NC COMMUNITY COLLEGES
CREATING SUCCESS

NORTH CAROLINA COMMUNITY COLLEGE SYSTEM
James C. Williamson, Ph.D.
President

August 4, 2017

MEMORANDUM

TO: Chief Business Officers, Controllers, HR Directors, Payroll Administrators

FROM: Elizabeth Grovenstein, Vice President and CFO

RE: Board Members as Employees

On July 18, 2017, State Controller Dr. Linda Combs issued a memo directing state agencies to treat board and commission members as employees. While our community colleges are not state agencies, members of community college boards and commissions still meet the Internal Revenue Service's (IRS) definition of a *public official*. Internal Revenue Code §3401(c) provides that the term employee includes, "an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, …or any agency or instrumentality of any one or more of the foregoing."

On its website, IRS provides examples of public officials. Here are two of those:

- A member of a legislative body such as a state legislature, county commission, city council, school board, utility or hospital district
- Members of advisory boards and committees like boards of education, water boards and other boards and commissions

Community colleges in North Carolina should ensure that members of boards and commissions that exercise regulatory control at the institution are treated as employees, which includes paying through payroll all compensation, including any travel or other allowances that are not reimbursements as part of an accountable plan.

In *Publication 463*, IRS defines an accountable plan as one in which the expenses must have a business purpose, that the recipient is accountable to the employer for the amount spent within a reasonable period of time, and that excess funds received over the actual expenses are returned to the employer. A "reasonable period of time" could be thirty days prior to travel for a travel advance, sixty days after travel for an accounting of actual expenses, and up to a few months after travel for repayment of any excess.

An example of reimbursement under an accountable plan would typically involve reimbursing employees or board members for actual lodging and meal costs or providing reasonable per diem allowances. Examples of payments that would not qualify as reimbursements under an accountable plan would include reimbursing employees or board members for commuting expenses, routine meal reimbursements when not in travel status, and transportation or vehicle allowances for which employees are not required to account and return any excess.

Similarly to accountable plan rules, IRS regulations provide that colleges may elect to provide tokens of appreciation to employees, including board members, and exclude the value of such items from taxable wages if certain *de minimis* benefit rules are met. In order for a benefit to be a de minimis fringe benefit, it must be property or service that has so little value, considering the frequency of providing such a benefit, that accounting for it would be unreasonable. Cash and cash equivalents (such as gift cards), season tickets for theater or sporting events, country club or athletic club memberships, and similar items are never de minimis. A few examples of de minimis fringe benefits include:

- Holiday or birthday gifts, other than cash, with a low fair market value;
- Occasional personal use of a business cell phone; and
- Occasional theater or sporting tickets.

The *Accounting Procedures Manual* will be updated to include this information. For more information about accountable plan rules, de minimis fringe benefit rules, or converting board or commission members to employees, please contact Jason Forlines at (919) 807-7071 or forlinesj@nccommunitycolleges.edu.

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