



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

James C. Williamson, Ph.D.

President

21 March 2017

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, Financial Aid Officers, Personnel Directors, Student Development Administrators, Public Information Officers, Registrars, & Other Interested Parties

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

RE: **Substantive Changes - Proposed Amendment of 1C SBCCC 200.94 – “Local College Personnel Policies”**

On 24 January 2017, the State Board of Community Colleges (“SBCC”) provided public notice that it initiated the rulemaking process to amend the following rule:

1C SBCCC 200.94 – “Local College Personnel Policies”

The SBCC’s proposed language would comply with Section 36.19 in S.L. 2016-94. The SBCC received public comments on the above rule through 23 February 2017. After consideration of the public comments, the SBCC is proposing changes to the proposed rule to amend 1C SBCCC 200.94 – “Local College Personnel Policies.” The changes to the proposed amendment would constitute a substantive change under 3B SBCCC 100.2(f) and 300.1. The SBCC is addressing potentially misleading language and providing clarity on the meaning of “year.”

The proposed amendment including the substantive changes are 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 substantive changes indicated, is attached to this memorandum. The items highlighted are the changes that the SBCC approved. “Strikeouts” indicate deletion of prior suggested language and “underlines” indicate the proposed addition of language. Please post a copy of the proposed rule with the substantive changes 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 substantive changes. 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 substantive changes must be received by no later than 5:00 p.m. on Tuesday, 28 March 2017.** Written comments shall be directed to the following email address: publiccomments@nccommunitycolleges.edu or via postal mail at Q. Shanté Martin, 200 W. Jones Street, 5001 Mail Service Center, Raleigh, NC 27699-5001. Thank you for your attention to this matter.

CC17-014
E-mail Copy

Attachments



1 **State Board of Community Colleges Code**
2 **Title 1 – COMMUNITY COLLEGES**

3
4 **CHAPTER C. PERSONNEL**

5
6 **SUBCHAPTER 200. PERSONNEL POLICIES**

7
8 **1C SBCCC 200.94 Local College Personnel Policies**

9 (a) Each local board of trustees shall adopt, publish, and implement personnel policies,
10 consistent with all applicable statutes, rules, and regulations, addressing the following
11 issues:

- 12 (1) Adverse weather;
13 (2) Annual leave (vacation);
14 (3) Drug and alcohol use;
15 (4) Civil leave;
16 (5) Communicable disease;
17 (6) Compensatory leave;
18 (7) Definitions of the employment categories and benefits for each:
19 (A) Full-time permanent,
20 (B) Part-time permanent,
21 (C) Full-time temporary, and
22 (D) Part-time temporary;
23 (8) Disciplinary action addressing suspension and dismissal;
24 (9) Educational leave (reference 1C SBCCC 400.96);
25 (10) Employee evaluation process;
26 (11) Employee grievance procedures;
27 (12) Employee personnel file;
28 (13) Hiring procedures (describing procedures used for employment of both full- and
29 part-time employees);
30 (14) Leave transfer;
31 (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 ~~provisions of the~~
24 ~~Office of State Personnel (reference 25 NCAC 01E .1301 through 25 NCAC 01E~~
25 ~~.1307).~~
26 (30) Providing a preference for veterans, as defined in G.S. 128-15, in hiring
27 decisions.
28 (b) Each local board of trustees shall submit copies of these policies, including
29 amendments, to the NC Community College System President's office upon adoption.
30 (c) Shared Leave Policy

1 (1) Purpose: The purpose of the Voluntary Shared Leave Program is to allow an
2 employee to donate leave, as allowed in this rule, to an employee who has been
3 approved to receive leave through the Voluntary Shared Leave Program because
4 of a medical condition of the employee or of a member of the employee's
5 immediate family that will require the employee's absence for a prolonged period
6 of time.

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

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

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

29 (5) An employee on workers' compensation leave who is drawing temporary total
30 disability compensation may be eligible to participate in the voluntary shared leave
31 program. Use of donated leave under the workers' compensation program shall

1 be limited to use with the supplemental leave schedule as described in 25 NCAC
2 01E .0707.

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

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

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

13 (A) Spouse: A husband or wife;

14 (B) Parent:

15 (i) a biological or adoptive parent; or

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

18 (iii) a step-parent; or

19 (iv) in-law relationships;

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

21 (i) a biological child; or

22 (ii) an adopted child; or

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

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

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

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

29 (vii) in-law relationships;

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

1 (E) Grandparents, great grandparents, grandchildren, great grandchildren
2 (including step relationships); and

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

4 (9) Administration

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

7 (B) Colleges shall not establish a leave "bank" for use by unnamed employees.

8 Leave shall be donated on a one-to-one personal basis.

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

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

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

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

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

21 (11) Donor Guidelines

22 (A) An employee of a community college may donate vacation leave, bonus leave
23 or sick leave to an immediate family member in any State agency, public school
24 or community college. An employee of a community college may donate
25 vacation or bonus leave to a coworker's immediate family member who is an
26 employee in a state agency or public school provided the employee and
27 coworker are at the same college. An employee may donate vacation, bonus
28 or sick leave to another employee at a community college in accordance with
29 the provisions of (c)(10)(B) of this Rule.

30 (B) An employee of a community college may donate up to five days of sick leave
31 to a nonfamily member employee of a community college. The combined total

1 of sick leave donated to a recipient from a nonfamily member donor/donors shall
2 not exceed 20 days per year, year as defined by local college policy. Donated
3 sick leave shall not be used for retirement purposes. Employees who donate
4 sick leave shall be notified in writing of the State retirement credit
5 consequences of donating sick leave.

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

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

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

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

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

1 (B) All leave donated shall be credited to the recipient's sick leave account and is
2 available for use on a current basis or may be retroactive for up to 60 calendar
3 days to substitute for advanced vacation or sick leave already granted to the
4 recipient or to substitute for leave without pay. Donated leave shall be applied
5 to advanced leave before applying it to leave without pay.

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

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

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

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

17
18 *History Note: Authority G.S. 115D-5; 115D-20; 115D-25.3;*

19 *Eff. September 1, 1993;*

20 *Amended Eff. May 1, 2017; May 1, 2008; May 1, 2005; January 1, 1996*