

Bi-Weekly HR Report: Recently Asked Questions May 21, 2012

Vacation Leave

Question: The benefits manual (4.1.5) says that you cannot take sick leave on annual leave days that are scheduled in the school calendar. Is that for both 10-month and 12-month employees? If it is for a legitimate illness, is it the option of the employee to decide if they should take sick or annual leave?

Answer: Yes, this rule applies to both 10 month and 12 month employees. The 10 vacation days scheduled in the calendar are considered as mandatory Vacation days; therefore employees wouldn't have an option to use Sick leave on these days. At least 2 of the 10 non-instructional days must be designated as days that teachers may take accumulated annual leave (optional workdays). Local boards may designate any of the remaining non-instructional days as days on which teachers may take accumulated annual leave or as mandatory attendance days.

Extended Sick Leave

Question: Does an employee have to exhaust all leave before using extended sick leave?

Answer: Changes have been made to the policy for clarity. Since teachers can only use available leave, the policy now states that an employee must use and/or exhaust all "available" accumulated leave before using Extended Sick leave.

4.2.1 Eligibility and Rate of Earning

Extended sick leave is available to classroom teachers and media coordinators who require substitutes if they are absent due to their own personal illness or injury ~~in excess of their accumulated sick leave and available vacation leave~~ [and have exhausted all available accumulated paid leave \(sick leave, annual vacation leave, and bonus leave\)](#). In order to be eligible, the employee must be in a permanent full- or part-time position. Those qualifying are allowed extended sick leave of up to 20 workdays throughout the regular [\(annual\)](#) term of employment.

Bonus Leave

Question: When was bonus leave given to the public school system?

Answer: Bonus Leave has been provided three times based on statutes passed by the General Assembly in 2002, 2003 and 2005. There were provisions in each statute which indicated who was eligible to receive the Bonus leave. NOTE: When teachers received a raise or a step, they weren't eligible for the Bonus leave. There were a total of 25 days for the three years Bonus leave was

provided (2002 – 10 days, 2003 – 10 days and 2005 – 5 days). The applicable statutes providing Bonus leave are listed as follows:

- 2002 BONUS LEAVE

2002 - SESSION LAW 2002-126, SENATE BILL 1115 PART XXVIII. SALARIES AND EMPLOYEE BENEFITS

Requested by: Senators Plyler, Odom, Lee; Representatives Easterling, Oldham, Redwine, Baddour

SPECIAL ANNUAL LEAVE BONUS/COMMUNITY COLLEGE SALARIES SECTION 28.3A.

Any person who is a full-time permanent employee on September 30, 2002, of (i) a local board of education, except for an employee who receives a salary increment pursuant to Section 7.1, 7.2, or 7.45 of this act, or (ii) the State, who is eligible for annual leave shall have a one-time additional 10 days of annual leave credited on that date. That leave shall be accounted for separately, and shall remain available until used, notwithstanding any other limitation on the total number of days of annual leave that may be carried forward. Part-time permanent employees and 9- or 10-month employees shall receive a pro rata amount of the 10 days.

The General Assembly encourages the State Board of Community Colleges to adopt rules authorizing the colleges to provide special annual leave bonuses, compensation bonuses, or other employee benefits to their employees. Included within this may be salary increases within available funds to employees not receiving special annual leave bonuses.

- 2003 BONUS LEAVE

SESSION LAW 2003-284 HOUSE BILL 397 - AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS

SPECIAL ANNUAL LEAVE BONUS

SECTION 30.12B.(a) Except as provided by subsection (b) of this section, effective July 1, 2003, any person (i) who is a full-time permanent employee of the State, a community college institution, or a local board of education and (ii) who is eligible to earn annual leave shall have a one-time additional 10 days of annual leave credited on that date. The additional leave shall be accounted for either separately or together with the leave provided by Section 28.3A of S.L. 2002-126. Part-time permanent employees shall receive a pro rata amount of the 10 days.

SECTION 30.12B.(b) The following persons are not eligible to receive the special annual leave bonus authorized by this section:

- (1) Any employee or officer who does not earn annual leave.

- (2) Employees who receive during the 2003-2004 fiscal year an automatic or step increase under G.S. 7A-102(c), 7A-171.1, or 20-187.3.
- (3) Any public school employee or State employee paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule.

- 2005 BONUS LEAVE

The 2005 Appropriations Act, Section 29.14A.(a) includes a provision for a Special Annual Leave Bonus. These guidelines outline the procedures for implementation.

SESSION LAW 2005-276 SENATE BILL 622 AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

SPECIAL ANNUAL LEAVE BONUS

SECTION 29.14A.(a) Except as provided by subsection (b) of this section, any person (i) who is a full-time permanent employee of the State, a community college institution, or a local board of education on September 1, 2005, and (ii) who is eligible to earn annual leave shall have a one-time additional five days of annual leave credited on that date. The additional leave shall be accounted for either separately or together with the leave provided by Section 28.3A of S.L. 2002-126 and by Section 30.12B(a) of S.L. 2003-284, and shall remain available until used, notwithstanding any other limitation on the total number of days of annual leave that may be carried forward.

Part-time permanent employees shall receive a pro rata amount of the five days.

SECTION 29.14A.(b) The following persons are not eligible to receive the special annual leave bonus authorized by this section:

- (1) Any employee or officer who does not earn annual leave.
- (2) Any public school employee or State employee paid on the Teacher Salary Schedule or the School Based Administrator Salary Schedule.

Short Term Disability

Question: If an employee is on Short Term Disability, can the school district employ a person in that position with benefits or does it have to be without benefits. I know we can't as long as they are using sick leave but can we do so after that?

Answer: The school system may hire a replacement when the employee on Short Term Disability is no longer using paid leave. It should be made clear to the replacement that the position may not become permanent. The same position or a comparable position must be made available to the employee if they return to work.

Question: Can an employer require a teacher to prepare lesson plans while out on STD (before or during the duration of the STD)

Answer: Requiring an employee to prepare lesson plans while on Short Term Disability (STD) is a local decision and requires documentation by a health care provider. After reviewing medical documentation to make a determination of whether the employee is capable of doing so, the employer and the employee should have the discussion. Expecting a teacher to do lesson plans while on Short Term disability can be complicated if the teacher then expects to be paid. The question requires a medical determination as to the extent of the disability and the capacity of the employee to do this essential job function.

Military

Question: Does the time in the military count towards retirement if an employee becomes a teacher?

Answer: If the military time is performed before being employed as a teacher, then the military time can be purchased based on rules established by the Teachers and State Employees Retirement System. To purchase retirement service credit, you will need to complete the appropriate purchase form. These forms, which include detailed information about the service purchase process, are available on the Retirement System's Web site at www.myncretirement.com.

Longevity

Question: This year (April or March) will be the 11th year for a teacher teaching in the state of NC. When should this employee receive their longevity check?

Answer: The Benefits Manual 13.1.4 states that Longevity pay is automatic. Payment shall be made not later than the month following the monthly pay period when all eligibility requirements are met. NC public school law does not address locally funded positions, which means that the local school district has the option of determining the longevity pay policy for locally funded positions. Considering this, it is strongly recommended that an employee confirm eligibility for longevity pay with the Human Resources Office for the school district where the employee is employed.. Here is the link to the Benefits and Employment Policy Manual:

<http://www.ncpublicschools.org/docs/humanresources/district-personnel/key-information/information/policymanual.pdf><http://www.ncpublicschools.org/benemanual>

Resignation

Question: What is the official requirement of notice of resignation?

Answer: Employment of teachers and the resignation notice requirement are addressed in NCGS 115C-325 (See http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-325.html)

Section (o) addresses Resignation. – A teacher, career or probationary, should not resign without the consent of the superintendent unless the teacher has given at least 30 days' notice. If the teacher does resign without giving at least 30 days' notice, the local board of education may request that the State Board of Education revoke the teacher's certificate for the remainder of that school year. A copy of any such request shall be placed in the teacher's personnel file.

Question: When do the days start counting for an official notice of resignation?

Answer: According to the policy, the 30 days start at the time the resignation is submitted and the days are referred to as calendar days versus work days: Here is the applicable statute:

§ 115C-325. System of employment for public school teachers.

(a) Definition of Terms. – As used in this section unless the context requires otherwise:

(3) "Day" means calendar day. In computing any period of time, Rule 6 of the North Carolina Rules of Civil Procedure shall apply.

(o) Resignation. –

(2) A teacher, career or probationary, who is not recommended for dismissal should not resign without the consent of the superintendent unless he or she has given at least 30 days' notice. If a teacher who is not recommended for dismissal does resign without giving at least 30 days' notice, the board may request that the State Board of Education revoke the teacher's certificate for the remainder of that school year. A copy of the request shall be placed in the teacher's personnel file.

Rehired Retirees

Question: Can recent retirees work as proctors?

Answer: Based on our research, proctors do not get paid. Since parents ordinarily serve as proctors and considering all of these factors, proctoring can be considered as

volunteering provided there is no form of payment involved. NOTE: Test administrators do not qualify as volunteers, since this is normally a staff function and requires professional training.

Working Overtime

Question: Our custodians and child nutrition workers work after hours for special events. Right now, we charge the group \$50.00 for the cleaning and run the employee's hours through our books. I would like to know if we can consider this employee a contract vendor and have the employee to fill out a W-9 then send a 1099 at the end of the year. Can we legally do this? Example: A custodian will clean up after a church group who rented one of our schools.

Answer: Since this is your employee, any time worked over 40 must be considered as overtime, not as a separate contract. This can be verified in the federal law governing wage-hour, the Fair Labor Standards Act.

Contact information is: <http://www.dol.gov/whd/america2.htm#NorthCarolina>

North Carolina

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