



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM
Dr. R. Scott Ralls, President

August 18, 2010

IMPORTANT INFORMATION

MEMORANDUM

TO: Members of the State Board of Community Colleges
Community College Presidents and Boards of Trustees Chairs
NC Community College System Office Staff
Personnel Officers
Other Interested Parties

FROM: Q. Shanté Martin, General Counsel

RE: **LEGISLATIVE EXPANSION OF PERSONNEL RECORDS SUBJECT TO INSPECTION; Session Law 2010-169, s. 18(c)/House Bill 961**

The General Assembly of North Carolina has amended G.S. 115D-28 entitled "Certain Records to Be Kept by State Agencies Open to Inspection." The Legislature made information that was formerly confidentially protected personnel file information subject to public inspection. This amendment will become effective on October 1, 2010.

For your convenience, a copy of the applicable section of the Session Law is attached. Please post a copy of this Session Law in prominent places so that all individuals affected by the proposed changes will be informed.

Should you have any questions or concerns regarding Session Law 2010-169, s. 18(c)/House Bill 961, please feel free to contact me at martins@nccommunitycolleges.edu.

CC10-036
E-mail and Paper copies

QSM/caa

Attachment

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2010-169
HOUSE BILL 961

AN ACT TO CLARIFY THE CRIMINAL STATUTES ON SELF-DEALING; TO CREATE THE PUBLIC FUNDING OF COUNCIL OF STATE ELECTIONS COMMISSION; TO INCREASE THE PUNISHMENT FOR MAKING CAMPAIGN CONTRIBUTIONS IN THE NAME OF ANOTHER; TO INCREASE ACCESSIBILITY TO INFORMATION RELATED TO CANDIDATE CAMPAIGN COMMITTEES AND TO INFORMATION RELATED TO STATE CONTRACTS AND GRANTS; TO STRENGTHEN PUBLIC CONFIDENCE IN GOVERNMENT BY CHANGING THE REVOLVING DOOR PERIOD AND APPLICABILITY; TO CODIFY CERTAIN POSITIONS IN STATE GOVERNMENT AS A PUBLIC SERVANT UNDER THE STATE GOVERNMENT ETHICS ACT; TO STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH ADDITIONAL DISCLOSURES BY PUBLIC SERVANTS, INCLUDING CAMPAIGN CONTRIBUTIONS PRIOR TO APPOINTMENT; TO INCREASE ACCOUNTABILITY OF PUBLIC SERVANTS, APPOINTEES OF THE GOVERNOR, AND STATE EMPLOYEES BY PERMITTING THE GOVERNOR TO ADOPT MINIMUM STANDARDS OF ETHICAL CONDUCT; TO CLARIFY THE INDIRECT GIFT BAN AND CLARIFY REPORTING BY LOBBYIST PRINCIPALS; TO STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH INCREASING AND CLARIFYING ACCESSIBILITY TO LEGISLATIVE RECORDS AND OTHER PUBLIC RECORDS; TO MAKE TECHNICAL CHANGES TO THE ETHICS LAW; AND TO EXPEDITE REVIEW OF PRELIMINARY INVESTIGATIONS OF ALLEGATIONS OF WRONGDOING UNDER CHAPTERS 120 AND 138A OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 126-14 reads as rewritten:

"§ 126-14. Promise or threat to obtain political contribution or support.

(a) It is unlawful for a State employee or a person appointed to State office, other than elective office or office on a board, commission, committee, or council whose function is advisory only, whether or not subject to the Personnel Act, to coerce:

- (1) a State employee subject to the Personnel Act,
- (2) a probationary State employee,
- (3) a temporary State employee, or
- (4) an applicant for a position subject to the Personnel Act

to support or contribute to a political candidate, political committee as defined in G.S. 163-278.6, or political party or to change the party designation of ~~his~~ the individual's voter registration by threatening that change in employment status or discipline or preferential personnel treatment will occur with regard to ~~a person~~ an individual listed in subdivisions (1) ~~through (4)~~ through (4) of this subsection.

(a1) It is unlawful for an individual as defined in G.S. 138A-3(30)a. to coerce a person as described in G.S. 138A-32(d)(1), (2), or (3) to support or contribute to a political candidate, a political committee as defined in G.S. 163-278.6, or a political party by threatening discipline or promising preferential treatment with regard to that person's business with the individual's State office or that person's activities regulated by the individual's State office.

(b) Any person violating this section shall be guilty of a Class 2 misdemeanor.

(c) A State employee subject to the Personnel Act, probationary State employee, or temporary State employee who without probable cause falsely accuses a State employee or a person appointed to State office of violating this section shall be subject to discipline or change in employment status in accordance with the provisions of G.S. 126-35, 126-37, and 126-38



(11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the department, agency, institution, commission, or bureau. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the head of the department setting forth the specific acts or omissions that are the basis of the dismissal.

(12) ~~and the~~ The office or station to which the employee is currently assigned.

(b) For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to rules and regulations for the safekeeping of the records, adopted by the State Personnel Commission, every person having custody of such records shall permit them to be inspected and examined and copies thereof made by any person during regular business hours. Any person who is denied access to any such record for the purpose of inspecting, examining or copying the same shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 18.(b) G.S. 115C-320 reads as rewritten:

"§ 115C-320. Certain records open to inspection.

(a) Each local board of education shall maintain a record of each of its employees, showing the following information with respect to each employee:

(1) ~~name,~~ Name.

(2) ~~age,~~ Age.

(3) ~~date~~ Date of original employment or ~~appointment,~~ appointment.

(4) ~~the~~ The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its ~~possession,~~ possession.

(5) ~~current position,~~ Current position.

(6) ~~title,~~ Title.

(7) ~~current salary,~~ Current salary.

(8) ~~date~~ Date and amount of ~~most recent each~~ increase or decrease in salary, salary with that local board of education.

(9) ~~date~~ Date and type of ~~most recent~~ each promotion, demotion, transfer, suspension, separation, or other change in position ~~classification,~~ and classification with that local board of education.

(10) Date and general description of the reasons for each promotion with that local board of education.

(11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the local board of education. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the local board education setting forth the specific acts or omissions that are the basis of the dismissal.

(12) ~~the~~ The office or station to which the employee is currently assigned.

(b) For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to rules and regulations for the safekeeping of records adopted by the local board of education, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. The name of a participant in the Address Confidentiality Program established pursuant to Chapter 15C of the General Statutes shall not be open to inspection and shall be redacted from any record released pursuant to this section. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 18.(c) G.S. 115D-28 reads as rewritten:

"§ 115D-28. Certain records open to inspection.

(a) Each board of trustees shall maintain a record of each of its employees, showing the following information with respect to each employee:

(1) ~~name,~~ Name.

(2) ~~age,~~ Age.

(3) ~~date~~ Date of original employment or ~~appointment,~~ appointment.

- (4) ~~the~~The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the board has the written contract or a record of the oral contract in its ~~possession~~;possession.
- (5) ~~current position~~;Current position.
- (6) ~~title~~;Title.
- (7) ~~current salary~~;Current salary.
- (8) ~~date~~Date and amount of ~~most recent~~each increase or decrease in ~~salary~~;salary with that community college.
- (9) ~~date~~Date and type of ~~most recent~~ each promotion, demotion, transfer, suspension, separation, or other change in position ~~classification~~;and classification with that community college.
- (10) Date and general description of the reasons for each promotion with that community college.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the community college. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the board of trustees setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) ~~the~~The office or station to which the employee is currently assigned.

(b) For the purposes of this section, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(c) Subject only to rules and regulations for the safekeeping of records adopted by the board of trustees, every person having custody of the records shall permit them to be inspected and examined and copies made by any person during regular business hours. Any person who is denied access to any record for the purpose of inspecting, examining or copying the record shall have a right to compel compliance with the provisions of this section by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief."

SECTION 18.(d) G.S. 122C-158(b) reads as rewritten:

"(b) The following information with respect to each employee is a matter of public record:

- (1) ~~name~~;Name.
- (2) ~~age~~;Age.
- (3) ~~date~~Date of original employment or appointment to the area ~~authority~~;authority.
- (4) ~~the~~The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its ~~possession~~;possession.
- (5) ~~current position~~;Current position.
- (6) ~~title~~;Title.
- (7) ~~current salary~~;Current salary.
- (8) ~~date~~Date and amount of ~~most recent~~each increase or decrease in ~~salary~~;salary with that area authority.
- (9) ~~date~~Date and type of ~~the most recent~~each promotion, demotion, transfer, suspension, separation, or other change in position ~~classification~~;and classification with that area authority.
- (10) Date and general description of the reasons for each promotion with that area authority.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the area authority. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the area authority setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) ~~the~~The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The area authority shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying during regular business hours, subject only to rules for the

safekeeping of public records as the area authority may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue these orders."

SECTION 18.(e) G.S. 153A-98(b) reads as rewritten:

"(b) The following information with respect to each county employee is a matter of public record:

- (1) ~~name;~~ Name.
- (2) ~~age;~~ Age.
- (3) ~~date~~ Date of original employment or appointment to the county ~~service;~~ service.
- (4) ~~the~~ The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the county has the written contract or a record of the oral contract in its ~~possession;~~ possession.
- (5) ~~current position~~ Current position.
- (6) ~~title;~~ Title.
- (7) ~~current salary;~~ Current salary.
- (8) ~~date~~ Date and amount of ~~the most recent~~ each increase or decrease in ~~salary;~~ salary with that county.
- (9) ~~date~~ Date and type of ~~the most recent~~ each promotion, demotion, transfer, suspension, separation or other change in position ~~classification;~~ and classification with that county.
- (10) Date and general description of the reasons for each promotion with that county.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the county. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the county setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) ~~the~~ The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The board of county commissioners shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the board of commissioners may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

SECTION 18.(f) G.S. 160A-168(b) reads as rewritten:

"(b) The following information with respect to each city employee is a matter of public record:

- (1) ~~name;~~ Name.
- (2) ~~age;~~ Age.
- (3) ~~date~~ Date of original employment or appointment to the ~~service;~~ service.
- (4) ~~the~~ The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the city has the written contract or a record of the oral contract in its ~~possession;~~ possession.
- (5) ~~current position~~ Current position.
- (6) ~~title;~~ Title.
- (7) ~~current salary;~~ Current salary.
- (8) ~~date~~ Date and amount of ~~the most recent~~ each increase or decrease in ~~salary;~~ salary with that municipality.
- (9) ~~date~~ Date and type of ~~the most recent~~ each promotion, demotion, transfer, suspension, separation, or other change in position ~~classification;~~ and classification with that municipality.
- (10) Date and general description of the reasons for each promotion with that municipality.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the municipality. If the disciplinary action was a dismissal,

a copy of the written notice of the final decision of the municipality setting forth the specific acts or omissions that are the basis of the dismissal.

(12) ~~the~~The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The city council shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the city council may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

SECTION 18.(g) G.S. 162A-6.1(b) reads as rewritten:

"(b) The following information with respect to each authority employee is a matter of public record:

(1) ~~name;~~ Name.

(2) ~~age;~~ Age.

(3) ~~date~~ Date of original employment or appointment to the service; ~~service.~~

(4) ~~the~~ The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the authority has the written contract or a record of the oral contract in its possession; ~~possession.~~

(5) ~~current position~~ Current position.

(6) ~~title;~~ Title.

(7) ~~current salary;~~ Current salary.

(8) ~~date~~ Date and amount of the most recent ~~each~~ increase or decrease in salary; ~~salary with that authority.~~

(9) ~~date~~ Date and type of the most recent ~~each~~ promotion, demotion, transfer, suspension, separation, or other change in position ~~classification;~~ ~~and~~ classification with that authority.

(10) Date and general description of the reasons for each promotion with that authority.

(11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the authority. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the authority setting forth the specific acts or omissions that are the basis of the dismissal.

(12) ~~the~~The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The authority shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the authority may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

SECTION 18.(h) This section becomes effective October 1, 2010.

SECTION 19.(a) G.S. 120C-600 is amended by adding a new subsection to read:

"(d) The Secretary shall publish annual statistics on complaints received and systematic reviews conducted under this section, including the number of systematic reviews, the number of complaints, the number of apparent violations of this Chapter referred to a district attorney, the number of complaints dismissed, and the number and age of complaints pending. Subject to the provisions of Chapter 132 of the General Statutes, the levy of all civil fines, including the amount of the fine and the identity of the person or governmental unit against whom it was levied, shall be a public record as defined in G.S. 132-1(a)."

SECTION 19.(b) G.S. 120C-601 is amended by adding a new subsection to read:

SECTION 26.(e) The Commission while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Commission may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

SECTION 26.(f) Members of the Commission shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5 and 138-6, as appropriate.

SECTION 26.(g) The Legislative Services Officer shall assign professional and clerical staff to assist the Commission in its work. The Director of Legislative Assistants of the House of Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support staff to the Commission.

SECTION 26.(h) The Commission shall report the results of its study and its recommendations to the 2011 General Assembly no later than March 1, 2011.

SECTION 27. Notwithstanding Page J-8, Item 29, of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets dated June 28, 2010, of the funds appropriated to the State Ethics Commission, the sum of ninety-one thousand five hundred forty-one dollars (\$91,541) in recurring funds and two thousand two hundred fifty dollars (\$2,250) in nonrecurring funds shall be used to fund two Paralegal III positions and provide operating expenses to respond to customer service queries regarding State ethics law compliance and any additional ethics rules or standards implemented by the Governor.

SECTION 28. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 10th day of July, 2010.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 2:50 p.m. this 2nd day of August, 2010