

16 NCAC 06C .0409 VACATION LEAVE

(a) In addition to the relevant provisions of Articles 18, 19, 20, 21, and 23 of Chapter 115C of the General Statutes, this Rule shall govern the use of vacation leave by employees of a local board of education ("local board"). The local board may adopt additional policies to govern the use of vacation leave, provided they are consistent with this Rule. Except where otherwise indicated below, "employee" shall include the following:

- (1) Superintendents, as provided by G.S. 115C-272.
- (2) Principals and Supervisors, as provided by G.S. 115C-285.
- (3) Teachers and other instructional personnel, as provided by G.S. 115C-302.1.
- (4) Other public school employees, as provided by G.S. 115C-316.

(b) Eligibility for Vacation Leave

- (1) A permanent full-time employee who works or is on paid leave (including State holidays and days for which the employee is receiving workers compensation) for at least one half of the workdays in a calendar month shall earn vacation leave based on the employee's length of total state service, as defined in 25 NCAC 01D .0112. The employee shall accrue vacation leave at the same rate as State employees, as set forth in 25 NCAC 01E .0203, subject to the limitations in Subparagraph (b)(3) of this Rule.
- (2) A permanent part-time employee who works or is on paid leave (including State holidays and days for which the employee is receiving workers compensation) for at least one half of the workdays in a calendar month shall earn vacation leave on a pro rata basis relative to the amount of leave earned by a permanent full-time employee in the same position classification. A person employed in two or more positions may not earn more leave than that earned by a permanent full-time employee.
- (3) The local school administrative unit ("LSAU") shall establish the required daily and weekly work hours for each permanent employee. If a permanent full-time employee works fewer than 40 hours per week, the employee shall earn a percentage of the relevant vacation leave accrual rate that is equivalent to the weekly work hours for the employee as a percentage of a standard 40-hour work week. For example, if the employee works 35 hours per week, or 87.5 percent of a 40-hour work week, then the employee would earn leave at 87.5 percent of the monthly and annual accrual rates listed in Paragraph (a) of this Rule.
- (4) An employee who is not eligible to earn vacation leave may not use previously accumulated vacation leave.
- (5) A school bus driver who works fewer than 20 hours per week and is not otherwise entitled to earn vacation leave under this Rule shall earn one vacation day (equal in hours to the number of hours in the driver's regular workday) per year if the driver:
 - (A) Is employed to drive a regular daily route (i.e., is not a substitute driver); and
 - (B) Was employed as a regular driver during the entire previous school year.

provided

by this Subparagraph shall not receive compensation for that day.

(c) Use of Vacation Leave

- (1) For teachers and instructional personnel who work 10 months per year, the employee must use the first 10 days of accrued available vacation leave each year on days designated by the local board as vacation days in accordance with G.S. 115C- 302.1(c),
- (2) A classroom teacher, school media coordinator, or teacher assistant shall not use vacation leave on days in which students are scheduled to be in attendance if the employee would require a substitute, unless the employee:
 - (A) Does not earn personal leave under G.S. 115C-302.1(d);
 - (B) Is using the vacation leave to care for a newborn child or a child placed with the employee for adoption or foster care under G.S. 115C-302.1(j); or
 - (C) Is using the vacation leave for catastrophic illness under 16 NCAC 06C .0402(i).
- (3) An employee who earned vacation leave during the school year, as defined in 16 NCAC 06C .0401(11)(b), shall continue to earn vacation leave during the summer break if the employee works at least 20 hours per week for the same local school administrative unit. If the employee works less than full-time, the employee shall earn leave on a pro rata basis consistent with Subparagraph (a)(2) of this Rule.

- (4) An employee who is not eligible to earn vacation leave may not use previously accumulated vacation leave.
- (d) An LSAU may advance vacation leave to an employee based on the amount of leave the employee is anticipated to earn in the remainder of the current fiscal year, provided that the LSAU shall assume financial responsibility for any advanced leave not earned at the time the employee separates from employment or at the end of the fiscal year, whichever is earlier.
- (e) Except as provided by Paragraph (f) of this Rule, when an employee separates from employment with an LSAU, the LSAU shall pay the employee a lump sum for accumulated vacation leave. The payout shall be calculated using the daily rate of pay based on the employee's salary at the time of separation and shall not exceed the equivalent pay of 30 days. In the case of a deceased employee, the LSAU shall pay the lump sum to the administrator or executor of the deceased employee's estate upon receipt of a valid probate claim.
- (f) Transfer of Vacation Leave
- (1) An employee may transfer accumulated vacation leave from one LSAU to another LSAU upon transfer of employment, provided that any variance in the number of working hours per day that is considered "full-time" between the new position and the previous position shall not result in an increase or decrease in the total number of vacation leave days available as a result of the transfer. To calculate the equitable value of the transferred leave:
 - (A) The sending LSAU shall divide the total number of hours of accumulated vacation leave by the number of working hours per day that is considered "full-time" for the departing employee's previous position. This generates a total number of vacation leave days available for transfer to the receiving LSAU.
 - (B) The receiving LSAU shall then multiply the number of transferred vacation leave days by the number of working hours per day that is considered "full-time" for the incoming employee's new position. This generates the total number of vacation leave hours available for use by the employee in the new position.
 - (2) An employee may transfer accumulated vacation leave to a State agency or any of the entities listed in 25 NCAC 01E .0309 upon transfer of employment to such agency or entity, if the agency or entity is willing to accept the leave. If the agency or entity is unwilling to accept the leave, the LSAU shall pay the employee for the accumulated leave, up to a maximum of 30 days.
 - (3) A person employed by such agency or entity may transfer accumulated vacation leave to an LSAU upon transfer of employment to such LSAU if such LSAU is willing to accept the leave and, consistent with Subparagraph (f)(1), any variance in the number of working hours per day that is considered "full-time" between the new position with the LSAU and the previous position with the agency or entity shall not result in an increase or decrease in the total number of leave days available as a result of the transfer.
 - (4) If, within 31 days of separation from employment with an LSAU, an employee obtains employment with another LSAU or a State agency or entity willing to accept transferred vacation leave, the original LSAU shall transfer any accumulated vacation leave to the new employer in lieu of paying the employee for the leave.
 - (5) An employee may only transfer accumulated vacation leave from one leave-earning position to another leave-earning position, even if the new position is within the same LSAU.
- (g) This Rule shall also govern any bonus vacation leave awarded to an employee pursuant to S.L. 2002-126, Section 28.3A (as amended by S.L. 2002-159, Section 82); S.L. 2003-284, Section 30.12B; or S.L. 2005-276, Section 29.14A, except that the employee shall maintain the leave from year-to-year until it is used or paid out upon separation from employment. Each LSAU shall track bonus vacation leave separately from otherwise earned vacation leave and shall not include it in the 30 days calculated under Paragraph (e) of this Rule.
- (h) Each LSAU shall maintain leave records for each of its employees. The LSAU shall inform each employee of the employee's leave balances at least once per fiscal year. The LSAU shall retain employee leave records for at least five years from the date of the employee's separation.

History Note: Authority G.S. 115C-12(8),(9),(16); 115C-272; 115C-285; 115C-302.1; 115C-316; 115C-408; S.L. 1997-443, s. 8.6; Eff. July 1, 2026.