacancy, the number and quality of applications received, whether you use consultants, whether you pay for candidates' travel to interviews and the cost of criminal and credit background checks. In establishing a budget, consider the following items:

- a. advertising costs;
- b. candidate travel;
- c. criminal and credit background checks; and
- d. consultant fees and expenses.

### IV. APPOINT AN INTERIM SUPERINTENDENT

There is often a period of time between the departure of the previous superintendent and the arrival of his or her permanent replacement. North Carolina's General Statutes provide procedures for having the superintendent's duties fulfilled during that period of time. N.C. Gen. Stat. § 115C-275.

- a. The board may appoint an interim superintendent. This person is subject to the same approvals and educational qualifications as provided for superintendents and is to be paid the salary provided for superintendents. Contracts with interim superintendents generally should be less than a year in length, if written for a definite period of time, or they may be for an indefinite time period terminating when the permanent superintendent takes office.
- b. The board may, by a resolution duly adopted and recorded in the board's minutes, assign to an employee any duty or duties of the superintendent that necessity requires be performed. This assignment must be approved by the Superintendent of Public Instruction. Further, if the board assigns to an employee the superintendent's duty of signing warrants and checks, the board must

immediately give proper notice to the State Controller and the appropriate local disbursing official.

## V. ANALYZE THE COMMUNITY AND DETERMINE GOALS

One of the first steps in selecting a new superintendent is analyzing the community to determine what the educational goals of the school system should be. Ideally, of course, this is a continuous process, but a vacancy in the superintendency is likely to inspire renewed enthusiasm for the task. At this time, the value of identifying the educational goals of the district is self-evident: how else will the board determine the qualifications needed by the new superintendent? A board that has clearly defined the district's goals will be prepared to answer candidates' questions about the school system. These goals also can form the basis for future evaluations of the new superintendent's progress on the job.

### A. Citizen Involvement

Goal setting is the stage in the selection process when it may be most appropriate to enlist the aid of the local citizenry. Involving persons outside the board in a superintendent search can take several forms. For instance, the board may choose to conduct electronic surveys of the community and/or staff. The board may also choose to hold community forums at which members of the public are given an opportunity to express their views. Additionally, the board might choose to ask various civic groups, teachers' organizations, area business leaders and special interest groups to provide their organizations' perspectives. Citizen involvement can be instrumental in conducting an effective analysis of the goals and aspirations of the community. In addition, citizen involvement in the selection process often serves to strengthen public support for the board's final decision.

In deciding whether or how to involve the public, the board members should remember that the appointment of a superintendent is *their* duty, pursuant to N.C. General Statutes §§ 115C-271 and -275. Further, N.C. General Statute § 115C-319 provides that personnel records are confidential and, in the absence of specific written consent of the applicants, may not be shared outside the members of the board, necessary administrators and the board's attorney. Therefore, by law, the candidates' names and information may not be shared publicly unless the candidates agree. Imposing such a requirement on candidates will often significantly limit the number of candidates willing to apply and is not a recommended practice.

To avoid future problems, the board should make clear in advance that all citizen and school employee involvement is advisory only and will not include an assessment of specific candidates or involvement in the screening and interview process and that the responsibility for finalizing the school district's goals and establishing the criteria for selecting the new

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superintendent rests with the board. The board can accomplish this by adopting and publishing the rules by which it will carry out that responsibility.

## B. Goal Setting

In analyzing community input and defining its educational goals, the board should consider the school district's building needs, budget realities, organization (or need for reorganization), special problems, current educational programs, desired educational programs, staff needs, and general philosophy. Examples of goals your board might want to establish are:

1. streamline the administrative staff and increase on-site management;
2. increase opportunities for joint endeavors between the school system and the community;
3. improve student discipline;
4. decrease violence;
5. decrease the drop-out rate; or
6. develop innovative programs for handicapped students and gifted students.

In establishing your school district's goals, be realistic regarding how much change the community desires and what methods of change it will tolerate.

## C. Looking Back

While the board is looking at community input and establishing goals, it should determine why the previous superintendent left. If he or she was attracted by another school district, what might have provided an incentive not to leave? If he or she was asked to resign, what could have been done to prevent reaching that point? If the departure resulted from a problem within the school system, that problem should be addressed during the selection of a new superintendent.

## VI. ESTABLISH QUALIFICATIONS

After analyzing the community input to determine what the educational goals of the school system are or will be, the board should determine what characteristics and qualifications the new superintendent must have if he or she is going to lead the school district toward meeting those goals. In doing so, the board will create a unity of purpose and understanding of expectations that will help applicants understand the board's expectations and the requirements of the job. Hiring a facilitator or using the board's retained consultant to facilitate the process also may be helpful. Work at bringing into sharp focus the specific style, abilities and background required to provide educational

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leadership in your particular school system. Remember, no two boards can successfully use the same list of qualifications, because conditions differ with boards, communities and school systems.

It is important to establish the characteristics and qualifications desired in the next superintendent before you start screening applications. It is vital that you do so before you start interviewing candidates. It will be too late to develop sensible criteria after some or all of the board members have "fallen in love" with a particular candidate.

#### A. Job Description

Now that the board has a list of the school district's goals, it can translate them into a job description for the new superintendent. For some goals, translation requires considerable effort. For others though, the skills required to reach the objective might be fairly obvious. For instance, one of your key goals may be streamlining the administrative staff. To accomplish this task, your board might require the new superintendent to conduct a study of the current administrative staff and make recommendations regarding which duties should be eliminated and which ones can be done by different staff members or in a more efficient manner.

Of course, an overly detailed job description can limit a new superintendent's flexibility and creativity. Nevertheless, the job description should be sufficiently detailed to provide guidance regarding which qualifications are essential. Also, the job description you provide to prospective candidates will signal to them how organized your board is and how committed it is to improving the school system.

#### B. Characteristics

Once you have a job description, your board is ready to define the characteristics it is seeking in its new superintendent. Some of the characteristics you may want to consider when you establish the qualifications for your superintendent include:

1. Leadership - The candidate can inspire teamwork, maintain high morale, direct the school system toward given objectives and help others grow on the job. The community sees the superintendent as an educational leader, and the right superintendent can raise a community's expectations of its schools.
2. Scholarship - The candidate is scholarly and analytical but not pedantic, is widely read and understands the need for empirical support for recommendations, and is abreast of current educational trends.
3. Judgment - The candidate's actions and decisions reflect knowledge and use of common sense.

4. Alertness - The candidate is intellectually and intuitively able to interpret and respond effectively to new conditions, situations, problems and opportunities as they arise.
5. Initiative - The candidate can originate and/or develop ideas and "sell" them to the board, staff and community.
6. Cooperation - The candidate has the ability and desire to work with others in a team situation; authority, role and power are not his or her paramount considerations.
7. Drive - The candidate's continuing urge is to improve the educational program responsibly and realistically.
8. Self-Confidence - The candidate is self-reliant and tactful.
9. Ability to Communicate - The candidate expresses himself or herself clearly and concisely as a writer and speaker.
10. Flexibility - The candidate adapts to new situations and does not regard his or her own opinion as inviolate.
11. Stability - The candidate remains calm and poised under pressure; he or she appreciates, but is not bound by, tradition and custom.
12. Reliability - The candidate performs according to promise on matters within his or her control.

(List prepared by Charles W. Fowler for the American School Board Journal.)

#### C. Objective v. Subjective Criteria

A determination that a candidate possesses the characteristics your district needs will be based on a combination of objective and subjective criteria. Some characteristics such as reliability can be determined objectively – has the candidate shown himself or herself to be reliable in the past? Other characteristics such as self-confidence are not as easily quantified. Initial screening of applications will probably rest almost entirely on objective criteria. However, after the finalists arrive for their interviews, subjective criteria will come to the fore. It can streamline the process, and perhaps forestall future arguments, if board members can separate their objective criteria from the subjective prior to reading the first application.

The board is likely to receive a number of applications and will need to screen them to decide which applicants it wants to bring in for an interview. Therefore, you will

want to establish what qualifications a candidate must have to be considered past the application stage.

Establishing minimum criteria begins with the qualifications required by the General Statutes. North Carolina Gen. Stat. § 115C-271 provides that a candidate for superintendent "must have been, at least, a principal in a North Carolina public school or have equivalent experience as prescribed by the State Board of Education and have other minimum credentials, education prerequisites and experience requirements as the State Board of Education shall prescribe." In addition, the superintendent must reside in the county in which he or she is employed and must be licensed or certified in accordance with State Board of Education requirements (N.C. Gen. Stat. § 115C-272) or meet the alternative guidelines established by the North Carolina State Board of Education pursuant to N.C. Gen. Stat. § 115C-271(a).

Your board may find it easy to agree upon additional minimum criteria. For instance, the members might all want someone who has a doctorate degree. Other qualifications might prove more problematic. Do you want only in-state candidates, or is it important to your board to attract a candidate who has national prestige, regardless of what state he or she currently calls home? Do you want someone who will continue the practices of the previous superintendent or someone who will promote major changes?

Your board will want to be careful in establishing subjective criteria and evaluating applicants on these criteria to ensure board decisions do not unlawfully discriminate. Acting on stereotypes about who will work best with the board, schools and community may subject the board to liability.

#### D. Nepotism

Board members may have a conflict of interest, real or perceived, if participating in decisions regarding close family members. If a candidate being considered is related to a board member, the board member should consult with the board attorney about the legal and ethical requirements in the specific situation. Also, the board may have a policy that outlines a board member's responsibility in such circumstances.

### VII. ANNOUNCE THE VACANCY AND SOLICIT CANDIDATES

You will want to prepare a brochure or advertising flyer describing the vacancy in your school district. Include in this publication information such as:

#### A. Job Description

If your board has developed a very detailed job description, consider devising an abridged version for inclusion in the vacancy announcement.

B. Qualifications Required, Desired

Make clear what qualifications are non-negotiable, so you won't waste your time, or the time of prospective candidates, on needless applications. Also, use this opportunity to inform candidates that, if selected, they will be expected to meet all North Carolina legal requirements for superintendents, including certification and residency requirements. It is also important to include a statement that in selecting its superintendent the board will not discriminate against any candidate on the basis of race, color, religion, sex, age, national origin, or disability.

C. Schedule for Selection

You will not always be able to follow the schedule you set, and you should acknowledge that in your advertising materials. However, this is an opportunity to demonstrate to prospective candidates that your board is efficient and well-organized.

D. Directions for applying, including deadlines

E. Information regarding the school system and community

## VIII. SCREEN APPLICATIONS

A. Who Will Screen

Depending upon how many applications you receive, screening applications can be a time-consuming process. If your board has hired a consultant, that person may offer to "screen" applicants. Because North Carolina state law provides that the board is the entity authorized to elect a superintendent, it is recommended that, consistent with North Carolina statutes, the board determine which applicants to interview and move through the selection process. The board should, however, use procedures that allow it to streamline the process. The board may use its identified criteria, or use a consultant to quickly identify which candidates meet its articulated requirements for the position, but the board should insist that all applications and supporting materials should be provided to the board for its review.

B. Number of Candidates

To a large extent, the number of candidates who apply will be a direct result of the qualifications you choose and how narrowly or broadly you define those qualifications. Similarly, how widely you cast your net will have a direct impact on the number of applications you can expect to receive. The board needs to keep in mind that the more applications it receives, the more time will be required to process the applications. The law will accord the board wide

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latitude in the selection process, so long as the stated qualifications are reasonable and do not contravene any federal or state laws regarding employment rights (e.g., discrimination on the basis of race, color, religion, sex, age, national origin or disability).

C. Confidentiality

Many candidates will not want their current boards to know they are applying for a new position. In addition, N.C. General Statute §§ 115C-319 *et. seq.* provides that information obtained during the pre-employment stage is confidential and not open to public inspection. Nevertheless, the news media are likely to ask for information regarding applications the board receives. Therefore, the board should require that all persons working in the selection process be familiar with and adhere to North Carolina law and the board's policies regarding confidentiality.

D. Selected Candidates

When the initial screening is complete, the board will have a group of candidates to invite for interviews. The Board will need to set the interviews far enough after the selection to allow the candidates to make arrangements to be present for the interviews. The Board also will need to determine whether it will offer to pay the travel expenses of candidates to be interviewed.

**IX. INTERVIEW CANDIDATES**

Prior to the first interview, the board members should meet and determine their interview procedures. There should be a set of questions the board has selected in advance that will be asked of every candidate. In addition, the board may want to provide the candidates ahead of time with a "presentation question" or two that will allow the candidates to research an issue and make a prepared presentation. Use of both of these types of interview formats allows the board to judge the candidates in several ways. With regard to asking questions, most boards prefer that each member select approximately the same number of questions to ask the candidates and, at least in the initial interview, that all candidates be asked the same questions. All board members should be present at all interviews and should be prepared to listen actively to the candidates' answers and offer answers to the candidates' questions.

Following each interview, the candidate should be rated by each board member independently and privately before general discussion of the interview. Otherwise, one or two members may unduly influence the thinking of others. Generally, after the first interviews, the board will narrow the field to three or four candidates. Then criminal and credit checks, as well as reference checks, should be conducted on the finalists.



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## X. CONDUCT BACKGROUND CHECK

### A. The Case-for Conducting a Background Check

At some point prior to hiring a particular candidate, your board should conduct a background check of that person and generally is best served by conducting a thorough background check of all finalists for the position. The importance of conducting such an investigation was underscored in a North Carolina Supreme Court Case, Medlin v. Bass, 327 N.C. 587 (1990). In Medlin, the Franklin County Board of Education faced a claim that it was negligent in hiring and retaining a principal who had previously worked in another school district. After allegations arose that the principal had sexually molested a Franklin County student, it was learned that similar allegations had been made against him in his former school district. The superintendent of his former school district had questioned the principal about the allegations, but the principal resigned and no action was taken against him. The plaintiff in Medlin charged that the Franklin Board had been negligent in its background investigation of the principal and that its negligence was a causative factor in the Franklin student's alleged molestation.

The Supreme Court's opinion in Medlin provides some idea of what a background check should cover, at least at a minimum. Before the Franklin Board hired the principal, its assistant superintendent telephoned one of his references and sent forms to two others. Two of the responses she received came from a school supervisor and a principal from the man's previous district; both gave him good references. The assistant superintendent visited and interviewed the superintendent from the man's previous district, but learned nothing about the previous incident. Finally, the Franklin County Superintendent called the previous district's superintendent to ask whether the man would be a good principal. Again, nothing was said indicating that the man was a pedophile, and he went on to serve as principal in Franklin County for sixteen years. The Court concluded that neither the Franklin Board nor its superintendent knew or reasonably could have known of the principal's alleged pedophilic tendencies prior to the incident that led to this lawsuit.

Medlin suggests that, at a minimum, your board should contact a candidate's references and ask questions that are sufficiently pointed and detailed as to elicit information necessary for you to make an informed decision regarding hiring. Unfortunately, as Medlin makes clear, the persons the candidate lists as references may not know everything you want to know about the candidate, or may not tell you what they do know.

### B. Criminal and Credit Checks

It is common practice in North Carolina and throughout the country to conduct criminal background checks on all employees. Most boards in the state

specifically require that these checks be done. It is certainly critical that the board provide for the conduct of such checks before hiring a new superintendent. There are a number of companies operating in the state that perform this task well.

Additionally, given that the superintendent is responsible for overseeing the expenditure of large sums of money, a thorough credit check is advisable to be sure that the superintendent is able to handle his or her personal finances and does not have a negative financial history.

### C. Reference Checking – What to Ask

Checking references of candidates is another critical step. In order to get the best and most helpful candidate information, it is important not to be bound to contact only a candidate's listed references, but to get the candidate's permission to contact whomever the board deems relevant to an inquiry into the candidate's background.

The information solicited may vary by board. A good place to start is with the statutes concerning removal for cause. From them, you can derive a list of questions you will want your background checks to answer.

#### 1. Statutes and Codes

The specific statute regarding removal of a superintendent is N.C. Gen. Stat § 115C-274, which provides for removal of a superintendent "who is guilty of immoral or disreputable conduct or who shall fail or refuse to perform the duties required of him by law." N.C. Gen. Stat. § 115C-325(e), which governs the dismissal of a career teacher, provides more grounds that might be helpful, such as physical or mental incapacity, habitual or excessive use of alcohol or nonmedical use of a controlled substance, and conviction of a felony or a crime involving moral turpitude. A third source, 16 N.C.A.C. 6C.0312, gives the grounds for suspending or revoking certification, including "conviction or entry of a plea of no contest, as an adult, of a crime if there is a reasonable and adverse relationship between the underlying crime and the continuing ability of the person to perform any of his/her professional functions in an effective manner."

Most of the ground enumerated in N.C. Gen. Stat § 115C-325(e) is reasonably clear, and the term "moral turpitude" has been much interpreted in North Carolina and nationwide. See II Education Law in N. C. § 2816. However, the North Carolina courts have only interpreted the Administrative Code's reasonable and adverse relationship rule in one case, Burrow v. Randolph County Board of Education, 61 N.C. App. 619 (1983). Burrow involved a career teacher who entered a negotiable plea of no contest to involuntary manslaughter in the death of her

husband. After the teacher went on work release and attempted to return to her classroom, the Board discharged her. The North Carolina Court of Appeals agreed with the Board that there was a reasonable and adverse relationship between the crime of involuntary manslaughter and the teacher's continuing ability to perform as a teacher in an effective manner while on work release or on parole. *Id.* at 626 and 627.

## 2. Topics of Inquiry

The following are some questions your board might want its background check to cover:

- a. Has the candidate ever been discharged from any employment for cause, as the term is defined pursuant to N.C. Gen. Stat. §§ 115C-274 and 115C-325(e)?
- b. Has the candidate ever been asked to resign from any prior employment for cause, as the term is defined pursuant to N.C. Gen. Stat. §§ 115C-274 and 115C-325(e)?
- c. Has the candidate ever voluntarily resigned from any prior employment for cause, as the term is defined pursuant to N.C. Gen. Stat. §§ 115C-274 and 115C-325(e)?
- d. Has the candidate ever been convicted of a criminal offense (other than a minor traffic violation)?
- e. Has the candidate ever committed an act that would constitute a felony under state or federal law or any crime involving moral turpitude, including the illegal possession, sale or use of controlled substances or alcohol?
- f. Is the candidate a habitual or excessive user of alcohol?
- g. Does the candidate make nonmedical use of a controlled substance?
- h. Has the candidate ever declared bankruptcy or otherwise become unable to pay his or her just debts?
- i. Has the candidate ever had a civil judgment rendered against him or her?
- j. Has the candidate been awarded all degrees, honors, etc. as stated on his or her resume?

#### D. When and How to Ask

It takes time to conduct a thorough background check of a candidate. For that reason, your board should begin its check of a given candidate early enough in the process that it can be completed prior to entering into a contract. To accomplish this, you may choose to conduct a background check of all of the finalists. However, a thorough background check also involves expense, and for that reason, you may need to wait until you have narrowed the field down to one candidate and are reasonably certain that this person will accept your offer.

There are several ways of conducting a background check. If the board has retained a consultant, the consultant should be able to assist the board in collecting background information. The board may prefer to do some of the inquiry itself. If the board chooses to speak directly with references, it is recommended that the full board do so in the context of a closed session meeting, so all the board members receive the same information.

N.C. Gen. Stat. § 114-19.2 permits local boards of education to obtain criminal records checks from the North Carolina Department of Justice with the candidate's permission. The criminal and civil records of most counties in the United States are open to the public, and a phone call to the county court clerk will tell you the procedure to follow to search those records. In addition, a search through the judgment books in each county will tell you whether there are any state or federal tax liens outstanding against the candidate. Check these records in every county where the candidate has ever lived and focus on any gaps in the candidate's resume, periods of time unaccounted for by a job or schooling.

A letter to the Department of Corrections of most states will let you know whether the candidate has ever been imprisoned on state charges, and the Department of Motor Vehicles for most states will inform you of the person's driving record. Most local police departments are able to conduct a nationwide computer search of a person's criminal record. Although the police department should not let you see the computer printout, it is permitted to tell you whether the person has a record in a particular state or county.

The board may find it preferable to hire a professional investigator. There are several sources for this service: the board attorney might employ his or her own investigator, and some national credit reporting companies conduct pre-employment investigations. Whether the background check will be conducted by a professional or a layperson, it will be important to provide the investigator with as much information about the candidate as possible. Ask the candidate to provide you with the following information:

1. Date of birth and social security number;
2. Name of each place ever lived, no matter how briefly;

3. Name of each college and secondary school attended dates of attendance;
4. Date, location, and name of spouse for each marriage;
5. Name and location of each employer;
6. Military record information; and
7. Current driver's license number and each state in which ever held a driver's license.

## **XI. INTERVIEW FINALISTS**

After a thorough background check has been conducted on the finalists or final candidate, the board should plan to meet again with those still in the running for the position. One focus of this second interview should be to follow up on the results of the background checks. Another focus should be to clear up any concerns or questions raised in the candidate's first interview.

## **XII. MAKE A SELECTION**

Following final interviews, the board should meet to discuss the credentials of the candidates and the results of the interviews. This is the meeting at which the board generally decides which candidate it wishes to offer the position. At this point the identity of the person with whom the board is negotiating remains confidential.

### **A. Contract Negotiation**

When the board has made its selection; its members should decide upon a salary offer, based upon the candidate's qualifications, experience, and prior record. If the board has not already developed a proposed contract, do so before commencing negotiations with the candidate. Also, if there is any doubt whether the board's chosen candidate will accept the board's offer, do not release the other finalists. That way, if the candidate refuses the offer, your board will not later be in the uncomfortable position of having to announce a failed search or convince a rejected candidate that he or she really is wanted.

Appoint a person (or persons) to discuss and negotiate the final terms of the contract with the successful candidate. Generally, the board attorney and/or the board chair are authorized to conduct the negotiations. If the board attorney participates in the contract negotiation, make clear to the candidate that the attorney is representing the board in these negotiations and if the candidate wishes to be represented by counsel he or she will need to retain a separate attorney.

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### XIII. ANNOUNCE THE SUPERINTENDENT

After the board of education has received formal, written acceptance of the contract by the new superintendent, it must vote to hire the new superintendent in open session. The new superintendent should be present at the meeting. Following the appointment, the board should plan to hold a press conference and invite representatives from all local news media (including those from radio and television stations and from daily and weekly newspapers) to attend. The board should provide the media with the superintendent-elect's biographical data and photograph. It is best if the new superintendent and his family, if possible, are present and available to meet with members of the press, staff and public.

### XIV. GENERAL LEGAL CONSIDERATIONS

Most legal problems encountered during the selection of a superintendent arise in two major areas: determining whether records are public and determining whether meetings must be open.

#### A. Public Records Act

North Carolina's Public Records Act, found at Chapter 132 of the General Statutes, 132-1 *et seq.* is a broad law that makes public all "documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by an agency of North Carolina government or its subdivisions." There are a few exceptions contained in the law for such things as written confidential communications by legal counsel to the public agency, and "trade secrets." Other exceptions to this broad law are contained elsewhere in state statutes.

N.C. Gen. Stat. § 115C-319 provides an exception to the Public Records Act for personnel records maintained by a local board of education. This statute applies to candidates for superintendent and protects from public disclosure all documents relating to the board's selection or nonselection of a particular candidate. For example, a candidate's application, board members' interview notes, and information gathered from references all are protected from public disclosure. However, the board's enumeration of general selection criteria, memoranda or documents regarding general information and not information on a specific candidate, and the final contract of employment would all be public records.

It is vital that all persons involved in the recruitment and selection process – whether members of the board, LEA staff, or a professional consulting firm – be aware of the nature of each document involved and whether it is a public document or one protected from public disclosure.

## B. Open Meetings

One of the questions most often asked during superintendent selections is, "May we do it in closed session?" This question arises at all stages of the process, from criteria selection to contract negotiation to the final vote on selection. The statute governing open meetings in North Carolina, N.C. Gen. Stat. 143-318.9 *et seq.*, applies to "all public bodies," including school boards and committees established by school boards.

The Open Meetings Law makes it clear that the policy of North Carolina is to favor openness in government, and the official business of a public body may only be conducted in closed sessions only under certain, statutorily defined circumstances. One of those circumstances arises when a public body (or its committee) considers "the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee ..." Therefore any discussions about specific candidates, including actual interview with candidates, may be conducted in closed session.

Remember though, that a closed session may only be held "upon a motion duly made and adopted at an open meeting." N.C. Gen. Stat. § 143-318.11(c). Furthermore, discussions of a general nature, such as the qualifications desired in a superintendent, would not properly be the subject of a closed session. Finally, the board must keep minutes during a closed session; however, the minutes of a closed session may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session, Gen. Stat. § 143-318.10(e).

Although a public body may meet in private to discuss the qualifications of a particular candidate, the final action making the appointment must occur in open session. The board could, however, decide in closed session to extend an offer to a candidate. Such an offer would not constitute the making of an appointment.