



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Jennifer Haygood

Acting President

20 February 2018

IMPORTANT INFORMATION

MEMORANDUM

TO: Members of the State Board of Community Colleges
Community College Presidents
Boards of Trustees Chairs
Community College Chief Academic Officers, Chief Admissions Officers, Basic Skills Directors, Business Officers, Continuing Education Officers, Customized Training Directors, Distance Learning, Chief Financial Officers, Continuing Education Officers, Financial Aid Officers, Personnel Directors, Student Development Administrators, Public Information Officers, Registrars, & Other Interested Parties

FROM: Q. Shanté Martin, *NCCCS General Counsel*

RE: Proposed Amendment of 1C SBCCC 200.94 - "Holiday Leave"

The State Board of Community Colleges has initiated the rulemaking process to amend **1C SBCCC 200.94 – “Holiday Leave.”** To avoid potential inequities between community college and State employees participating in the same Teachers and State Employees Retirement System (TSERS), community college employees earning annual leave should not receive more paid Holiday Leave than State employees.

The proposed amendment is published on the NC Community College System's website, www.nccommunitycolleges.edu, under "State Board Code." For your convenience, a copy of the proposed rule, with the changes indicated, is attached to this memorandum. Please post a copy of the proposed rule in prominent places so that all individuals affected by the proposed changes will be informed.

Any member of the public has the right to submit written comments on the proposed rule. Please note that any person who submits a public comment on behalf of their community college should comply with their college's local process for submitting comments on a proposed rule. **Written comments on the rules must be received by no later than 5:00 p.m. on 22 March 2018.** Any member of the public has the right to request a hearing on the proposed rules. **Requests for a hearing must be received by no later than 5:00 p.m. on 7 March 2018.** Written comments and requests for hearing shall be directed to the following address: Q. Shanté Martin, 200 W. Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by email to publiccomments@nccommunitycolleges.edu. Thank you for your attention to this matter.

**CC18-004
E-mail Copy**

Attachments



State Board of Community Colleges Code

Notice of Proposed Rulemaking Form

Date: 20 February 2018

Title, Chapter, Subchapter, and Rule Number of Rule Proposed to be Adopted, Amended, or Repealed	Amend 1C SBCCC 200.94 – Holiday Leave
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Specify whether the SBCC proposes to adopt amend, or repeal a rule:

Adopt (new rule)	Amend (change existing rule)	Repeal (delete entire rule)
	X	

Rationale for proposed adoption, amendment or repeal:	To avoid potential inequities between community college and State employees participating in the same Teachers and State Employees Retirement System (TSERS), community college employees earning annual leave should not receive more paid Holiday Leave than State employees.
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Proposed Effective Date of Rule	July 1, 2018
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State Board of Community Colleges Code
TITLE 1 – COMMUNITY COLLEGES

CHAPTER C. PERSONNEL

SUBCHAPTER 200. PERSONNEL POLICIES

1C SBCCC 200.94 Local College Personnel Policies

- (a) Each local board of trustees shall adopt, publish, and implement personnel policies, consistent with all applicable statutes, rules, and regulations, addressing the following issues:
- (1) Adverse weather;
 - (2) Annual leave (vacation);
 - (3) Drug and alcohol use;
 - (4) Civil leave;
 - (5) Communicable disease;
 - (6) Compensatory leave;
 - (7) Definitions of the employment categories and benefits for each:
 - (A) Full-time permanent,
 - (B) Part-time permanent,
 - (C) Full-time temporary, and
 - (D) Part-time temporary;
 - (8) Disciplinary action addressing suspension and dismissal;
 - (9) Educational leave (reference 1C SBCCC 400.96);
 - (10) Employee evaluation process;
 - (11) Employee grievance procedures;
 - (12) Employee personnel file;
 - (13) Hiring procedures (describing procedures used for employment of both full- and part-time employees);
 - (14) Leave transfer;
 - (15) Leave without pay;

- 1 (16) Longevity pay plan (reference 1C SBCCC 400.98);
- 2 (17) Military leave (reference 1C SBCCC 400.97);
- 3 (18) Nepotism (reference 1C SBCCC 200.98);
- 4 (19) Non-reappointment;
- 5 (20) Other employee benefits;
- 6 (21) Political activities of employees (reference 1C SBCCC 200.99);
- 7 (22) Professional development;
- 8 (23) Reduction in force;
- 9 (24) Salary determination methods for full- and part-time employees that address at
10 least the following:
 - 11 (A) Provisions and criteria for salary determination,
 - 12 (B) Requirements for annual salary review, and
 - 13 (C) Establishment of salary formulas, ranges, or schedules;
- 14 (25) Sexual harassment;
- 15 (26) Tuition exemption (reference 1E SBCCC 300.99; 800.97; and 900.98);
- 16 (27) Sick leave consistent with provisions of the State Retirement system;
- 17 (28) Secondary Employment that addresses conflict with the employee's primary
18 job responsibilities and institutional resources (the local board of trustees shall
19 approve or disapprove any secondary employment of the president; the president
20 or any member of the college's senior administration designated by the president
21 shall approve or disapprove secondary employment of all full-time employees);
22 and
- 23 (29) Shared leave consistent with subsection (c) of this section.
- 24 (30) Providing a preference for veterans, as defined in G.S. 128-15, in hiring
25 decisions.
- 26 (b) Each local board of trustees shall submit copies of these policies, including
27 amendments, to the NC Community College System President's office upon adoption.
- 28 (c) Shared Leave Policy
 - 29 (1) Purpose: The purpose of the Voluntary Shared Leave Program is to allow an
30 employee to donate leave, as allowed in this rule, to an employee who has been
31 approved to receive leave through the Voluntary Shared Leave Program because

1 of a medical condition of the employee or of a member of the employee's
2 immediate family that will require the employee's absence for a prolonged period
3 of time.

4 (2) In cases of a prolonged medical condition an employee may apply for or be
5 nominated to become a recipient of leave transferred from the vacation leave
6 account of another employee, from the sick leave or vacation account of an
7 immediate family member as defined in section of this (c)(8) of this Subchapter or
8 from the sick leave account of a non-family member as provided in (c)(11)(B) of
9 this Rule. For purposes of this Rule, prolonged medical condition means medical
10 condition that is likely to require an employee's absence from duty for a period of
11 at least 20 consecutive workdays. If an employee has had previous absences for
12 the same condition that has caused the employee to not have enough leave to
13 cover the new need for leave or if the employee has had a previous, but different,
14 prolonged medical condition within the last 12 months, the college may waive the
15 requirement that the employee be absent from duty for a period of 20 consecutive
16 workdays to participate in the program.

17 (3) An employee who receives benefits from the Disability Income Plan of North
18 Carolina (DIPNC) is not eligible to participate in the shared leave program. Shared
19 leave, however, may be used during the required waiting period and following the
20 waiting period provided DIPNC benefits have not begun.

21 (4) Participation in the voluntary shared leave program shall be limited to 1,040 hours,
22 (prorated for part-time employees), either continuously or, if for the same condition,
23 on a recurring basis. However, management may grant employees continuation in
24 the program, month by month, for a maximum of 2,080 hours, if management
25 would have otherwise granted leave without pay.

26 (5) An employee on workers' compensation leave who is drawing temporary total
27 disability compensation may be eligible to participate in the voluntary shared leave
28 program. Use of donated leave under the workers' compensation program shall
29 be limited to use with the supplemental leave schedule as described in 25 NCAC
30 01E .0707.

31 (6) The employee shall exhaust all available leave before using donated leave.

1 (7) Non-qualifying conditions: This leave does not apply to short-term or sporadic
2 conditions or illnesses that are common, expected or anticipated as determined by
3 the college president or the college president's designee. This includes such things
4 as sporadic, short-term recurrences of chronic allergies or conditions; short-term
5 absences due to contagious diseases; or short-term, recurring medical or
6 therapeutic treatments. These examples are illustrative, not all inclusive. Each
7 case must be examined and decided based on its conformity to the intent of this
8 Rule and must be applied consistently and equitably.

9 (8) For purposes of this Section, immediate family means:

10 (A) Spouse: A husband or wife;

11 (B) Parent:

12 (i) a biological or adoptive parent; or

13 (ii) an individual who stood in loco parentis (a person who is in the position or
14 place of a parent) to an employee when the employee was a child; or

15 (iii) a step-parent; or

16 (iv) in-law relationships;

17 (C) Child: A son or daughter who is:

18 (i) a biological child; or

19 (ii) an adopted child; or

20 (iii) a foster child (a child for whom the employee performs the duties of a parent
21 as if it were the employee's child); or

22 (iv) step-child (a child of the employee's spouse from a former marriage); or

23 (v) a legal ward (a minor child placed by the court under the care of a guardian);

24 or

25 (vi) a child of an employee standing in loco parentis; or

26 (vii) in-law relationships;

27 (D) Sister or brother - biological, adoptive (including step-, half- or in-law
28 relationships);

29 (E) Grandparents, great grandparents, grandchildren, great grandchildren
30 (including step relationships); and

31 (F) Other dependents living in the employee's household.

1 (9) Administration

2 (A) All colleges shall develop policies and procedures to implement the voluntary
3 shared leave program.

4 (B) Colleges shall not establish a leave "bank" for use by unnamed employees.
5 Leave shall be donated on a one-to-one personal basis.

6 (10) Qualifying to Participate in Voluntary Shared Leave Program. To participate in
7 the Voluntary Shared Leave Program, an employee shall meet the following
8 conditions:

9 (A) A donor or recipient shall have a half-time or more permanent, probationary, or
10 time-limited appointment (The limitation and leave balance for permanent part-
11 time employees shall be prorated);

12 (B) A recipient shall apply or be nominated by a fellow employee to participate in
13 the program;

14 (C) A recipient shall produce medical evidence to support the need for leave
15 beyond the available accumulated leave; and

16 (D) The parent college shall review the merits of the request and approve or
17 disapprove according to these Rules.

18 (11) Donor Guidelines

19 (A) An employee of a community college may donate vacation leave, bonus leave
20 or sick leave to an immediate family member in any State agency, public school
21 or community college. An employee of a community college may donate
22 vacation or bonus leave to a coworker's immediate family member who is an
23 employee in a state agency or public school provided the employee and
24 coworker are at the same college. An employee may donate vacation, bonus
25 or sick leave to another employee at a community college in accordance with
26 the provisions of (c)(11)(B) of this Rule.

27 (B) An employee of a community college may donate up to five days of sick leave
28 to a non-immediate family member employee of a community college. The
29 combined total of sick leave donated to a recipient from non-immediate family
30 member donors shall not exceed 20 days per year as defined by local college
31 policy. Donated sick leave shall not be used for retirement purposes.

1 Employees who donate sick leave shall be notified in writing of the State
2 retirement credit consequences of donating sick leave.

3 (C) The minimum amount of sick leave or vacation leave to be donated is four
4 hours. An employee family member donating sick leave to a qualified
5 immediate family member under the Voluntary Shared Leave program may
6 donate up to a maximum of 1040 hours but may not reduce the sick leave
7 account below 40 hours.

8 (D) The maximum amount of vacation leave allowed to be donated by one
9 individual is the amount of the individual's annual accrual rate. However, the
10 amount donated shall not reduce the donor's vacation leave balance below
11 one-half of the annual vacation leave accrual rate. Bonus leave may be
12 donated without regard to this limitation.

13 (E) An employee may not directly or indirectly intimidate, threaten, coerce, or
14 attempt to intimidate, threaten, or coerce, any other employee for the purpose
15 of interfering with any right which such employee may have with respect to
16 donating, receiving, or using annual leave under this program. Such action by
17 an employee shall be grounds for disciplinary action up to and including
18 dismissal on the basis of personal conduct. The donation of leave is
19 confidential, and only those individuals authorized under G.S. 115D-29 to
20 access employee personnel file information may view donation information
21 consistent with G.S. 115D-29. Recipients of voluntary shared leave shall not
22 have access to information about individuals who donated leave. The
23 employee donating leave shall not receive remuneration for the leave donated.

24 (12) Leave Accounting Procedures. The following conditions shall control the
25 accounting and usage procedures for leave donations in the Voluntary Shared
26 Leave program:

27 (A) The community college may establish a specific time period during which leave
28 can be donated.

29 (B) All leave donated shall be credited to the recipient's sick leave account and is
30 available for use on a current basis or may be retroactive for up to 60 calendar
31 days to substitute for advanced vacation or sick leave already granted to the

1 recipient or to substitute for leave without pay. Donated leave shall be applied
2 to advanced leave before applying it to leave without pay.

3 (C) At the expiration of the medical condition, as determined by the community
4 college, any unused leave in the recipient's donated leave account shall be
5 treated as follows:

6 (i) The recipient's vacation and sick leave account balance shall not exceed a
7 combined total of 40 hours (prorated for part-time employees).

8 (ii) Any additional unused donated leave shall be returned to active (working or
9 on leave without pay) donor(s) on a pro rata basis and credited to the leave
10 account from which it was donated.

11 (D) If a recipient separates due to resignation, death, or retirement from state
12 government, participation in the program ends. Donated leave shall be
13 returned to active donor(s) on a pro rata basis.

14 (d) Holiday Leave Policy

15 (1) Full-time employees who are eligible to earn annual leave pursuant to local college
16 policy shall receive pay for a maximum of 12 paid holidays per fiscal year. Local
17 boards of trustees shall determine the number of paid holidays for those
18 employees eligible to earn annual leave up to a maximum of 12 paid holidays per
19 fiscal year. Part-time employees who are eligible to earn annual leave pursuant to
20 local college policy shall receive pay for paid holidays on a pro-rata basis.

21 (2) Colleges shall only pay holiday leave to eligible employees who are:

22 (A) In pay status through the day on which the holiday is scheduled, or

23 (B) On a leave of absence without pay, but were in pay status for half or more of
24 the workdays in the month.

25 Local community college boards of trustees shall determine when holidays are scheduled
26 on the college calendar and may require employees to take annual leave, special leave
27 granted by the General Assembly, accumulated compensatory leave, or leave without
28 pay during time on days other than holidays when classes are not scheduled to be in
29 session.

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31 *History Note: Authority G.S. 115D-5; 115D-20; 115D-25.3;*

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Eff. September 1, 1993;
Amended Eff. _____, May 1, 2017; May 1, 2008; May 1, 2005;
January 1, 1996.

DRAFT