

3.1.3 Use of Annual Vacation Leave

- (a) For 10-month employees the first 10 days of annual vacation leave must be scheduled in the school calendar and must be taken as scheduled.
- (b) **Approval:** All annual vacation leave taken by a public school employee must be with the authorization of the employee's immediate supervisor and must conform to policies established by the State Board of Education and the local board of education.
- (c) **Units of annual vacation leave:** Annual vacation leave may be used in one-half days, whole days, or hours as determined for earning purposes by the local board.
- (d) **Restrictions on use by instructional personnel and teacher assistants:** Classroom teachers who require a substitute, school media coordinators who require a substitute and teacher assistants who require a substitute may not take annual vacation leave at any time that students are scheduled to be in attendance except as provided in Section 3.2 (Leave for Catastrophic Illness), or Section 3.3 (Leave for New Parents) of this manual. However, local school boards of education may adopt policies permitting instructional personnel employed for 11 or 12 months in year- round schools to, with the approval of the principal, take annual vacation leave at a time when students are in attendance; local funds shall be used to cover the cost of substitute teachers.

Teachers (as defined by G.S. 325.a (6)) who do not require a substitute may, with their supervisor's approval, take annual vacation leave on any day school is in session. Employees who are restricted in their use of annual leave (i.e., when students are in school) shall accrue personal leave at the same rate as classroom teachers. Teachers who do not accrue personal leave shall not be restricted in their use of annual leave with prior approval.
- (e) **Annual vacation leave in lieu of sick leave:** Annual vacation leave may be used in lieu of sick leave. Instructional personnel who require substitutes are subject to the restrictions set forth in paragraph (d) above.
- (f) **Adverse weather:** Employees may elect to use annual vacation leave for absences due to adverse weather conditions only on days when students are not required to attend school due to the adverse weather conditions.
- (g) **Disability:** Employees may elect to exhaust annual vacation leave during the 60-day waiting period or in lieu of short-term disability benefits. Instructional personnel who require substitutes may use this leave only on days that students are not scheduled to be in regular attendance or in accordance with the provisions of Section 3.2 (Leave for Catastrophic Illness), or Section 3.3 (Leave for New Parents) of this manual. This election does not extend the 365---day duration of short-term disability.

- (h) **Use of annual vacation leave by interim or temporary employees:** An employee who had previously earned annual vacation leave may not use this leave while employed in an interim position of less than six months, a temporary position, or a position of less than 20 hours per week except as provided in Section 1.1.2.
- (i) **Accumulation and use during summer employment:** Any employee who earned annual vacation leave in the regular school term will continue to earn annual vacation leave during the summer if employed at least 20 hours per week in the same school system. The rate will be pro rata if the summer employment is less than full-time. Annual vacation leave may be used under the same conditions as during the regular term.
- (j) **Scheduling annual vacation leave and workdays in the calendar:** Local calendars must be designed to allow all employees an opportunity to take annual vacation leave. This applies to summer school calendars as well as calendars for the regular term. Days not scheduled in the calendar for student attendance, holidays, annual vacation leave, or optional workdays may be designated by the local board of education as mandatory workdays. (See Sections 15.1.2 and 15.1.3 for assignment of days).
- (k) **Leave deficit:** An employee who has neither earned nor will earn sufficient annual vacation leave to cover any annual vacation leave day scheduled in the school calendar will be placed on leave without pay.
- (l) **Military caregiver:** An employee may choose to exhaust available sick and/or vacation/bonus leave, or go on leave without pay to care for an injured family member. (An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.)
- (m) **Qualifying Exigency:** When necessitated by one of the qualifying exigency reasons, employee may use available vacation/bonus leave, or go on leave without pay. (An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.) (See Section 8.2.2 - Qualifying Exigency Explanation)

3.1.4 Accumulation/Conversion to Sick Leave

Annual vacation leave may be accumulated without any applicable maximum until June 30 of each calendar year. On June 30 or upon retirement accumulated annual vacation leave in excess of 30 days will be converted to sick leave so that only 30 workdays of annual vacation leave are carried forward.

Upon separation in order to retire, annual vacation leave over 30 days may be converted to sick leave for creditable service toward retirement.

Upon separation from service due to service retirement, resignation, (if not transferring to another LEA within 31 calendar days), dismissal, reduction in force or death, an employee shall be paid in a lump sum for accumulated annual vacation leave not to exceed a maximum of 30 days. Employees going onto disability may exhaust annual vacation leave rather than be paid in a lump sum.

3.1.5 Advancement

An employee may be advanced the amount of annual vacation leave that may be earned in the remainder of the fiscal year at the discretion of the local administrative unit. The local superintendent must assume full responsibility for use in excess of earnings.

3.1.6 Transfer of Leave

- (a) **Transfer between LEAs:** An employee who transfers between local administrative units must have all unused annual vacation leave transferred to the new administrative unit. Leave to be accepted by a school system must not result in leave being accrued at a greater rate than the rate afforded to school employees as set forth in Section 3.1.2. Leave should be transferred between districts as “days”, not hours. The transferring district calculates the days by dividing the number of total hours of annual vacation leave by the number of hours in the employee’s defined workday. The receiving district multiplies the number of days by the number of hours in the employee’s new role. This process ensures that no days are lost (or gained) when the employee transfers between districts that may define their workdays differently.
- (b) **Transfer to and from other state agencies:** If the agency is willing to accept it, leave may be transferred to and from a state agency or institution, community college, technical institute, or a position covered by the State Personnel Act in county agencies of mental health, public health, social services, or emergency management.

All or any portion of the unused annual vacation leave may be accepted. Leave to be accepted from a state agency must not result in leave being accrued at a greater rate than the rate afforded to school employees as set forth in Section 3.1.2.

If a receiving agency refuses to credit the employee with the unused annual vacation leave or any portion thereof, the employee must be paid in a lump sum for up to 30 days or 240 hours of accumulated annual vacation leave.

- (c) When an employee transfers between LEAs or to a state agency, if the new employment is obtained within 31 calendar days from the date of separation, (as reported by the resigning employee), the leave balances will transfer rather than being paid out.
- (d) There is no provision for public school employees to transfer leave to or from charter schools.

* NOTE: Upon Separation from employment with an LEA to work in a charter school, any vacation leave balance (up to 30 days) is paid by the LEA.

3.1.7 Separation from Employment

- (a) **Lump sum payment:** An employee must be paid in a lump sum for accumulated annual vacation leave, not to exceed a maximum of 30 days or 240 hours, upon separation from service. Separation from service includes resignation (unless the employee is transferring to another LEA or state agency), dismissal, reduction-in-force, death, service retirement, beginning long-term disability benefit or change to temporary status.
- (b) **Leave deficit:** If an employee separating from service is overdrawn with respect to annual vacation leave, a deduction in the appropriate amount must be made from the employee's final paycheck.
- (c) **Retirement:** A deduction for retirement must be made from all lump-sum payments of annual vacation leave. Receipt of lump-sum leave payment and retirement benefits is not considered to be dual compensation.
- (d) **Claims on behalf of deceased employee:** In the case of a deceased employee, unused annual vacation leave up to a maximum of 30 days or 240 hours must be paid to the deceased employee's administrator or executor upon the establishment of a valid claim. The claim must be made to the Clerk of Superior Court in the county of the deceased employee's residence.
- (e) **Accounting procedure:** When an employee separates from service, payment for leave may be on the regular payroll or on a supplement payroll. The number of leave days and amount of payment must be specified. Payment must be charged to the annual vacation leave budget codes provided for this purpose and from the same source of funds and in the same prorate amount from which the employee's salary is paid (local, federal or state funds).

3.1.8 Leave Records

Local administrative units must maintain leave records for each employee. It is the responsibility of the employee to record his or her leave time and the responsibility of the employee's immediate supervisor to verify that the leave record is accurate.

The local administrative unit must notify employees of leave balances at least once a year.

Leave records must be retained for a period of at least five years from the date of the employee's separation from service.

Legal Reference(s)

G.S. 115C-84.2
G.S. 115C-272
G.S. 115C-285
G.S. 115C-302.1
G.S. 115C-316
G.S. 115C-336(c)

Session Law 1997-443, Section 8.6
16 NCAC 6C.0401
Code of Federal Regulations, Title 29, Part 825, The
Family and Medical Leave Act of 1993, as amended
Finance Newsletter No. 030-10/11, March 25, 2011
Annual Vacation Leave Earning Rates