

Bi-Weekly HR Update: Recently Asked Questions

June 27, 2012

Personal Leave

Question: An employee who earned leave as teacher and later became an Assistant Principal, will the employee lose personal leave days for having accepted this administrative position?

Answer: No. The leave time will remain on the books for 60 months. If the employee returns to classroom teaching or retires within the 60 months, then the personal leave is restored and at retirement any remaining personal leave converts to sick leave. After 60 months, the leave is forfeited.

Transferring Leave (Charter Schools)

Question: When an employee transfers from a Charter School, can the LEA accept any leave balances from a Charter School?

Answer: There are no provisions for the transfer of leave between LEAs and Charter Schools. The statute authorizing the sharing of leave is found in G.S. 115C-12.2 and does not authorize Charter Schools to participate but limits it authorization to sharing as between local school board employees, community college employees, and state employees. The statute does not provide for transferring leave to or from Charter Schools:

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-12.2.html

Voluntary Shared Leave

Question: If an employee resigned on 10/31/2011 and had a sick leave balance, can the employee now donate the sick leave to another employee?

Answer: No. In order to donate leave, the individual would have to be an active employee working in a position eligible to earn leave. Once an employee resigns, no donation can be made.

FMLA and Worker's Comp

Question: Does workers' compensation leave count against an employee's FMLA leave entitlement?

Answer: FMLA leave and workers' compensation leave can run concurrently, provided the reason for the absence qualifies as both a serious illness (FMLA) and as an on the job injury (WC) and the employer properly notifies the employee in writing that the leave will be counted as FMLA leave.

Under FMLA's broad definition of serious health condition, most workers compensation situations will also qualify for FMLA. However, FMLA does not apply to minor injuries that do not either incapacitate an employee for more than three days or require continuing treatment. When making an assessment, always refer to the Benefits and Employment Policy Manual under FMLA 8.2 Definitions., Serious Health Condition.

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

Vacation – School Calendar

Question: What Annual Vacation Leave is to be built into the school calendar?

Answer: The local school district calendar is required to have 10 annual vacation leave days plus two teachers work days when teachers may take annual vacation leave. The school system calendar could have additional workdays when teachers can take annual vacation leave If the school system decided to use some of the remaining 8 teacher workdays days for that purpose. (There are 7 remaining workdays in years when Christmas falls on a Tuesday, Wednesday, or Thursday). At the link to the Financial and Business Services web pages, you will find <http://www.ncpublicschools.org/fbs/accounting/calendar/>

What stays the same with school calendars?

1. Start and End dates of August 25 and June 10 (unless waiver has been approved, year-round school or Charter School).
2. School Calendar shall consist of 215 days, all of which shall fall within the same fiscal year.
3. Covers at least nine calendar months.
4. Have a minimum of 10 annual vacation leave days.
5. Have the same or an equivalent number of legal holidays occurring within the school calendar as those designated by the State Personnel Commission for State employees.
6. School shall not be held on Sunday.
7. Veterans Day shall be a holiday for all public school personnel and for all students enrolled in the public schools.

What has changed with school calendars:

1. Must have a minimum of 185 days and 1,025 hours of instruction.
2. Ten teacher workdays (eliminated the five protected teacher workdays).

3. Local Boards shall designate two (2) workdays on which teachers may take accumulated vacation leave. Local Boards may designate the remaining workdays as days teachers may take accumulated vacation leave.
4. Charter schools must provide instruction for at least 185 days.
5. If the State Board of Education finds that it will enhance student performance to do so, the State Board may grant a local board of education for an LEA or Charter School a waiver to use up to five of the instructional days as teacher workdays. For each instructional day waived, the State Board shall waive an equivalent number of instructional hours.

The process for requesting waivers of the 185 instructional days for 2012-13 school year is located within the School Attendance and Student Accounting manual under the School Calendar section.

RIF Benefits

Question: We have an employee who began working on 8/4/11 (first day for teachers). She went on unpaid leave 12/29/11 and returned to work 4/2/12 and will work through the remainder of the school year. The employee is a 10 month employee. If the employee's position needs to be eliminated, will the employee be eligible for the RIF health plan benefit or would the unpaid leave impact this?

Answer: According to a State Health Plan representative and based upon the State Health Plan (SHP) definition for "employed," the employee would qualify for RIF health coverage benefit, since the employee was **employed** and **currently covered** by employer at the time of RIF. Even though the employee only worked 7 months out of 10, the employee is considered as employed and on the payroll system, though on leave without pay for three months. Also, the employee returned to the same job and continued to work and coverage was reinstated through the remainder of the school year. The employee wasn't **re-hired**, but **reinstated**.

The State Health Plan (SHP) website: <http://www.shpnc.org/myMedicalBenefits/rif/faq-medical-rif.aspx#1>

Who is eligible for the Reduction in Force ("RIF") benefit?

According to North Carolina General Statute (NCGS) § 135-48.40(b)(8), an employee who was employed for 12 or more months or has completed a contract term of employment of 10 or 11 months and whose employer was a local school administrative unit and whose job was eliminated because of a reduction in funds used to support the job or its responsibilities – and was covered by the State Health Plan at the time of separation from service – is eligible for the RIF benefit. The RIF employee shall be covered for a period of up to 12 months.

Planning Periods

Question: How many hours or percentage of time is a teacher required to work in order to be eligible for a planning period?

Answer: The statute states that all full-time assigned classroom teachers shall be provided duty-free instructional planning time during regular student contact hours. The LEAs have the flexibility to determine how many instructional hours are within a day and determine what is full-time.

STATUTE: §115C-301.1. Duty-free instructional planning time.

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_115C/GS_115C-301.1.html

All full-time assigned classroom teachers shall be provided duty-free instructional planning time during regular student contact hours. The duty-free instructional planning time shall be provided to the maximum extent that (i) the safety and proper supervision of children may allow during regular student contact hours and (ii) insofar as funds are provided for this purpose by the General Assembly. If the safety and supervision of children does not allow duty-free instructional planning time during regular student contact hours for a given teacher, the funds provided by the General Assembly for the duty-free instructional planning time for that teacher shall revert to the general fund. Principals shall not unfairly burden a given teacher by making that teacher give up his or her duty-free instructional planning time on an ongoing, regular basis without the consent of the teacher. (1983, c. 761, s. 88; 1999-163, s. 1; 2006-153, s.3.)

Community Service

Question: The manual on the Office of State Personnel (OSP) website gives information regarding community service leave for state employees. Does this type of leave available to public school employees?

Answer: No. The policy manual on the Office of State Personnel website applies only to state government employees subject to the State Personnel Act, G.S. 126. The only community related policy available to public school employees is as follows:

7.1.1 Community Responsibility

Upon approval of the supervisor, full-time or part-time public school employees may be granted leave to represent the school or administrative unit at community functions such as the funeral of a school child or his parent. Employees absent for these reasons shall retain full salary during the days absent.

Proper provision shall be made for the continuation of the employee's regular work by making satisfactory arrangements within the system or by employment of a substitute.

Substitutes employed for these absences shall not be paid from state funds.

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

Purchasing Retirement Service Credit

Question: What is the cost of purchasing out of state service credit in the Teachers' and State Employees' Retirement System (TSERS).

Answer: The cost will be based on the actuarial cost of providing the additional retirement benefits; however, a counselor with the Retirement System can address the question. Contact information is on-line at:

<https://www.nctreasurer.com/ret/Pages/Contact-Us.aspx>

You will also want to find out when you can first purchase credits since the cost goes up as time passes and there is less time before benefits would be paid. You will want to review the directions and other information on purchasing Out of State service that is found on-line at:

<https://orbit.myncretirement.com/Orbit/Info/Pages/ListAllForms.aspx?renderForm=true&formCode=455>

The form has a section for requesting an estimate of the cost of purchasing credit. You will also find some information on purchasing service in the TSERS handbook that is on-line at: <https://www.nctreasurer.com/ret/Benefits%20Handbooks/NCTeaState.pdf>