



HOUSE BILL 561: School System Auth. Re: Legal Proceedings

2015-2016 General Assembly

Committee:	Senate Re-ref to Judiciary II. If fav, re-ref to Education/Higher Education	Date:	June 10, 2015
Introduced by:	Reps. Blackwell, Glazier	Prepared by:	Janice Paul
Analysis of:	Second Edition		Committee Counsel

SUMMARY: *House Bill 561 would provide local boards of education (1) with the discretion to allow inspection of confidential employee personnel records in defense of certain employee claims, and (2) with the authority to subpoena tangible things in matters where an employee is suspected of committing job-related misconduct. The bill would limit disclosure of confidential employee records only to records of the employee who filed the claim and only to the extent necessary for the defense of the Board of Education, and also limit issuance of subpoenas for the production of tangible things to matters where an employee is suspected of committing job-related misconduct and which, in the discretion of the board or superintendent, require investigation.*

CURRENT LAW: G.S. 115C-321 requires information in personnel files of public school employees be kept confidential, with certain exceptions. Information required to be kept confidential is limited to inspection and examination by the following:

- (1) the employee (or the employee's agent);
- (2) the superintendent and supervisory personnel;
- (3) members of the local board of education and the local board attorney; and
- (4) a party by authority of a subpoena or court order.

Confidential information may also be made available to law enforcement in specified circumstances, and certain information may be released in the discretion of the board if the board has determined that such release is essential to maintaining the board's integrity or in maintaining the level or quality of services provided by the board, as set out in a memorandum.

G.S. 115C-45 provides local boards of education with the power to issue subpoenas for the attendance of witnesses in any and all matters that may lawfully come within the powers of the board and which, in the discretion of the board, require investigation.

BILL ANALYSIS: House Bill 561 would make the following changes:

Section 1 would permit a state or federal administrative agency with a quasi-judicial function or court of law to inspect confidential portions of an employee's personnel file if all of the following apply:

- 1) A current or former employee has filed a claim against the local board of education or a school official or employee for any alleged act or omission arising during the course and scope of the employee's official duties or employment.
- 2) In the discretion of the superintendent or superintendent's designee, disclosure was necessary to adequately defend against the employee's claim.

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- 3) Disclosure was limited to that employee's records only, and to the extent necessary for the defense of the Board of Education.

Section 2 of HB 561 would empower local boards of education to issue subpoenas for the production of all tangible things in matters where an employee is suspected of committing job-related misconduct and which, in the discretion of the board or superintendent, requires investigation. The types of tangible things to be subpoenaed could include but would not be limited to: documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic communications, electronic data processing records, artifacts, or other documentary material, regardless of physical form or characteristics.

EFFECTIVE DATE: HB 561 would become effective October 1, 2015.

Kara McCraw, counsel to House Judiciary Committee IV, substantially contributed to this summary.