



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Jennifer Haygood

Acting President

24 April 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, Financial Aid Officers, Planners, Public Information Officers, Registrars, Student Development Administrators, & Other Interested Parties

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

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

On 20 April 2018, the State Board of Community Colleges voted to amend 1C SBCCC 200.94 - "Holiday Leave." After the report issued by the Office of State Auditor on January 25, 2018, the State Board of Community Colleges sought to avoid potential inequities created between community college and State employees participating in the same Teachers and State Employees Retirement System (TSERS), by community college employees earning annual leave being paid more Holiday Leave than State employees.

The rule will be effective 1 July 2018. The new rule will be published on the NC Community College System's website, www.nccommunitycolleges.edu, under "State Board Code." For your convenience, a copy of the rule is attached to this memorandum.

CC18-015
E-mail Copy

Attachment

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;

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

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

- (2) In cases of a prolonged medical condition an employee may apply for or be nominated to become a recipient of leave transferred from the vacation leave account of another employee, from the sick leave or vacation account of an immediate family member as defined in section of this (c)(8) of this Subchapter or from the sick leave account of a non-family member as provided in (c)(11)(B) of this Rule. For purposes of this Rule, prolonged medical condition means medical condition that is likely to require an employee's absence from duty for a period of at least 20 consecutive workdays. If an employee has had previous absences for the same condition that has caused the employee to not have enough leave to cover the new need for leave or if the employee has had a previous, but different, prolonged medical condition within the last 12 months, the college may waive the requirement that the employee be absent from duty for a period of 20 consecutive workdays to participate in the program.
- (3) An employee who receives benefits from the Disability Income Plan of North Carolina (DIPNC) is not eligible to participate in the shared leave program. Shared leave, however, may be used during the required waiting period and following the waiting period provided DIPNC benefits have not begun.
- (4) Participation in the voluntary shared leave program shall be limited to 1,040 hours, (prorated for part-time employees), either continuously or, if for the same condition, on a recurring basis. However, management may grant employees continuation in the program, month by month, for a maximum of 2,080 hours, if management would have otherwise granted leave without pay.
- (5) An employee on workers' compensation leave who is drawing temporary total disability compensation may be eligible to participate in the voluntary shared leave program. Use of donated leave under the workers' compensation program shall be limited to use with the supplemental leave schedule as described in 25 NCAC 01E .0707.
- (6) The employee shall exhaust all available leave before using donated leave.

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

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

(A) Spouse: A husband or wife;

(B) Parent:

- (i) a biological or adoptive parent; or
- (ii) an individual who stood in loco parentis (a person who is in the position or place of a parent) to an employee when the employee was a child; or
- (iii) a step-parent; or
- (iv) in-law relationships;

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

- (i) a biological child; or
- (ii) an adopted child; or
- (iii) a foster child (a child for whom the employee performs the duties of a parent as if it were the employee's child); or
- (iv) step-child (a child of the employee's spouse from a former marriage); or
- (v) a legal ward (a minor child placed by the court under the care of a guardian);
or
- (vi) a child of an employee standing in loco parentis; or
- (vii) in-law relationships;

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

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

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

(9) Administration

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

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

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

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

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

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

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

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

(11) Donor Guidelines

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

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

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

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

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

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

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

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

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

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

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

- (i) The recipient's vacation and sick leave account balance shall not exceed a combined total of 40 hours (prorated for part-time employees).
- (ii) Any additional unused donated leave shall be returned to active (working or on leave without pay) donor(s) on a pro rata basis and credited to the leave account from which it was donated.

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

(d) Holiday Leave Policy

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

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

- (A) In pay status through the day on which the holiday is scheduled, or
- (B) On a leave of absence without pay, but were in pay status for half or more of the workdays in the month.

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

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

Eff. *September 1, 1993;*
Amended Eff. *July 1, 2018*; *May 1, 2017; May 1, 2008; May 1, 2005;*
January 1, 1996.