

Robert P. Joyce

# **The Law of Employment in North Carolina's Public Schools**



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## Preface

The relationship between employer and employee is on its face quite simple. The employee does what the employer requires and the employer pays for that service. As personnel directors and administrators and lawyers who practice personnel law well know, the reality is much more complicated. From workers' compensation to employment discrimination, freedom of speech to short-term disability, salary administration to unemployment compensation, defamation to due process, the sources of concern and potential liability are endless.

North Carolina's school boards employ approximately 145,000 people. Just over half of them are categorized as teachers subject to the "System of Employment for Public School Teachers" (commonly referred to as the Teacher Tenure Act), a statute that sets out in remarkable detail a complex relationship between employer and employee. The other half are employed under two different legal arrangements, the fixed-term contracts of most administrators and the at-will status of classified employees. In a single county school system central office, the employment of one supervisor may be governed by the Teacher Tenure Act, the employment of a second person with the same title may be subject to the Administrator Term Contract Law, and a third supervisor may be employed at will.

Understanding fully the law of employment in North Carolina's elementary and secondary public schools requires familiarity with Chapter 115C of the North Carolina General Statutes from the General Assembly; Title 16 of the North Carolina Administrative Code from the State Board of Education; the *State Board of Education Policy Manual*; and, from the Department of Public Instruction, the *Guidelines for Public School Personnel Policies*, the *Employee Benefits Manual*, the *Allotment Policy Manual*, the *Financial Policy and Procedures Manual*, the *Class Specifications for Noncertified Public School Employees*, the *State Salary Schedule*, and the *Licensure Manual*.

This law guide to employment in North Carolina's public schools pulls all these sources of law into one reference book and to them adds the interpretations of state and federal law that the courts have offered over the years. It is designed to cover comprehensively the relationship between boards of education and their employees. It will not answer every question, but I hope it gives guidance in almost every area.

My thanks go to a number of knowledgeable individuals who have given me the benefit of their thoughts on topics covered by the book and, in many cases, their thoughts on the manuscript itself. My special thanks go to my colleague in school law at the Institute of Government, Laurie Mesibov, for her careful reading of the manuscript from cover to cover, and to Ingrid Johansen, a North Carolina lawyer now in Austin, Texas, whose insightful criticism led to improvements in almost every section of the book. Thanks also to the editorial and design folks at the Institute for making the manuscript a book.

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and Government  
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## Using this Book

Each chapter in this book is divided into sections and each section has its own number. Chapter 18, for example, describing the scope of the Teacher Tenure Act, has four sections:

Section 1800 Basic Notions of Tenure

Section 1801 Who is Covered by the Teacher Tenure Act

Section 1802 Probationary Teachers

Section 1803 Achieving and Losing Tenure

Throughout the book there are cross references to discussions of related subjects using the section numbers. For example, in the discussion in section 1801 regarding probationary teachers, cross references direct the reader's attention to section 804 and section 809 (both in chapter 8) for discussions of the relationship between tenure and licensure.

