

1 16 NCAC 06C .0404 is proposed for amendment as follows:

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3 **16 NCAC 06C .0404 LEAVE WITH PAY**

4 (a) A local school administrative unit ("LSAU") shall provide permanent employees with leave with pay under the
5 circumstances set forth in this Rule.

6 (b) Except where otherwise provided below, the LSAU shall pay any substitute employee hired to fulfill the duties of
7 an employee on leave with pay from the same funding source as the employee taking the leave.

8 (c) The LSAU shall not deduct from a permanent employee's salary if the employee is absent from the employee's
9 regularly scheduled duties for any of the following reasons:

10 (1) The employee is on sick leave in accordance with Rule .0402 of this Section.

11 (2) The employee's supervisor has granted the employee leave to represent the school or LSAU at a
12 community event. The LSAU shall pay any substitute employee hired under these circumstances
13 from local funds.

14 (3) The employee is attending meetings or performing duties as a member of the State Board of
15 Education; the State Textbook Commission; the Board of Governors of the North Carolina
16 Governor's School; or a commission or committee appointed by the Governor, the Superintendent
17 of Public Instruction, the State Board of Education, or the General Assembly.

18 (4) The employee is summoned to jury duty, or is required to attend court, a deposition, or other legal
19 proceeding in connection with the employee's official duties or in response to a subpoena or court
20 order to testify as a witness to a crime. If the employee is required to attend court as a plaintiff,
21 defendant, or witness in relation to a personal matter, whether or not in response to a subpoena or
22 court order, the employee must use available leave time. The employee shall return to the LSAU
23 any fees, other than travel reimbursement or per diem, that the employee earns from serving as a
24 witness in connection with the employee's official duties.

25 (5) The local superintendent assigns the employee to attend professional training or participate in
26 another school program outside the employee's regular duties. The LSAU shall pay any substitute
27 employee hired under these circumstances from local funds.

28 (6) The local superintendent or designee has suspended the employee with pay under G.S. 115C-325(f1)
29 or 115C-325.5. The LSAU shall pay any substitute employee hired to cover for the suspended
30 employee a salary based on the substitute's qualifications under Section .0300 of this Subchapter.

31 (7) The employee is on military leave with pay in accordance with ~~25 NCAC 01E .0802 .0821~~. 16
32 NCAC 06C .0406.

33 (8) The employee suffers an injury or disability that is covered by G.S. 115C-338.

34 (9) The employee requests leave to observe a bona fide religious holiday, provided the employee is
35 permitted no more than two such observance days in one school year. The employee shall use
36 available vacation leave, subject to the requirements of Rule .0409 of this Section, use personal
37 leave, subject to the requirements of G.S. 115C-302.1(d), or make up the time absent from work at

1 a time and under circumstances approved by the employee's supervisor. The employee shall not
2 request such leave time on days that are already scheduled as vacation days or paid holidays in the
3 school calendar.

- 4 (10) Upon recommendation of the local superintendent, the local board of education may grant leave
5 with pay for elected officers of professional organizations, provided the organization pays the full
6 salary and all benefit costs for the employee while the employee is on leave. During such leave time,
7 the employee shall earn sick leave, vacation leave, personal leave, and paid holidays.

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9 *History Note: Authority G.S. 115C-12(8); 115C-300; 115C-302.1; 115C-325; 115C-325.5; 115C-338; 115C-408;*
10 *Eff. July 1, 1986;*
11 *Amended Eff. July 1, 2001; March 1, 1990; August 1, 1987;*
12 *Readopted Eff. July 1, ~~2026~~. 2026;*
13 *Amended Eff. April 1, 2027.*

1 16 NCAC 06C .0405 is proposed for amendment as follows:

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3 **16 NCAC 06C .0405 LEAVE WITHOUT PAY**

4 (a) A local school administrative unit shall allow leaves of absence without pay for permanent employees under the
5 following circumstances:

6 (1) The employee is on military leave without pay in accordance with ~~25 NCAC 01E .0802 .0821.~~ 16
7 NCAC 06C .0406.

8 (2) The employee gives birth to or adopts a child. The employee may take up to 12 months of leave
9 without pay, beginning on the date of the birth or finalization of the adoption. This provision is in
10 addition to any paid parental leave to which the employee may be entitled under Rule .0408 of this
11 Section.

12 (3) Other such circumstances deemed appropriate by the local superintendent or designee in accordance
13 with policies adopted by the local board of education.

14 (b) The employee shall provide advanced notice to the LSAU of the employee's request for a leave of absence, in
15 accordance with policies adopted by the local board of education.

16 (c) The LSAU shall determine the start and end dates for a leave of absence, except for military leave without pay.

17 (d) The LSAU may provide a leave of absence to allow the employee to pursue an educational degree or other
18 credential but shall not use state funds to pay any substitute employee hired to fulfill the duties of the absent employee.

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20 *History Note: Authority G.S. 115C-12(8); 115C-336.1; 115C-408; 126-8.6;*

21 *Eff. July 1, 1986;*

22 *Amended Eff. March 1, 1990;*

23 *Readopted Eff. July 1, ~~2026.~~ 2026;*

24 *Amended Eff. April 1, 2027.*

1 16 NCAC 06C .0408 is proposed for amendment as follows:

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3 **16 NCAC 06C .0408 PARENTAL LEAVE**

4 (a) For the purposes of this Rule, the following definitions shall apply:

- 5 (1) "Child" means a newborn biological child or a newly placed adopted, foster, or otherwise legally
6 placed child under the age of 18 whose parent is an eligible employee.
- 7 (2) "Continuous" leave means leave taken over a continuous period for the full amount of leave to which
8 an eligible employee is entitled under Paragraph (c) of this Rule.
- 9 (3) "Eligible employee" means a person employed to fill a permanent, probationary, or time-limited
10 position in a public-school unit ("PSU") who meets the eligibility requirements set forth in
11 Paragraph (b) of this Rule. "Eligible employee" shall not include temporary employees or
12 independent contractors.
- 13 (4) "Intermittent" leave means leave taken in separate periods for a single qualifying event that
14 cumulatively equal the amount of leave to which an eligible employee is entitled under Paragraph
15 (c) of this Rule. Intermittent leave may include periods of leave ranging from half of an employee's
16 regularly scheduled workday to several consecutive workdays.
- 17 (3) "Parent" means the legal guardian or custodian of a child through birth, adoption, foster care, or
18 other legal placement.
- 19 (4) "Public school unit" or "PSU" is defined in G.S. 115C-5(7a), except that this Rule shall only apply
20 to a charter school if the board of directors for the charter school has opted to provide for paid
21 parental leave in accordance with G.S. 115C-218.90(a)(6). The board shall notify the Office of
22 Charter Schools at the Department of Public Instruction of its intent to offer paid parental leave no
23 later than October 1 of the fiscal year for which it intends the leave to be available.
- 24 (5) "Qualifying event" means when an eligible employee becomes a parent to a child.

25 (b) To be eligible for paid parental leave, a PSU employee shall, at the time of the qualifying event, have been in pay
26 status, as defined in 25 NCAC 01D .0105, with a PSU, state agency, or other public entity providing paid parental
27 leave under G.S. 126-8.6 for at least 1,040 hours without a break in service within the previous 12-month period. The
28 employee may aggregate periods of employment with different employers to satisfy this requirement, except that any
29 period of employment by a charter school shall not satisfy this requirement unless the governing board of the charter
30 school has elected to provide paid parental leave in accordance with G.S. 115C-218.90(a)(6). For purposes of this
31 Rule, a break in service is defined in 25 NCAC 01D .0144, provided it shall not include:

- 32 (1) Any period in the past 12 months during which the employee was receiving workers' compensation
33 under G.S. 97-1 et seq. or on short-term disability under G.S. 135-105.
- 34 (2) Any period in which the employee was on leave without pay.
- 35 (3) Any period in which the employee was absent due to military service in the Armed Forces of the
36 United States, in accordance with the Uniformed Services Employment and Reemployment Rights
37 Act of 1994, 38 U.S.C. 4301-4333.

- 1 (4) For a 10- or 11-month employee whose employment will continue for the following school year,
2 the time between the conclusion of one employment period and the commencement of the following
3 employment period.
- 4 (5) For an employee who transitions from one employer offering paid parental leave under G.S. 126-
5 8.6 to another employer providing paid parental leave under G.S. 126-8.6, any time between the
6 date of separation from the first employer and the date of hire for the second employer, not to exceed
7 31 days.
- 8 (c) A full-time eligible employee who becomes a parent to a child shall be entitled to ~~the following:~~ 12 weeks of paid
9 parental leave for bonding with the child.
- 10 (1) ~~For a parent who gives birth to a child, up to eight weeks of paid parental leave consisting of:~~
11 (A) ~~Four weeks for physical and mental recuperation; and~~
12 (B) ~~Four weeks for bonding with the child.~~
- 13 (2) ~~For any other qualifying event, up to four weeks of paid parental leave for bonding with the child.~~
- 14 (d) A part-time eligible employee who becomes a parent to a child shall be entitled to a prorated share of paid parental
15 leave based upon the hours in the employee's regular, weekly schedule compared to the hours worked by a full-time
16 employee in a similar position within the PSU, provided that the prorated share of leave shall not exceed ~~the total~~
17 ~~number of weeks provided to a full-time employee under Paragraph (c) of this Rule.~~ 12 weeks.
- 18 (e) If an eligible employee gives birth to a child and places the child up for adoption or into foster care, or otherwise
19 ~~legally places the child with~~ transfers custody of the child to another person to serve as the child's parent, the employee
20 shall be entitled to up to four weeks of paid leave for physical and mental recuperation from the time of the child's
21 birth. Neither a birthing parent nor a non-birthing parent shall be entitled to additional leave for bonding with the
22 child.
- 23 (f) If a fetus dies prior to a completed birth, or if a child dies after a completed birth, the following rules shall apply:
- 24 (1) If the fetus dies before the conclusion of the 12th week of pregnancy, there is no qualifying event
25 creating an entitlement to paid parental leave under this Rule.
- 26 (2) If the fetus dies after the conclusion of the 12th week of pregnancy but prior to a completed birth,
27 an otherwise eligible employee who carried the child shall be entitled to up to four weeks of leave
28 for physical and mental recuperation. Neither a birthing parent nor a non-birthing parent shall be
29 entitled to additional leave for bonding with the child.
- 30 (3) If a child dies after a completed birth, an otherwise eligible employee shall be entitled to the same
31 amount of leave to which the employee would be entitled under Paragraphs (c) or (d) of this Rule.
- 32 (g) The paid parental leave provided by this Rule shall result in compensation at 100 percent of the eligible employee's
33 regular, straight-time pay.
- 34 (h) The paid parental leave provided under this Rule is in addition to any other leave authorized by this Chapter, State
35 or federal law, or policies established by the PSU, provided that the paid parental leave:
- 36 (1) Shall not be counted against or deducted from an eligible employee's sick, vacation, bonus, or other
37 accrued leave.

- (2) Shall be reported by the PSU separately from all other paid leave.
- (3) Shall not accrue and is not eligible for donation to another employee.
- (4) Shall not be used for calculating the employee's retirement benefits.
- (5) Shall run concurrently with any leave to which the employee may be entitled under the Family and Medical Leave Act, 28 U.S.C. 2601–2654, provided the PSU has complied with the appropriate notice requirements in 29 C.F.R. 825.300.
- (i) An eligible employee who requests paid parental leave shall do so in accordance with policies adopted by the employee's PSU, subject to the following:
- (1) The paid parental leave may be used any time during the 12 months following a qualifying event on either a continuous or intermittent basis. A PSU shall not deny or delay an employee's request to use paid parental leave, or otherwise require the employee to use the leave on a prescribed schedule, without the employee's consent.
- (2) The employee shall provide advanced notice to the PSU of the employee's intent to use paid parental leave in accordance with policies adopted by the PSU. When possible, the employee shall provide notice at least ten weeks in advance of a qualifying event, but under no circumstances shall a PSU require more than ten weeks' notice.
- (3) The paid parental leave provided by this Rule may be used only once for a qualifying event within a 12-month period. Multiple births, adoptions, or other legal placements within the same 12-month period shall not entitle an otherwise eligible employee to more than one award of paid parental leave.
- (4) If both parents of a child are employed by the same PSU, the PSU shall permit both parents to take paid parental leave simultaneously if they so request, subject to Subparagraphs (1) and (2) of this Paragraph.
- (5) An employee shall forfeit any unused paid parental leave 12 months after the date of the qualifying event.
- (j) This paid parental leave provided by this Rule applies only to requests for paid parental leave related to qualifying events occurring on or after ~~July 1, 2023~~. October 1, 2026. Nothing in this Rule shall prohibit an employer, if authorized, from providing paid parental leave in amounts greater than what is required by this Rule.

History Note: Authority G.S. 115C-12(5); 115C-12(8); 115C-12(16); 115C-272; 115C-285; 115C-302.1; 115C-315; ~~126-8-6~~; 126A-7-2;
Temporary Adoption Eff. October 27, 2023;
Eff. October 1, ~~2024~~. 2024;
Amended Eff. April 1, 2027.

1 16 NCAC 06C .0409 is proposed for amendment as follows:

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3 **16 NCAC 06C .0409 VACATION LEAVE**

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

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

12 (b) Eligibility for Vacation Leave

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

1 A driver who is dismissed by the local board or resigns before taking the vacation leave day provided
2 by this Subparagraph shall not receive compensation for that day.

3 (c) Use of Vacation Leave

4 (1) For teachers and instructional personnel who work 10 months per year, the employee must use the
5 first 10 days of accrued available vacation leave each year on days designated by the local board as
6 vacation days in accordance with G.S. 115C- 302.1(c),

7 (2) A classroom teacher, school media coordinator, or teacher assistant shall not use vacation leave on
8 days in which students are scheduled to be in attendance if the employee would require a substitute,
9 unless the employee:

10 (A) Does not earn personal leave under G.S. 115C-302.1(d);

11 (B) Is using the vacation leave to care for a newborn child or a child placed with the employee
12 for adoption or foster care under G.S. 115C-302.1(j); or

13 (C) Is using the vacation leave for catastrophic illness under 16 NCAC 06C .0402(i).

14 (3) An employee who earned vacation leave during the school year, as defined in 16 NCAC 06C
15 .0401(11)(b), shall continue to earn vacation leave during the summer break if the employee works
16 at least 20 hours per week for the same local school administrative unit. If the employee works less
17 than full-time, the employee shall earn leave on a pro rata basis consistent with Subparagraph (a)(2)
18 of this Rule.

19 (4) An employee who is not eligible to earn vacation leave may not use previously accumulated vacation
20 leave.

21 (d) An LSAU may advance vacation leave to an employee based on the amount of leave the employee is anticipated
22 to earn in the remainder of the current fiscal year, provided that the LSAU shall assume financial responsibility for
23 any advanced leave not earned at the time the employee separates from employment or at the end of the fiscal year,
24 whichever is earlier.

25 (e) Except as provided by Paragraph (f) of this Rule, when an employee separates from employment with an LSAU,
26 the LSAU shall pay the employee a lump sum for accumulated vacation leave. The payout shall be calculated using
27 the daily rate of pay based on the employee's salary at the time of separation and shall not exceed the equivalent pay
28 of 30 days. In the case of a deceased employee, the LSAU shall pay the lump sum to the administrator or executor of
29 the deceased employee's estate upon receipt of a valid probate claim.

30 (f) Transfer of Vacation Leave

31 (1) An employee may transfer accumulated vacation leave from one LSAU to another LSAU upon
32 transfer of employment, provided that any variance in the number of working hours per day that is
33 considered "full-time" between the new position and the previous position shall not result in an
34 increase or decrease in the total number of vacation leave days available as a result of the transfer.
35 To calculate the equitable value of the transferred leave:

36 (A) The sending LSAU shall divide the total number of hours of accumulated vacation leave
37 by the number of working hours per day that is considered "full-time" for the departing

1 employee's previous position. This generates a total number of vacation leave days
2 available for transfer to the receiving LSAU.

3 (B) The receiving LSAU shall then multiply the number of transferred vacation leave days by
4 the number of working hours per day that is considered "full-time" for the incoming
5 employee's new position. This generates the total number of vacation leave hours available
6 for use by the employee in the new position.

7 (2) An employee may transfer accumulated vacation leave to a State agency or any of the entities listed
8 in 25 NCAC 01E .0309 upon transfer of employment to such agency or entity, if the agency or entity
9 is willing to accept the leave. If the agency or entity is unwilling to accept the leave, the LSAU shall
10 pay the employee for the accumulated leave, up to a maximum of 30 days.

11 (3) A person employed by such agency or entity may transfer accumulated vacation leave to an LSAU
12 upon transfer of employment to such LSAU if such LSAU is willing to accept the leave and,
13 consistent with Subparagraph (f)(1), any variance in the number of working hours per day that is
14 considered "full-time" between the new position with the LSAU and the previous position with the
15 agency or entity shall not result in an increase or decrease in the total number of leave days available
16 as a result of the transfer.

17 (4) If, within 31 days of separation from employment with an LSAU, an employee obtains employment
18 with another LSAU or a State agency or entity willing to accept transferred vacation leave, the
19 original LSAU shall transfer any accumulated vacation leave to the new employer in lieu of paying
20 the employee for the leave.

21 (5) An employee may only transfer accumulated vacation leave from one leave-earning position to
22 another leave-earning position, even if the new position is within the same LSAU.

23 (g) This Rule shall also govern any bonus vacation leave awarded to an employee pursuant to S.L. 2002-126, Section
24 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,
25 except that the employee shall maintain the leave from year-to-year until it is used or paid out upon separation from
26 employment. Each LSAU shall track bonus vacation leave separately from otherwise earned vacation leave and shall
27 not include it in the 30 days calculated under Paragraph (e) of this Rule.

28 (h) Each LSAU shall maintain leave records for each of its employees. The LSAU shall inform each employee of the
29 employees leave balances at least once per fiscal year. The LSAU shall retain employee leave records for at least five
30 years from the date of the employee's separation.

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32 *History Note: Authority G.S. 115C-12(8),(9),(16); 115C-272; 115C-285; 115C-302.1; 115C-316; 115C-408; S.L.*
33 *1997-443, s. 8.6;*
34 *Eff. July 1, ~~2026~~ 2026;*
35 *Amended Eff. April 1, 2027.*