Montgomery County Schools

441 Page Street ● P.O. Box 427 ● Troy, North Carolina 27371-0427
(910) 576-6511 FAX (910) 576-2044

TO: Board of Education

FROM: Dale Ellis

DATE: October 3, 2011

SUBJ: ACTION ITEM (AIG Update)

Enclosed you will find documents prepared by the NCSBA in regards to the prepayment of 10 month employees that we discussed in August. We will no longer be allowed to prepay 10 month employees (mainly teachers and TA's) beginning in August 2012. Based upon guidance of the NCSBA, I request approval of option 1 which is outlined in the attached documents. This option means that we will pay the impacted 10 month employees in mid-September instead of the end of September. We feel this option lessens the impact on teachers and allows them to receive compensation earlier. Option 2 is not viable because it creates accounting issues with paying employees for partial time worked. It is best to pay for the full month after the teachers have worked the specified amount of days. The actual pay date will be set when the 2012-2013 calendar is finalized.

It is possible, and we are still hoping, for legislative relief on this issue. If that happens, we will bring further information to you as appropriate. We will also keep employees informed of updates on this issue.

I will be available to answer any questions you may have. This is an action item and will require a vote.

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LEANNE E. WINNER
Director of Governmental Relations

MEMORANDUM

TO: Board Chairs and Superintendents

FROM: Leanne E. Winner, Director of Governmental Relations

DATE: September 27, 2011

RE: Prepayment of Teacher

As you are aware the NC General Assembly passed HB 720 (Session Law 2011-379): School and Teacher Paperwork Reduction Act. This bill was requested by NCSBA and NCASA with the blessing of NCAE. One of the provisions in the bill (Section 5) eliminates teacher prepayment, beginning in the 2012-13 fiscal year. The superintendents that attended my legislative update at the NCSBA District 2 meeting asked me to send this memo explaining the issue and the legislation.

HISTORY

Prior to 2004, school districts paid teachers at the end of each *full month* of employment. The 2004 school calendar legislation created a new requirement for school districts to pay teachers a full month's salary on August 31st. Since passage of that law, school districts have been prepaying teachers in August for over 2 weeks worth of work that is not realized until late May and June. School districts have been complaining about the teacher prepayment requirement since its enactment. The requirement became particularly problematic in situations where a teacher would leave the employment of the school district, because under state law the school district must attempt to collect these dollars even if the costs of collecting the funds exceed the funds due.

LEGISLATIVE CHANGE and TECHNICAL CORRECTION

HB 720 strikes some prepayment language that had existed in statute (G.S. 115C-302.1) prior to the 2004 school calendar law, but inadvertently does not strike the specific language added in 2004 that the initial pay date for teachers shall be no

later than August 31 and shall include a full monthly payment. Additionally, HB 720 adds statutory language to strictly prohibit prepayment.

NCSBA is currently working on a technical correction (with the assistance of NCASA and NCAE) that would clean up the remainder of the prepayment language contained in G.S. 115C-302.1 and also strike a reference to prepayment in a separate statute (see attached draft). Additionally, language will be included to allow year-round schools to continue to prepay, as this is a unique circumstance in the way the work schedule plays out.

10 MONTH EMPLOYEES

Once the technical correction is adopted (and we have been given every assurance we can get that it will be) LEAs will need to determine how teachers and other 10 month employees will be paid. This decision needs to be made now so that you can communicate with your employees and they can prepare appropriately. NCSBA has heard discussion of the following two options but there may be others that work best for your employees. *Option 1: Change the pay date to the end of the month* - If a teacher reports to work on **August 16** their first pay date would be on September 15 and on the 15th of each of the following 9 months; if the employee elects to be paid over 12 months, which will still be allowed, the **last** pay date would be **August 15**. *Option 2: Partial Payment at end of Aug and full payment at the end of September* – Technically, LEAs could keep the pay date at the end of the month and make a partial payment in August and make a full payment in the subsequent month. In discussing this with several finance folks, this could be VERY problematic for employees as they would not get a full pay check until the end of September and would most likely not have enough in their paycheck to cover deductibles in August. (NCSBA strongly suggests that you not choose this option).

It is critical that you make this decision as quickly as possible and that you communicate and assist your employees with this one time transition.

12 MONTH EMPLOYEES

If your LEA moves to a mid-moth pay date for 10 month employees, you will need to determine how to pay 12 month employees. You will have two choices. The first would be to set the pay date for 12 month employees at the end of the month; this would result in doing two payrolls per month. The second option would be to move 12 month employees to the same pay date as your 10 month employees. I have confirmed with DPI that handling payments in this manner would not be a problem. If you are going to move the pay date for your 12 month employees you will need to make that decision in short order so that you can notify them.

NOTIFICATION OF EMPLOYEES

It is critical that you begin notifying your employees of these changes, if you have not done so already. The reason the implementation of the provision was delayed until next year was so that employees could prepare for the one time change. You may need to assist them in talking with their mortgage lenders and other loan officials. The last thing we want is for someone to not know about this and to not have made the necessary preparations.

I was posed last week with a question about payment to the State Health Plan. The person that needs to be contacted there is on vacation until October 10. I have consulted with DPI about this issue and they do not think that it will be problematic as the State Health Plan has dealt seamlessly with changes of pay dates in the past. DPI will be following up on this inquiry with the State Health Plan and will provide further guidance in the *Finance Officers' Newsletter*.

OTHER THOUGHTS

If you still have 10 month employees who have asked that you pay them over 12 months, you may wish to use this opportunity to encourage them to use the service at the SECU in which the SECU will control the available funds so that they are spread over 12 months and the employee is earning interest on those funds while they are held.

QUESTIONS

Please feel free to contact me or Katherine Joyce at NCASA if you have further questions. Also, if you have teachers that are concerned about this please feel free to refer them to Marge Foreman at NCAE.

Sincerely,

Leanne E Winner

Leanne E. Winner
Director of Governmental Relations
North Carolina School Boards Association

SECTION 1. G.S. 115C-302.1(b) reads as rewritten:

"(b) Salary Payments. – State-allotted teachers shall be paid for a term of 10 months. State-allotted months of employment for vocational education to local boards shall be used for the employment of teachers of vocational and technical education for a term of employment to be determined by the local boards of education. However, local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 1982-83 school year for any school year thereafter. In addition, local boards shall not reduce the term of employment for any vocational agriculture teacher personnel position that was 12 calendar months for the 2003-2004 school year for any school year thereafter.

Each local board of education shall establish a set date on which monthly salary payments to State-allotted teachers shall be made. This set pay date may differ from the end of the month of service. The daily rate of pay for teachers shall equal midway between one twenty-first and one twenty-second of the monthly rate of pay. ~~Except for teachers employed in a year-round school or paid in accordance with a year-round calendar, or both, the initial pay date for teachers shall be no later than August 31 and shall include a full monthly payment. Subsequent pay~~ Pay dates shall be spaced no more than one month apart ~~and shall include a full monthly payment~~.

Except for teachers employed in a year-round school, ~~T~~teachers shall be paid only for the days employed as of the set pay date. Except for teachers employed in a year-round school, ~~P~~payment for a full month when days employed are less than a full month is prohibited, as this constitutes prepayment.

Any individual teacher who is not employed in a year-round school may be paid in 12 monthly installments if the teacher so requests on or before the first day of the school year. The request shall be filed in the local school administrative unit which employs the teacher. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease the teacher's annual salary nor in any other way alter the contract made between the teacher and the local school administrative unit. Teachers employed for a period of less than 10 months shall not receive their salaries in 12 installments.

Notwithstanding this subsection, the term "daily rate of pay" for the purpose of G.S. 115C-12(8) or for any other law or policy governing pay or benefits based on the teacher salary schedule shall not exceed one twenty-second of a teacher's monthly rate of pay."

Comment [A1]: I prefer to replace this with "compensation earned". Most overpayments occur when a person is still "employed" but they were not entitled to pay (e.g. nonpaid leave). Note if we make the change here we should also change the identical language in 115C-272(b)(1) (superintendents) and -285(a)(1) (principals). This may be too technical and not worth bothering.

SECTION 2. G.S. 115C-316(a) reads as rewritten:

"(a)School officials and other employees shall be paid promptly when their salaries are due provided the legal requirements for their employment and service have been met. All school officials and other employees employed by any local school administrative unit who are to be paid from local funds shall be paid promptly as provided by law and as state-allotted school officials and other employees are paid.

Public school employees paid from State funds shall be paid as follows:

(1) Employees Other than Superintendents, Supervisors and Classified Principals on an Annual Basis. – Each local board of education shall establish a set date on which monthly salary payments to employees other than superintendents, supervisors, and classified principals employed on an annual basis, shall be made. This set pay date may differ from the end of the calendar month of service. Except for those employed in a year-round school, ~~E~~employees may not be prepaid on the monthly pay date for days not yet worked. An employee who fails to

attend scheduled workdays or who has not worked the number of days for which the employee has been paid and who resigns or is dismissed shall repay to the local board any salary payments received for days not yet worked. An employee who has been prepaid and who continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal or other appropriate discipline. The daily rate of pay shall equal the number of weekdays in the pay period. Included within their term of employment shall be annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for state employees for each calendar month of employment. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of the employee's annual vacation days or to make up the day at a time agreed upon by the employee and the employee's immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, an employee shall work on the scheduled makeup day. Included within their term of employment each local board of education shall designate the same or an equivalent number of legal holidays as those designated by the State Personnel Commission for State employees.

(2) School Employees Paid on an Hourly or Other Basis. – Salary payments to employees other than those covered in G.S. 115C-272(b)(1), 115C-285(a)(1) and (2), 115C-302.1(b) and 115C-316(a)(1) shall be made at a time determined by each local board of education. Expenditures for the salary of these employees from State funds shall be within allocations made by the State Board of Education and in accordance with rules and regulations approved by the State Board of Education concerning allocations of State funds: Provided, that school employees employed for a term of 10 calendar months in year-round schools shall be paid in 12 equal installments: Provided further, that any individual school employee employed for a term of 10 calendar months who is not employed in a year-round school may be paid in 12 monthly installments if the employee so requests on or before the first day of the school year. Such request shall be filed in the administrative unit which employs the employee. The payment of the annual salary in 12 installments instead of 10 shall not increase or decrease said annual salary nor in any other way alter the contract between the employee and the said administrative unit. Except for those employed in a year-round school, ~~E~~employees may not be prepaid on the set pay date for days not yet worked. An employee who fails to attend scheduled workdays or who has not worked the number of days for which the employee has been paid and who resigns or is dismissed shall repay to the local board any salary payments received for days not yet worked. An employee who has been prepaid and who continues to be employed by a local board but fails to attend scheduled workdays may be subject to dismissal or other appropriate discipline. The daily rate of pay shall equal the number of weekdays in the pay period. Included within the term of employment shall be provided for full-time employees annual vacation leave at the same rate provided for State employees, computed at one-twelfth (1/12) of the annual rate for State employees for each calendar month of employment, to be taken under policies determined by each local board of education. On a day that employees are required to report for a workday but pupils are not required to attend school due to inclement weather, an employee may elect not to report due to hazardous travel conditions and to take one of his annual vacation days or to make up the day at a time agreed upon by the employee and his immediate supervisor or principal. On a day that school is closed to employees and pupils due to inclement weather, the employee shall work on the scheduled makeup day. Included

within their term of employment, each local board of education shall designate the same or an equivalent number of legal holidays occurring within the period of employment as those designated by the State Personnel Commission for State employees."