

**16 NCAC 06G .0308 DUE PROCESS PROTECTIONS**

- (a) At any hearing conducted by a panel of the SBE pursuant to the provisions of G.S. 115C-325(q)(1), (q)(2), or (q)(2a), the panel shall sit as an impartial tribunal to receive evidence and to decide on the basis of that evidence whether the principal, assistant principal, teacher, supervisor, or director, hereafter referred to as "the employee," shall be dismissed. The assistance team assigned to the school where the employee was assigned shall present the case against the employee.
- (b) Both the employee and the assistance team shall have the right:
- (1) to be represented by counsel at the hearing;
  - (2) to subpoena witnesses and documents;
  - (3) to examine and cross-examine witnesses under oath; and
  - (4) to present relevant evidence using witnesses and documents.
- (c) The panel of the SBE which conducts the hearing shall:
- (1) give written notice to the parties of the time and place of the hearing;
  - (2) make a complete record of the evidence received during the hearing; and
  - (3) issue subpoenas for witnesses and documents on behalf of any party to the proceedings.
- (d) In any hearing pursuant to the provisions of G.S. 115C-325(q)(2) or (q)(2a), the assistance team shall have the burden of proof.
- (e) Either the employee or the assistance team may within 10 days of notification of the panel's decision give notice of appeal to the full SBE. The appeal shall be on the record with no arguments by counsel except in the form of written briefs of no more than 25 pages. The SBE shall consider the appeal at its next regularly-scheduled meeting that is at least 20 days following receipt of notice of the appeal and shall render a decision within 30 days unless the SBE determines that good cause, as defined by 26 NCAC 03 .0118, exists to extend the period or the parties agree to extend the period. The panel which sat and decided the case shall not be excluded from the full SBE hearing. Appeal from the SBE decision shall be in accordance with G.S. 150B.
- (f) If the SBE appoints an interim superintendent, revokes the superintendent's license, or dismisses the superintendent pursuant to G.S. 115C-105.39(c), the superintendent shall not have the right to a hearing under this Rule but shall have the right to file a contested case petition pursuant to the provisions of G.S. 150B. The SBE shall make written findings to support any of these actions taken pursuant to the provisions of G.S. 115C-105.39(c).
- (g) If the SBE revokes or refuses to renew a teacher's license pursuant to G.S. 115C-296(d), the procedures set forth in 16 NCAC 6C .0312 shall apply.

*History Note:* Authority G.S. 115C-12(9)c4.; 115C-325(q);  
Eff. January 2, 1998;  
Amended Eff. August 1, 1999.