

January 20, 1999

IMPORTANT!

MEMORANDUM

TO: Presidents
Business Officers

FROM: Kennon D. Briggs
Vice President for Business
and Finance

SUBJECT: 1. Payment of Cost-of-Living Increases to Those Persons
Facing Disciplinary Actions
2. Increase in Subsistence Rates

**Payment of Cost-of-Living Increases to Those Persons Facing Disciplinary
Actions**

As you may have heard recently from news media accounts, a provision was inserted into the 1998 Appropriations Act (Senate Bill 1366) which in essence awards a “cost-of-living” increase to those persons with unresolved disciplinary action. The provision, Section 19(c) of the Act, is applicable to community colleges and takes precedence over State Board of Community Colleges’ (State Board) rules directing how salary increases should be allocated. It is the purpose of this MEMO to provide clarifying information to you about the timing of this provision and its effect upon your college.

The State Board adopted “1998-99 Salary Increase Rules” at its September 17, 1998, meeting. The rules state in part:

“Colleges are not required to give a salary increase to personnel if their performance evaluation is rated less than ‘Satisfactory,’ nor are colleges required to give a salary increase to personnel who are under disciplinary action.”

In essence, this waived the requirement for colleges to give a “cost-of-living” increase to any employee facing disciplinary action.

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In mid-December, the Department of Community Colleges' Personnel Office received correspondence from the Assistant State Personnel Director (copy attached) which, after clarification via an official opinion from the Attorney General's Office, clarified the intent of the special provision. This clarification by the Attorney General confirms the provision's intent that employees who have disciplinary actions facing them receive the "cost-of-living" increase. **There is no requirement, however, that employees with unresolved suspensions without pay or demotions receive the "cost-of-living" increase.**

The timing of the effective date of the awards gets somewhat tricky, however, because the provision is written to cover two fiscal years. It is also important to understand what percentage of the salary increase is determined to be "cost-of-living." It is our interpretation that the following are guidelines for taking the required action:

1. The provision applies to any employee involved in the final written state of a disciplinary procedure after January 1, 1997. Thus, the provision affects the "cost-of-living" adjustment for 1998-99.
2. The "cost-of-living" adjustment for fiscal year is 1 percent.
3. **IF** the disciplinary action commenced on or after January 1, 1997, and has not been resolved, you are required to give the "cost-of-living" adjustment **ONLY** for 1998, which is 1 percent, retroactive to July 1, 1998.
4. **IF** the disciplinary action has been resolved, you are required to give the 1998 "cost-of-living" increase, which is 1 percent, retroactive to July 1, 1998.

This may all seem very confusing and in fact it is. But it is also uncharted territory. I have tried to reduce this information to a usable form, have consulted with several sources in and around the government complex, and believe it to be correct. If you have questions about this action of the General Assembly, please contact me.

Increase in Subsistence Rates

In mid-December we received notice from the Office of State Budget and Management that the per diem rates for state employees had been increased by the General Assembly. I have attached a copy of the new rate schedule. These rates are effective January 1, 1999. **This is for your information**, as you will find listed in Section 5, Page 5 (IV) of the "Accounting Procedures Manual" the Subsistence rates for college employees.

If you have any questions, please contact me at 919/733-7051, Extension 211.

KDB/jmh
Attachments