

**Staff Response to State Board Direction re: System Governance Options
March 17, 2017**

On February 17, 2017, per the direction of the State Board of Community Colleges (SBCC), System Office staff provided a summary list of options for revising system governance to the SBCC for its consideration. Of the list of options provided to the SBCC, the SBCC directed System Office staff to draft language addressing the following subset of challenges and opportunities for resolving those challenges. Staff's response is italicized below.

1. The SBCC is limited in its ability to exercise its authority to prospectively ensure the officials of an institution are maintaining prescribed standards of administration or instruction because the SBCC is not aware of personnel issues that would signal a problem. To potentially address this issue, the SBCC directed staff to draft language related to the following:
 - a. Requiring contracts of local presidents to be on file with System Office – *See Attachment POL 2A.*
 - b. Establishing parameters for length and renewal of contracts of local presidents – *See Attachment POL 2A.*
 - c. Local boards of trustees having oversight of vacancy/turnover rates - *Staff recommends that this be covered as part of trustee training.*
 - d. Requiring college president evaluations to be approved and signed by full local board – *See Attachment POL 2B*
 - e. Codifying the SBCC vetting process for hiring community college presidents – *Staff plans to consult with community college stakeholders to develop this process.*
 - f. SBCC adopting rule requiring that leave payouts be consistent with the State Human Resources Act – *See Attachment POL 2C*
2. College accountability could be undermined without a healthy balance between institutional knowledge and new talents and contributions on local boards. To potentially address this issue, the SBCC directed staff to draft language related to trustee term limits. **Legislation is required to address this challenge.** – *The SBCC approved draft language for legislative consideration at its March 3, 2017 special-called meeting.*
3. If a local board, after SBCC warning, persists in willfully or negligently failing or refusing to comply with law or maintain prescribed standards of administration or instruction, there is no recourse for the citizens served by that community college. To potentially address this issue, the SBCC directed staff to draft language related to the SBCC having the authority to assume local board duties under prescribed conditions. **Legislation is required to address this challenge.** – *The SBCC approved draft language for legislative consideration at its March 3, 2017 special-called meeting.*

4. The SBCC is limited in its ability to exercise its authority to prospectively ensure the officials of an institution are maintaining prescribed standards of administration or instruction because the SBCC is not aware of certain compliance reviews or reports that would signal a problem. To potentially address this issue, the SBCC directed staff to draft language related to colleges sending SACS reviews to the SBCC. - *See Attachment POL 2D*

5. Local boards of trustees may have issues that warrant meeting more frequently than once every three months. To potentially address this issue, the SBCC directed staff to draft language related to local boards of trustees meeting at least six times per year. **Legislation is required to address this challenge.** – *The SBCC approved draft language for legislative consideration at its March 3, 2017 special-called meeting.*

The SBCC also directed staff to obtain information about the type of trustee training provided to local boards of trustees.

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State Board of Community Colleges Code
TITLE 1 - COMMUNITY COLLEGES

CHAPTER C. PERSONNEL

SUBCHAPTER 300. EMPLOYMENT/HIRING PRACTICES

1C SBCCC 300.98 Evaluation of Presidents

(a) Methodology and Instrumentality. Each local board of trustees shall evaluate the performance of its president annually. The evaluation instrument and methodology shall be selected by the local board, but the evaluation shall, at a minimum, include the following categories:

- (1) General administration;
- (2) Relationships including:
 - (A) Internal relationships with faculty, staff, students, and trustees; and,
 - (B) External relationships with business and industry, the media, governmental bodies, and the general public;
- (3) Personal attributes;
- (4) Personnel administration;
- (5) Fiscal and facilities administration; and,
- (6) Academic administration.

(b) Reporting Requirements. Prior to June 30 of each year, each college board of trustees shall, in writing, notify the State Board of the following:

- (1) The time period for which its president was evaluated and the date the evaluation was completed;
- (2) Description of the methodology used for the evaluation;
- (3) Certification that the evaluation included a written assessment of the president's performance in each of the categories identified in Paragraph (a) of this Rule;
- (4) Certification that the full board received a copy of and discussed the evaluation results and the results were discussed with the president; and,

1 (5) Certification that appropriate action, as defined by the local board, has been taken
2 if the president's performance is less than satisfactory in any of the categories
3 identified in Paragraph (a) of this Rule.
4

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

6 *Eff. September 1, 1993;*

7 *Amended Eff. _____; October 1, 2006.*

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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 (31) Leave payouts consistent with policies adopted under the State Human
- 29 Resources Act.
- 30 (b) Each local board of trustees shall submit copies of these policies, including
- 31 amendments, to the NC Community College System President's office upon adoption.

Commented [QSM1]: This proposed provision is staff's draft language to respond to the SBCC's directives on 17 February 2017.

1 (c) Shared Leave Policy

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

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

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

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

30 (5) An employee on workers' compensation leave who is drawing temporary total
31 disability compensation may be eligible to participate in the voluntary shared leave

Commented [QSM2]: The SBCC initiated the rulemaking process to amend 1C SBCCC 200.94 to add this subsection (c) on 20 January 2017. The proposed additions that were initiated for rulemaking are underlined. However, these proposed additions are not effective as of 17 March 2017, and are subject to change. As such, the proposed language here in subsection (c) should not be taken as final in this draft.

1 program. Use of donated leave under the workers' compensation program shall
2 be limited to use with the supplemental leave schedule as described in 25 NCAC
3 01E .0707.

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

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

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

14 (A) Spouse: A husband or wife;

15 (B) Parent:

16 (i) a biological or adoptive parent; or

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

19 (iii) a step-parent; or

20 (iv) in-law relationships;

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

22 (i) a biological child; or

23 (ii) an adopted child; or

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

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

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

28 or

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

30 (vii) in-law relationships;

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

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

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

6 (9) Administration

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

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

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

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

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

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

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

23 (11) Donor Guidelines

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

1 (B) An employee of a community college may donate up to five days of sick leave
2 to a nonfamily member employee of a community college. The combined total
3 of sick leave donated to a recipient from a nonfamily member donor shall not
4 exceed 20 days per year. Donated sick leave shall not be used for retirement
5 purposes. Employees who donate sick leave shall be notified in writing of the
6 State retirement credit consequences of donating sick leave.

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

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

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

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

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

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

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

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

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

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

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

21 *Eff. September 1, 1993;*

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



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**State Board of Community Colleges Code
TITLE 1 - COMMUNITY COLLEGES**

CHAPTER B. COLLEGE OPERATIONS

SUBCHAPTER 400. PROGRAM ACCOUNTABILITY

1B SBCCC 400.96 Accreditation by the Southern Association Association of Colleges and Schools Commission on Colleges

All colleges shall obtain and maintain regional accreditation by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC). Each college shall submit electronic copies of its most current SACSCOC Compliance Certification, the Focused Report, the Quality Enhancement Plan, Fifth-Year Interim Report, and any required Monitoring Report to the Chief Academic Officer at the System Office. The System President, when requested, will provide assistance to colleges seeking regional accreditation.

History Note: Authority G.S. 115D 1; 115D 5;

Eff. February 1, 1976;

Readopted Eff. January 5, 1978;

Amended Eff. _____; September 1, 1993; December 1, 1984;

July 1, 1980.