THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Marvin F. Kittrell, Chief Judge

Case No. 08-ALJ-30-0061-AP

Kenneth Lee Holbert, Jr., ... Petitioner,

v.

South Carolina State Board for Technical and
Comprehensive Education, ... Respondent.

APPENDIX
VOLUME II

J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 (facsimile)
Counsel for Petitioner

Charles Boykin
Deidre D. Laws
Boykin & Davis, LLC
P.O. Box 11844
Columbia, SC 29211
Attorneys for Respondent

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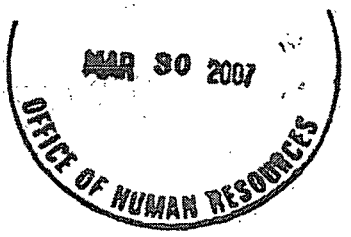


From: "Ken L Holbert" [redacted]
To: <sBrabham@ohr.sc.gov>
Date: 3/30/2007 4:38:30 PM
Subject: Ken Holbert's Grievance appeal

Good Afternoon Ms. Bradham,

I have filled out an employee grievance form online both this morning and this afternoon. I am also e-mailing the information to ensure that it is filed in a timely manner.

Yours Truly,

Ken Holbert

[redacted]

Employee's Name: Kenneth Lee Holbert, Jr.

Job Classification: Information Resource Consultant II

Agency: Greenville Technical College

Home Address

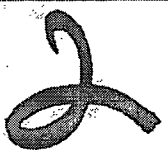
Street [redacted]

City:

State:

Zip Code: [redacted]

E-mail Address: [redacted]



Telephone Area Code Number

Home: [redacted]

Office: [redacted]

Cell: [redacted]

1. Has the employee completed twelve (12) months of satisfactory service with the state? Yes

2. What disciplinary action taken against the employee is being appealed? Termination

3. Has the employee received a final decision from the agency? Yes

4. What date did the employee receive the final decision? 3-22-2007

5. If the employee has not received a final decision from the agency, what date did the employee initiate the grievance within the agency's internal grievance procedure? Not Applicable

APPEAL

APPEAL

Please specify why the employee contends that the agency's decision concerning the grievance is unfair and state relevant facts and issues to support that position:

1. Violation of the AMERICANS WITH DISABILITIES ACT of 1990, (ADA)

I have 3 chronic illnesses, Crohns Disease, ADHD, and allergic Rhiunitis. Two of these illneses have been exacerbated by intentional and unintentional stresses at work in conjunction with medication adverse reactions. I will mail additional information as an addendum to further prove my case for all reasons listed here and below.

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2. Violation of an implied contract with Greenville Technical College.

I had been out of work from July 12, 2006 through January 18th 2007, due to a work related injury. This injury was reported at the time of the accident to both my supervisor and Greenville Technical College's, (GTC), HR department. During the week of January 11, 2007, I was having some severe problems with my shoulders, arms and hands. This had started in November 2006, when stresses from work and outside of work exacerbated my Crohns disease, and I had lost over 30 pounds of weight. The week of January 11, 2007, I was getting about 3 hours sleep per day, and was exhausted. During the course of that week, I had been told so many inconsistencies by Greenville Tech that I recorded all of my conversations with Mr. Cann, GTC's recently hired HR director. That morning when I told him that I could get a return to work note, which I did, he said if I can to work and could not perform my job, he would sue my doctor. Mr. Cann later stated during a phone conversation that he would allow me to work light duty, (which earlier in the day he stated that he would not allow), and would fax over an acceptable light duty statement when he faxed my job description to the doctor. I went back by the doctor's office that afternoon for clarification purposes as requested by Mr. Cann. The job dewscription had been faxed to my doctor, however the light duty note was not faxed. Based on just my job description, and his knowledge that light duty was not acceptable, as Mr. Cann had earlier stated, the doctor gave me a note to stay out until the results of the MRI could be evaluated. It was not until Friday, January 12, 2007 that I found out when the MRI was scheduled for Tuesday, 1-16-07 and my return appointment was scheduled for Thursday, 1-18-07. I left a voicemail for Mr. Cann Friday afternoon. I also began Physical therapy that helped my neck, shoulders and arms greatly on that Friday 1-12-07. Mr. Cann had previously stated that one more week out of work would be acceptable. I have that recorded. Because I had received no official termination letter, only the form sent to the standard insurance company on Friday January 19, 2007, I went to work the following Monday for two hours. The other violation of an implied contract is that Penny Moore in HR stated that it was Greenville Tech's policy that you can telecommute from home if approved by your supervisor. One other HR employee had done so during her back surgery. I told this to my supervisor, and he had me do things from home as work. I was actually ordered to do work from home. Mr. Cann was hired at Greenville Tech about a month after I took sick leave, and denied me the ability to do any work at home, and retroactively dismissed all credit for work I did at home. During 2006 there are 9 days I was not paid for. I worked 5 days in January and the other 4 days during July, and August.

3. Violation of FMLA law.

The violations of FMLA laws are listed above.

4. Retaliatory discharge.

My discharge from Greenville Tech was officially for 3 days beyond my FMLA approved time. However, it is my belief that the evidence I will produce will show that Mr. Shrum was so frustrated with me and upset that about my meeting with Dr. Barton that he was going to do anything he could make sure that I was either fired or transferred.

4. Whistle Blower law protection. The Local news reported this week that the Greenville county school district was taking me to court in regards to reporting security violations in regards to their selling private student information to me at public auction. The news reported that I bought one of the computers from a co-worker at Greenville Tech just to extort money from the school district.

This is not true, and my supervisor last year told me that the school district is Greenville Tech's biggest customer and that I should not disrupt that relationship in any way or I would be in his gun sights and he would have me terminated.

I will provide attachments which are numerous and include termination letters, e-mails, the standard insurance form filled out by Greenville Tech and all other pertinent information. Any copies of recordings will be mailed with the hard copy on Monday.

I was injured at work on November 10, 2005, and reported this to my supervisor, and Greenville Tech's HR. my son was born 5 days later and was formally adopted by us on February 15, 2006. During the time between my injury and return to work in January 2006, I received treatment for my injury. My supervisor did not follow through with filing my workers comp claim, however he did threaten me about it. I had surgery on my back in August 2006 during which 2 moderately sized disc fragments were removed. These fragments were caused by my injury at work. My workers compensation claim was filed almost 1 year after the injury. This resulted in the acceptance of my claim to be covered under the state workers compensation law, then suspended, then denied, and I now I have to request a hearing to have the claim re-instated.

All of my work related issues in regards to my ability to return to work could have been prevented if there was better communication with the HR department at Greenville Tech. I believe Mr. Cann is trying to improve on this, having thanked me for identifying communication gaps such as not receiving supplemental Long term disability when I went off payroll November 29, 2006. I was also not given the chance to file for State employee retirement disability before being terminated.

I am seeking to be given the ability to apply for South Carolina state retirement disability as I believe should have been offered to me before termination.

If the college is willing to allow me to return to work, I am asking to return to work in a light duty capacity of around 75% in terms of the physical aspects of my job until I complete my current therapy for my work related injury. I ask for assistance in conveying to the State workers compensation commission in conveying the reasons why my claim was filed late due to miscommunication. I am also seeking to be paid for time work in 2006 that credit was not given and the time between the termination and re-instatement if that occurs.

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Friday, March 30, 2007
FAX Page 1 of 4

From: Ken Holbert
[redacted]

To: ATTN: Sandra Bradham
Fax # 803-737-0968

Subject,

Ken Holbert Greenville Technical College Grievance form

Thanks,

Ken Holbert

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Ken L Holbert

From: Ken L Holbert [redacted]
Sent: Friday, March 30, 2007 4:38 PM
To: 'sBrabham@ohr.sc.gov'
Subject: Ken Holbert's Grievance appeal
Importance: High

Good Afternoon Ms. Bradham,

I have filled out an employee grievance form online both this morning and this afternoon. I am also e-mailing the information to ensure that it is filed in a timely manner.

Yours Truly,

Ken Holbert
[redacted]

Employee's Name: Kenneth Lee Holbert, Jr.

Job Classification: Information Resource Consultant II

Agency: Greenville Technical College

Home Address
Street [redacted]
City:
State:
Zip Code:
E-mail Address: klholbert@charter.net

Telephone Area Code Number
Home: [redacted]
Office:
Cell:

1. Has the employee completed twelve (12) months of satisfactory service with the state? Yes

2. What disciplinary action taken against the employee is being appealed? Termination

3. Has the employee received a final decision from the agency? Yes
4. What date did the employee receive the final decision? 3-22-2007

5. If the employee has not received a final decision from the agency, what date did the employee initiate the grievance within the agency's internal grievance procedure? Not Applicable

APPEAL

7

APPEAL

Please specify why the employee contends that the agency's decision concerning the grievance is unfair and state relevant facts and issues to support that position:

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STATE OF SOUTH CAROLINA

State Budget and Control Board

OFFICE OF HUMAN RESOURCES

MARK SANFORD, CHAIRMAN
GOVERNOR

THOMAS RAVENEL
STATE TREASURER

RICHARD ECKSTROM
COMPTROLLER GENERAL

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

DANIEL T. COOPER
CHAIRMAN, WAYS AND MEANS COMMITTEE

HENRY J. WHITE
EXECUTIVE DIRECTOR

1201 MAIN STREET, SUITE 800
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0900

SAMUEL L. WILKINS
DIRECTOR

April 2, 2006

Ms. Kandy Peacock, Director
Division of Human Resource Management
State Board for Technical and Comprehensive Education
111 Executive Center Drive
Columbia, South Carolina 29210

Ken L. Holbert
Appellant's Name

Information Resources Consultant II
Job Classification

Dear Ms. Peacock:

The appellant has appealed to the State Human Resources Director concerning a grievance arising from employment with your agency. Grounds for the appeal are contained in the enclosed copy of the State Employee Grievance Procedure State Appeal Form.

Please send us the documents concerning this appeal, including a brief summary of your position, a brief list of the appellant's employment record, copies of performance appraisals if applicable, and a copy of your findings and determination at each step of your grievance procedure. Any supporting documents that might serve to clarify the specific issues in the appeal should be included. You should also specifically state which policy or policies were used as a basis for the action, and include a copy of those policies. These might be either internal policies and/or State policies. If a policy was not violated, state on what criteria the action was based.

The requested information and materials must be returned to the Office of Human Resources/Grievance and Mediation Services within fifteen calendar days. Also, any future correspondence sent to the Office of Human Resources, excluding the appellant's record, should be copied to the other party involved.

Sincerely,

Deborah Clark

Deborah Clark
Human Resource Consultant
Grievance and Mediation Services

Enclosure
c: Dr. Barry Russell, without enclosure

FAX
(803) 737-0968

STATE OF SOUTH CAROLINA

State Budget and Control Board

OFFICE OF HUMAN RESOURCES

MARK SANFORD, CHAIRMAN
GOVERNOR

THOMAS RAVENEL
STATE TREASURER

RICHARD ECKSTROM
COMPTROLLER GENERAL

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

DANIEL T. COOPER
CHAIRMAN, WAYS AND MEANS COMMITTEE

HENRY J. WHITE
EXECUTIVE DIRECTOR

1201 MAIN STREET, SUITE 800
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0900

SAMUEL L. WILKINS
DIRECTOR

April 2, 2007

Mr. Ken Holbert
[redacted]

Dear Mr. Holbert:

The Office of Human Resources has received your State Employee Grievance Procedure State Appeal Form and has requested the employing agency to send the documents relating to your appeal. Once these documents have been received and reviewed, you will be contacted. Also, all future correspondence sent to the Office of Human Resources should be copied to the employing agency.

Every effort is being made to process your appeal as quickly as possible.

Sincerely,

Deborah Clark

Deborah Clark
Human Resources Consultant
Grievance and Mediation Services

FAX
(803) 737-0968

From: "Ken L Holbert" <[redacted]>
To: <sBrabham@ohr.sc.gov>
Date: 4/4/2007 12:31:43 PM
Subject: Ken Holbert's appeal

Good Afternoon Ms. Brabham,

I have not had time to mail the supporting documents due to changes in my knowledge of statements made by co-workers to the Greenville County School district. I now know why I have not had any success in support to my claims in a multitude of areas associated with my job, career with the state and health status even though I have concrete proof that statements made about me are false. The Greenville County School district decided last week to put their case against me on the front page of their website. See:

http://www.greenville.k12.sc.us/index.asp

Even though it is now the second story, it still has a lot of information can only be disproved by me at trial, or at my appeal if I am able to send it to you to support my case. On the school districts website is a link to the official response to our offer of judgment that contains multiple references to the school districts and discussions with former co-workers at Greenville Tech. I can provide evidence to refute those statements as well.

I am copying my attorneys and ADHD doctor on this e-mail to keep them informed and to let me know what I can and cannot say.

Can you please provide me with a timeline as to when my supplemental information needs to be delivered to your office?

Thanks,

Ken Holbert

[redacted]

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From: "Ken L Holbert" <[redacted]>
To: <sBrabham@ohr.sc.gov>, <peacockk@sctechsystem.com>
Date: 4/10/2007 6:54:50 AM
Subject: Ken Holbert's grievance appeal update

Tuesday, April 10, 2007

Good Morning Ms. Brabham and Ms. Peacock,

I know that mail is your preferred method of communication, and I will follow this e-mail up with a letter, and proof of the statements made below. I would like to follow up on my grievance information. I apologize for not doing this sooner; however, I am currently having a very hard time, paying our bills, and trying to manage all of the other problems in my life without any income.

I intend to prove that Greg Cann knew that I had a return to work note for January 12, 2007, and he also knew that I was going to have it revised for light duty, which he stated he would agree to. I intend to show that Mr. Cann knew that he was to fax an acceptable light duty statement to Dr. Nelson along with a copy of my job description. During a conversation with Mr. Cann the morning of January 11, 2007 Mr. Cann threatened to sue my doctor if I went to work on January 12, 2007 with the note that I had from the morning visit with Dr. Nelson on January 11, 2007. He stated that he would see him in court if I went to work and could not perform my job. The return to work note I had received on January 11, 2007 did not state any work restrictions, and I was going back that afternoon to have the doctor qualify the light duty restrictions. In a conversation with Mr. Cann later the afternoon of January 11, 2007, he stated that light duty would be acceptable and that he would fax a copy of the acceptable restrictions along with my job description. Mr. Cann did fax a copy of my job description; however he did not fax a copy of my light duty permission. Therefore the doctor kept me out of work effectively 3 more calendar work days, since Monday, January 15, 2007 was a holiday. Mr. Cann has previously told Ms. Peacock, or Dr. Russell that he was unaware that I had a note to return to work from my doctor. Mr. Cann did know about the note because he criticized the doctor's practice of having the nurse/receptionist type return to work notes according to the doctor's chart that I carry to her upon checkout.

I also intend to prove that my supervisor did not follow through with filing my report of injury on November 10, 2005, which led to my having back surgery on August 21, 2007 to remove 2 bone fragments that had broken off of my vertebrae due to a head injury and fall at work. Since the report of injury was not filed properly, it has resulted in my workers compensation claim being denied and my being forced to appeal that decision. It was denied in part because the report of injury was filed almost one year after the incident. This has cost me a lot of out of unnecessary out of pocket expenses as well as a prolonged recovery from my surgery due to the stress

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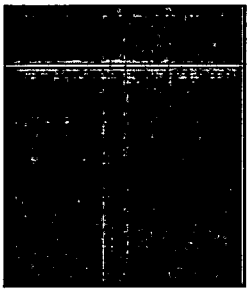
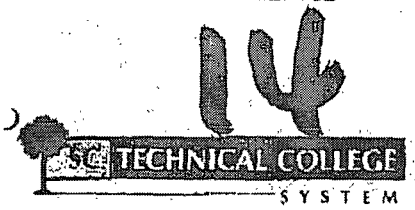
of going off the payroll November 29, 2006, thus resulting in my inability to come back to work 100% on January 12, 2007. Since that time Greenville Technical College's Human resource department has consolidated and streamlined some of it's policies and procedures due to my problems with the report of injury, and not being aware of having supplemental long term disability to help when I went off of payroll. I happened to notice that I had that insurance in January 2007 after being off the payroll over a month.

Thank You for your patience in this matter.

Yours Truly,





111 Executive Center Drive
Columbia, SC 29210-8424

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Debbie Clark	*Mary Broadwater*
	DATE:
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(803) 737-0968	*7, including cover page*
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
RE:	YOUR REFERENCE NUMBER:
Holbert Grievance	

☐ URGENT ☐ FOR REVIEW x PLEASE COMMENT ☐ PLEASE REPLY
☐ AS REQUESTED

PHONE: 803-896-5352
FAX: 803-896-5353

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SC TECHNICAL COLLEGE SYSTEM

111 Executive Center Drive
Columbia, SC 29210
(803) 896-5320
Fax (803) 896-5387
www.SCTechSystem.com

Barry W. Russell
System President

President's Office: (803) 896-5280
Academic Affairs: 896-5361
The Center for Accelerated Technology Training: 896-5334
Communications: 896-5322
Development: 896-5320
Finance: 896-5315
Human Resource Services: 896-5352
Information Technology: 896-5406

South Carolina State Board for Technical and Comprehensive Education

Board Members

Ralph A. Odom, Jr.
Chairman
Fifth Congressional District

Dan P. Gray
First Congressional District

Wm. Brantley Harvey, Jr.
Vice Chairman
Second Congressional District

Bettis C. Rainsford
Third Congressional District

Benjamin D. Snoddy
Fourth Congressional District

Joe W. Pearce, Jr.
Sixth Congressional District

Robert E. Barnett
At Large

Bruce Herbert Ellis
At-Large

Montez C. Martin, Jr.
At Large

Guy C. Tarrant
At Large

Joe E. Taylor, Jr.
Ex Officio

James H. Rex
Ex Officio

April 24, 2007

VIA FACSIMILE (With Position Statement Only)
& CERTIFIED MAIL
RETURN RECEIPT REQUESTED (with all enclosures)

Ms. Deborah Clark
State Budget & Control Board
Office of Human Resources
1201 Main Street, Suite 800
Columbia, South Carolina 29201

Re: Kenneth L. Holbert v. SBTCE
Information Resources Consultant II – Greenville Technical Colle e

Dear Ms. Clark:

On behalf of the State Board for Technical and Comprehensive Education (BTCE), I am hereby responding to your letter dated April 2, 2007, received in this office pril 3, 2007. This response is timely and provided within fifteen (15) calendar days of rec pt and a brief extension of six (6) days, as requested by the agency and provided by the Of ce of Human Resources.

Enclosed please find a brief summary of the Agency's position, a copy of the Agency's findings, all findings relevant to the grievance and the determination rendered t each step of the grievance procedure, as requested. Additionally, relevant SBTCE Policies and Procedures are also enclosed for your review.

Should you have any questions concerning this letter, please feel free to ontact me or Kandy Peacock at (803) 896-5352.

Sincerely,

Mary J. Broadwater

Mary J. Broadwater
General Counsel

Enclosures

cc: Barry W. Russell (w/Position Statement; w/o Employment Record)
Kandy N. Peacock (w/Position Statement; w/o Employment Record)
Ken Holbert (w/Position Statement; w/o Employment Record)

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POSITION STATEMENT OF STATE BOARD FOR TECHNICAL & COMPREHENSIVE EDUCATION

I. BACKGROUND:

Mr. Kenneth L. Holbert, Jr. ("Holbert"), was previously employed by G eenville Technical College (GTC or "the College") as an Information Resource Consul nt II in the Engineering Technology Division. He has held this full-time position since January 24, 2000. GTC is a public higher education institution within the jurisdiction of he State Board for Technical & Comprehensive Education (also known as the S.C. T chnical College System).[1] While Mr. Holbert has been employed by the State of South Carolina since March 17, 1989, and employed in both part-time and full-time positions at GTC since 1994, his employment was terminated on January 11, 2007, when he was nable to return to work at the end of his 180-day extended disability leave.

The College ended Holbert's employment on January 11, 2007, base on his failure to produce a letter from his physician certifying his ability to return o work, following exhaustion of all available leave. Holbert alleges that his terminatic was in violation of several laws. He asserts that he was not provided an opportunity t file for State employee disability retirement before being separated from employment. Holbert believes he should be given an opportunity to return to work in a "light duty ca acity of around 75% of the physical aspects of [his] job," until he can complete therapy. The SC Technical College System, however, believes that Holbert's termination is warra ted and not only complies with applicable policies, procedures, and regulations, but also tate and federal statutes.

II. RATIONALE FOR TERMINATION DECISION:

A. Holbert's Termination from employment was not only warranted but also complied with agency Policy and Procedure and Office of Human Resources Regulations which requires an employee to be separated from State Service and forfeit reinstatement privileges if he is unable to return to work prior to exhaustion of his leave entitlement.

On July 19, 2006, Helen Clarkson, former Human Resources Ma ager for Greenville Technical College, preliminarily declared Holbert's leave for his ba k injury which commenced on July 12, 2006, as Family Medical Leave Act (FMLA) c alifying leave. Mr. Holbert was notified that he must make a request in writing to rec ve up to 180-days of extended disability leave. Additionally, he was informed that he m st return a medical certification completed by his health care provider within two weeks; nd, that

[1] S.C. Code Ann. §59-53-20 (1976).

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failure to comply may affect his rights under FMLA.[2] Despite returning the c mpleted DOL form on or after August 7, 2006, the date that it was signed by his physi ian, the College still granted Holbert twelve (12) weeks of FMLA leave.[3] On October l, 2006, Holbert's FMLA entitlement was exhausted. On October 10, 2006, Holbert sul nitted a written request for up to an additional 180-days of accrued leave due his xtended disability related to back surgery.[4] If, however, he requested and was granted is entire allotment of 180-day extended disability leave, which ran concurrently wit FMLA leave, then his leave entitlement expired on January 8, 2007.

According to SBTCE Procedure 8-3-102.1(IX) which addresses Leave With or Without Pay for Extended Disability:

> ... As long as disability is certified by a physician, the amount of leave authorized shall not exceed (1) one hundred eighty (180) calendar days of combined leave with pay and leave without pay, or (2) one hundred eighty (180) working days of leave with pay; otherwise the employee shall forfeit reinstatement privileges and be separated from State service.

While the primary reason that Holbert was granted FMLA leave was due to a ba s injury, surgery, and recovery time, he later began submitting physician's statements ot only from the Southeastern Neurosurgical and Spine Institute (Alfred T. Nelson, Jr, M .D.), but also from Gastroenterology Associates, P.A. (Glen G. Daves, M.D.) whi h never specified the nature of his illness nor his treatment.

B. <u>GTC's decision to terminate Holbert's employment was warranted because he was not a qualified individual with a disability under the Americans with Disabilities Act of 1990, since he was unable to perform the essential functions of his position with or without an accommodation.</u>

For an employee to be protected by the provisions of the Americ ns with Disabilities Act of 1990 (ADA), he must be a qualified individual with a disat lity who

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[2]Based on the date of Ms. Clarkson's letter, Holbert should have returned the completed DOL rtification form provided to him on or before August 2, 2006. The College allowed Holbert to have his ll FMLA allotment, despite returning the form five (5) or more days late.

[3] The DOL certification form completed by the physician dated August 7, 2006 indicates thu Holbert's condition commenced on or about July 18, 2006. The College, however, granted Holbert F MLA leave commencing on July 12, 2006, based on a physician's statement from the Easley Family Practi (Richard A. Banks, M.D.) requiring that Holbert be out of work from July 12, 2006-July 18, 2006. Agai it appears that any error made by the College was made in favor of the employee.

[4] Holbert's handwritten note of October 10, 2006, erroneously indicates that he will be returning o work on ***<u>November 2, 2006</u>***, based on the doctor's note.(Emphasis added.) The DOL certification form completed by the physician on August 21, 2006, however, indicates that the patient will be unable to worl for ***<u>six (6) weeks past the date of surgery (August 21, 2006)</u>***.(Emphasis added) Based on our calculatio s, Holbert should have been able to return to work on ***<u>October 2, 2006</u>***. (Emphasis added.) His mis-calcula on of four (4) additional weeks, was an error that the College failed to correct, and graciously granted to hi .

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can perform the essential functions of his position with, or without an accomm dation.[5] The ADA defines "impairment" as any physiological disorder or condition, osmetic disfigurement, or anatomical loss affecting one or more of the body's multiple ystems, including the special sense organs, neurological, musculoskeletal, res iratory, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, kin and endocrine systems. Impairment is further defined by the ADA as any m ntal or psychological disorder, such as mental retardation organic brain syndrome, emc ional or mental illness, and specific learning disabilities.

An impairment is only a "disability" under the ADA if it substantially li nits one or more major life activities. The U.S. Equal Employment Opportunity Cor mission (EEOC) provides in its ADA regulations[6] and other guidance documents that r ajor life activities include, but are not limited to: caring for oneself, performing man l tasks, walking, seeing, hearing, speaking, breathing, learning, working, sitting, standin , lifting, reaching sleeping and mental/emotional processes such as thinking, concentr ing and interacting with others. Based on medical statements provided by his physicians Holbert was substantially limited in his ability to work, with or without a r sonable accommodation. Accordingly, he was not a qualified individual with a disability with the ability to perform the essential functions of his job with or without an accomr odation. Thus, he was not protected by the provisions of the ADA.

C. GTC's decision to terminate Holbert's employment was based on his failure to produce a statement from his physician certifying his ability to return to work at the conclusion of his 180-days of extended disability leave.

GTC requested numerous healthcare certifications from Mr. Holbert's hysician during his extended disability leave period. All of the documentation from his h althcare provider(s) supplied to Greenville Technical College indicated that Mr. Ho ert was unable to work. In late November 2006, a copy of Mr. Holbert's position descri tion was sent to his physician along with a letter requesting that the physician provide a updated certification and an opinion on what functions of his job Mr. Holbert could perfo m at the time. The physician did not respond.

In late December 2006, Mr. Holbert notified the College that he was pl ning on seeing his physician in January to determine his health status and the pos bility of returning to work. On January 5, 2007, Mr. Holbert presented a healthcare ce ification from his physician to the College that indicated that he was unable to work. G g Cann, Director of Human Resources for GTC, and Penny Moore, Human Resources Manager,

[5] According to the ADA, a person with a "disability" is an individual who:
- has a physical or mental impairment that substantially limits one or more of his/her maj r life activities;
- has a record of such an impairment; or
- is regarded as having such an impairment.

42 U.S.C. §§12101-12213.

[6] 29 C.F.R. Part 1630 (2007).

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talked with Mr. Holbert on January 3, 2007, and indicated to him that the end of his 180-day extended disability period would expire on January 7, 2007. Mr. Holbert had a doctor's appointment scheduled for Thursday, January 11th, so the College made a decision to extend his disability period through the 11th to allow Mr. Holbert the opportunity to consult with his physician concerning his prognosis. Greg Cann informed Mr. Holbert in writing that he and his physician would need to make a decision on or before January 11th regarding his ability to return to work.

On Monday, January 8, 2007, Mr. Holbert met with Greg Cann and Penny Moore to discuss the upcoming visit with his physician scheduled for January 11th. Mr. Holbert inquired about the possibility of extending his disability period further past the 11th, but was told by Greg Cann that Dr. Barton had made the decision not to request that Dr. Russell extend his disability period past January 11th. Dr. Barton's decision was based, in part, upon the fact that Mr. Holbert's supervisor indicated that his department was suffering and needed to move forward with having someone in the position to continue the work of the department. (Mr. Holbert had been out of work for more than months in 2006 due to the present leave of absence and an earlier leave of absence in January of 2006.) When Mr. Holbert left the human resources office on January 8th, it was clear to all parties that Mr. Holbert would be seeing his physician on January 11th to obtain either a release to return to work or receive further instructions from his healthcare provider related to his condition.

On January 11th, Mr. Holbert contacted Greg Cann in the Human Resources Department to let him know that he had seen his physician. Mr. Holbert did not report that he had obtained a release to return to work from his physician nor present any firm data on the prognosis of his condition. It became clear that Mr. Holbert indeed had no information that could be used to determine if he would be returning to work or be out of work for a further indefinite period of time. Mr. Cann reaffirmed to Mr. Holbert that the College had made the decision to move forward with filling his current position and terminating him from employment if he could not return to work on January 11th. Mr. Holbert then indicated to Mr. Cann that he was going to go back to his physician later in the day on the 11th to get information regarding his ability to work. Mr. Holbert asked Mr. Cann to send his position description over to his physician. Mr. Cann indicated that he would fax the requested information to the physician. Mr. Cann then sent a letter via e-mail and regular mail later in the day on the 11th to Mr. Holbert indicating to him that he would need to visit the Human Resources Department on Friday, January 12th if the physician released him to return to work.

On January 12th, Mr. Holbert called Mr. Cann to inform him that further tests were being scheduled for him. Mr. Holbert's physician submitted a note for him that indicated that Mr. Holbert would need to remain out of work until a return appointment with the physician could be set to review further MRI results. Mr. Cann told Mr. Holbert that the College would uphold its decision to separate him from employment since he had not returned to work on the 12th.

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III. CONCLUSION

Based on the foregoing, Holbert's failure to return to work prior to exhau ting all available leave, or to provide a physician's certification, in a timely manne which outlined any restrictions, was the sole reason for severing the employment rel ionship with him.

SC TECHNICAL COLLEGE SYSTEM

111 Executive Center
Columbia, SC 2
(803) 896-
Fax (803) 896-
www.SCTechSystem

Barry W. Russell, System President

Via Certified Mail
Receipt Notification Requested

March 21, 2007

Mr. Kenneth L. Holbert, Jr.
[redacted]

Dear Mr. Holbert:

Thank you for meeting with Ms. Peacock and me on March 13, 2007, to discuss your third-step grievance appeal. I appreciate the professional manner in which you presented your case.

We have reviewed all the information provided by both you and the College and carefully considered the facts presented. Additionally, we have reviewed our policies and procedures as well as the Budget and Control Board's Office of Human Resource Regulations. With your consent, we also sought clarification from your physician regarding the three medical statements received on January 11, 2007, as two contained contradictory information.

State Board for Technical and Comprehensive Education Procedure 8-3-102.1 (Sick Leave), as it relates to leave with or without pay for extended disability states:

> "For any extended period of disability due to illness, injury or maternity exceeding the amount of accrued sick leave, the employee may apply for leave without pay which, along with any paid leave that has been taken, shall not exceed one hundred eighty (180) days."

The procedure further states:

> "As long as disability is certified by a physician, the amount of leave authorized shall not exceed (1) one hundred eighty (180) calendar days of combined leave with pay **otherwise the employee shall forfeit reinstatement privileges and be separated from State Service."**

While your physician provided you with a return to work statement on January 11, 2007, it is our understanding he also provided you with another statement later that same date, which specified you were to remain out of work until a return appointment for MRI results. Furthermore, it appears that the return to work statement was never provided to Greenville Technical College and was not received by the Agency until requested during the third step of the grievance process. Thus, based on a review of all information and the facts presented, it is my decision to support the action taken by Dr. Barton and deny you the relief you seek.

This is the final Agency decision regarding this case. You now have the right to appeal to the State Employee Grievance Committee by writing to Mr. Sam Wilkins, Director, Office of Human Resources, South Carolina Budget and Control Board, 1201 Main Street, Suite 800, Columbia, SC 29201. You must make such appeal within fifty-five (55) calendar days of the date of the initial grievance or within ten (10) calendar days of receipt of this letter, whichever occurs later.

Sincerely,

Barry W. Russell
System President

cc: Thomas E. Barton, Jr.
Kandy Peacock
Greg Cann

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Monday, April 23, 2007

Office of Human Resources
1201 Main Street, Suite 800
Columbia, SC 29201.

Dear Ms. Bradham and Ms. Peacock,

I am enclosing 4 CD-recordings of conversations that have occurred on January 11, 2007 and January 12, 2007 as well as one recording from 6-2-2006 that supports and provides proof of the information I am stating below:

The discs are labeled as follows:

Disc 1	1-11-2007	1:47pm	71Min
Disc 2 1 of 2 tracks	1-11-07	3:28pm	14min
Disc 2 2 of 2 tracks	1-12-07	11:42am	26min
Disc 3	6-2-2006	9:58am	11min
Disc 4	1-11-07	G-Cann states that he will sue Dr.	

I apologize for the length of time it has taken to compile my recorded information to provide proof of the treatment I have received during the course of my last 1 ½ years at Greenville Technical college. I told Mr. Cann that I felt compelled to record my supervisor when he stated that I was in his gun sights. Mr. Cann agreed that he would have too. I recorded Mr. Cann when he gave me inconsistent information during a time when I was having some adverse reactions to physical therapy and getting very little sleep. Mr. Cann was aware that I was on very strong medications during December 2006, and January 2007. On January 11, 2007 I switched to a medicine that I am still taking for my Crohn's disease that has helped tremendously. Part of the reason for my inability to come back to work at 100% on 1-12-2007 is that I went off of payroll on November 29, 2006, and that stress led to me losing 35 lbs and a severe flare up. Mr. Cann thanked me for pointing out a flaw in their process. I did not realize I was entitled to SLTD payments until I saw the statement in January 2007. Had Ms. Lomax handled leave and benefits, she would have informed me when I met with her in October 2006 to go ahead and fill out the proper paperwork. On the other hand, Mr. Cann shows no mercy toward my doctor for dictating check out instructions and return to work notices at his office upon checkout at the desk prior to leaving. This is a generally accepted practice at most doctor's offices. As a matter of fact, Mr. Cann said he would not accept my return to work notice that I had received on the 11th.

The facts of the case are that I have 2 illnesses that can become disabilities either short term or long term that Greenville Technical College's HR department and my supervisor have known about since I began work there full time in January 2000. Those are Crohn's disease and ADHD. I take medication for both illnesses. These illnesses have been

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chronic since August of 2004. One medication that I take during a chronic phase I have to be particularly careful in taking because it can temporarily induce mania is prednisone. I was on a rather large dose, (for the sensitivity I have to it), from August 2004 until April 2005. After April 2005 and for a period of about 6 months I became chronically depressed due to discontinuing prednisone and my adrenal glands producing the chemicals in my body again. That period of my employment at Greenville Tech led to the beginning of my pre-termination issues. If there are more questions after you receive my package, please ask me to clarify before committing to any decisions. I believe this could have been settled with Dr. Russell if I had been allowed to provide proof that Mr. Cann knew of my return to work letter on January 11, 2007.

It is also my current understanding that my position still has not been filled. If in fact it is and was as important a job to fill, then it should have been. The fact is that I was hired to come into a division with 11 engineering technology departments, build a cohesive network with adequate redundancy and integrity which would run as if it were self sufficient. I did that, and am still competent enough to come back into that position. Mr. Shrum did not treat me very well beginning in November 2005. He did not file a worker compensation claim after I injured my neck and back at work which eventually required surgery. Mr. Cann assisted me with filing a claim on time and it was initially accepted. However, coincidently, the day I was sued by the Greenville County School district, a letter was sent from the state Workers Compensation board suspending my claim. My neurosurgeon has since sent detailed information to support my claim authenticity, as well as my ADHD doctor, and most recently a chiropractor that has helped me a great deal.

I am sending some documentation as proof that Gregg Cann was aware that I had a return to work statement on January 11, 2007, and he refused to accept it. Dr. Russell has that same original letter in his possession and states that Mr. Cann was unaware that I had such a statement until the third step of the grievance process. That is untrue. The purpose of my going back to the doctor on January 11, 2007 was to get some clarifications as to light duty. Mr. Cann was to fax a copy of my job description along with an acceptable light duty statement. Since Mr. Cann never faxed the acceptable light duty statement, the doctor kept me out until January 18, 2007. Mr. Cann also in another conversation states that another week out would be acceptable, and that I could come back to work. However, when I came back to work on January 22, 2007, I was told that I was terminated, and turned over my badge and keys.

I apologize for the delay in following up with my appeal package for other reasons as well. There have been some recent events that have happened in regards to the lawsuit that the Greenville County School District, (GCSD), has against me. The GCSD has referenced Greenville Tech and my fellow co-workers many times in their official response to my offer of judgment. They have made a very determined attempt to undermine my integrity, and intent in regards to this issue. Because of that, I have had to comb through a mountain of information to provide evidence that I did indeed tell the truth. My co-worker, as mentioned has allegedly slandered me, and my former supervisor, Sid Shrum, may have given e-mails to the school district from my work

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computer at Greenville Tech. It is probably clear that I was under constant harassment from my supervisor during the course of 2006, and early 2007, and I reported the harassment to Greg Cann in September 2006. I reported this for 2 reasons, one to try and work out amicably internally and get the hours I had to take off in January 2006 and February 2006 credited back to me because of this harassment. I am including a copy of those recordings as well.

I am hoping that this letter can adequately convey the 3 day discrepancy between my being allowed to come back to work by Greenville Tech and being allowed to come back to work by my doctor. The two were the same on January 11, 2007 until Greg Cann threatened to sue my doctor. Mr. Cann states that he was unaware that I had a letter to come back to work. That is untrue. I have on recording, (included), that not only was he aware, he said that the doctor's practice was unprofessional and in need of investigation. I now know that even if someone tries to take away your intent, i.e., "Good Samaritan)", those are only words. The truth does not need words to exist. The truth can stand on its own because it is the truth. Whether anyone believes the truth or not, it is still the truth.

I am not detailing the magnitude and full extent of harassment my supervisor did to me since he became my supervisor. I told Mr. Cann about this last year along with providing proof of the harassment. I am attaching a doctors note of counseling that he requested because of my ADHD and crohns illnesses from 6-2005. Mr. Cann was supposed to file a workers compensation claim for me in regards to the harassment and the time I had to take off at the beginning of 2006 if FMLA leave time became an issue with me keeping my job, or at the very least discuss this with him upon my return to work. I have this on recording as well.

Now that my supervisor and co-worker have given incorrect or misleading statements to the Greenville County School district any and all hopefully successful attempts to get my job back have been abruptly halted and reversed. My workers compensation has also been denied and I am now having to file for a hearing because my supervisor nor did HR follow up on filing a claim other than my supervisor stating that he was filing a claim so that I could get a drug test. I told him that I was not on drugs and thought he should.

Yours truly,

Ken Holbert

Cc: Sandy Peacock

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JULIUS EARLE, JR., M.D.
BROWNELL CENTER
701 GROVE ROAD
GREENVILLE, SC 29605-5611
(864) 455-8431 TEL
(864) 455-8681 FAX
DEA # BE 0935164
LIC # 20-01444 (SC)

NAME Gerald Gilbert AGE 71

ADDRESS DATE 6/22/01

Rx ILLEGAL IF NOT SAFETY BLUE BACKGROUND

℞ I have known & seen K.H. regularly for ~8 yrs. Call if you have any questions

Refill ____ times

Label

DISPENSE AS WRITTEN SUBSTITUTION PERMITTED

4IPS1128439

כ"ז

FOUR (4) CD RECORDINGS

KEN HOLBERT (APPELLANT)

Disc #1 – 1/11/07

Disc #2 (2 tracks) – 1/11/07 and 1/12/07

Disc #3 – 6/2/06

Disc #4 – 1/11/07

(CD Recordings in official file, available for review)

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GREENVILLE TECH
College That Works

Mr. Kenneth L. Holbert
[redacted]

February 9, 2007

Dear Mr. Holbert,

This letter is to advise you of the status of your grievance regarding your recent separation from Greenville Technical College. Based on your input and discussion during the grievance conference that was held on February 5, 2007, it has been determined that the decision of your immediate supervisor and Vice-President is to uphold the College's original decision to separate you from employment with the College.

You are, of course, entitled to proceed further through the next steps of the grievance process if you so choose. If you have any questions concerning this decision, please feel free to contact me.

Sincerely,

Gregory D. Cann
Human Resources

0338

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Kenneth L. Holbert
[redacted]

Gregory D. Cann
Greenville Technical College
P. O. Box 5616
Greenville SC 29616

RE: Consent to Extend Grievance Hearing

My signature below evidences my consent to a six (6) day extension of the 1st step of the grievance process due to the employees mutual scheduling of the conference on February 5, 2007. This date was mutually agreed upon by both myself and Greenville Technical College.

Employee Name

2-5-07
Date

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Kenneth L. Holbert
[redacted]

Gregory D. Cann
Greenville Technical College
P. O. Box 5616
Greenville SC 29616

RE: Consent to Extend Grievance Hearing

My signature below evidences my consent to a six (6) day extension of the 1st step of the grievance process due to the employees mutual scheduling of the conference on February 5, 2007. This date was mutually agreed upon by both myself and Greenville Technical College.

Kenneth L Holbert Jr.
Employee Name

2-5-07
Date

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Thursday, January 25, 2007

To: Gregory D. Cann SPHR
Human Resources
Greenville Technical College
P. O. Box 5616
Greenville SC 29606-5616
Phone (864) 250-8191
Fax (864) 250-8630
greg.cann@gvltec.edu

From: Ken Holbert

Subject: Letter of Employee termination grievance initiation

Dear Mr. Cann,

I am writing to initiate a grievance for my termination from Greenville Technical College as an Information resource consultant II that was to be effective as of January 12, 2007. This letter is written in accordance with State Board for Technical and Comprehensive Education Grievance procedure, procedure number 8-6-100.1. I asked you on the 11th if you could provide me with the State grievance procedure. I have not received that information from you in the mail. I found out today from another source the procedures and that this is the last day I can file a grievance.

The nature and substance of my grievance is as follows:

1. - Wrongful termination - The complexities of my case have resulted in my seeking counsel to represent me in my wrongful termination grievance, and ask that he contact you in this regard within the next 14 calendar days from today's letter. However, one reason for wrongful termination is the hazardous low threshold not properly identified resulted in an accident requiring surgery, and extended time for rehabilitation.

2. - Relief Sought - The complexities of my case have resulted in my seeking counsel to represent me in my wrongful termination grievance, and ask that he contact you in this regard within the next 14 calendar days from today's letter. However, one reason for wrongful termination is the hazardous low threshold not properly identified resulted in an accident requiring surgery, and extended time for rehabilitation.

I will amend and supplement the wrongful termination and relief sought as further information becomes available and I am properly informed of the process.

Sincerely,

Ken Holbert

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Greg Cann

From: Greg Cann
Sent: Thursday, January 25, 2007 4:56 PM
To: 'Ken Holbert'
Subject: Grievance Initiation
Sensitivity: Confidential

Ken,

I wanted to drop you a note to let you know that I am in receipt of the letter from you that references your employee termination grievance initiation. I will ensure that this gets processed for you. I will be in touch with you over the next few days to let you know what steps we will need to take from here. If you have any questions in the meantime, please do not hesitate to contact me.

Thanks.

Gregory D. Cann SPHR
Human Resources
Greenville Technical College
P. O. Box 5616
Greenville SC 29606-5616
Phone (864) 250-8191
Fax (864) 250-8630
greg.cann@gvltec.edu
This e-mail may contain confidential or legally privileged information that is intended only for the individual or entity named as the recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or reliance upon the contents of this e-mail is strictly prohibited. If you have received this e-mail in error, please contact the sender, so that Greenville Technical College can arrange for proper delivery, and then please delete this message. Thank you.

SOUTHEASTERN Neurosurgical & Spine INSTITUTE

39

Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

18.Jan.2007

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 18.Jan.2007 for evaluation of Follow up on neck and back pain. S/P left L5-S1 hemilaminectomy and discectomy on 08-21-06. Patient returns with thoracic MRI on 01-16-07. Patient states that he does get relief from traction at physical therapy. Patient continue to have numbness in bilateral arms. Patient states that the numbness in the arms occurs while driving. Patient states that after doing some minimal lifting around the house the right arm had pain during the night.

The diagnoses and plan are as follows:

ASSESSMENT:
Pain, Cervical
Pain, Thoracic
Pain, Lumbar
Limb Pain

PLAN:

Medical Advice: Contact the office if there are any problems.
Restrictions:
Work Status: return to regular duty. He is medically able to return to work.
Schedule Follow-up: in 2 months and as needed.

Sincerely,

Alfred T. Nelson Jr, M.D.

GREENVILLE TECH
College That Works

Mr. Kenneth L. Holbert

[redacted]

January 16, 2007

Dear Mr. Holbert,

I have enclosed a copy of the Grievances and Appeals Procedure per your request. Please feel free to contact me if you have any questions.

Sincerely,

Gregory D. Cann

Gregory D. Cann
Human Resources

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STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER:	8-6-100.1
PAGE:	1 of 11
TITLE:	GRIEVANCES AND APPEALS
POLICY REFERENCE NUMBER:	8-6-100
DIVISION OF RESPONSIBILITY:	HUMAN RESOURCE SERIVCES
DATE OF LAST REVISION:	May 11, 2006

Director, Human Resource Services

Executive Director

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION / THE SC TECHNICAL COLLEGE SYSTEM.

I. PURPOSE

The purpose of this procedure is two-fold. The first purpose is to provide an orderly means whereby any covered employee of the South Carolina Technical College System (SCTCS) may grieve actions taken by System Office or college management. The second is to specify which actions are grievable or appealable and specify which are not. Employees choosing to file a grievance or appeal must not be retaliated against for exercising rights or testifying under the provisions of this policy.

II. DEFINITIONS

- APPEAL

  Appeal means the request by a covered employee to the State Human Resources Director for review of an agency's final decision concerning a grievance.

- CALENDAR DAYS

  Calendar days means the sequential days of a year. The time must be computed by excluding the first day and including the last. If the last day falls on a Saturday, Sunday, or legal holiday, it must be excluded.

- COVERED EMPLOYEE

  Covered employee means a full-time or part-time employee occupying a part or all of an established full-time equivalent (FTE) position (classified employees, unclassified non-teaching personnel, and institutional officers, excluding the College President) who has completed the probationary period of twelve (12) months and has a "meets" or higher overall rating on the employee's performance evaluation and who has grievance rights. Faculty at state technical colleges are covered upon the completion of not more than two full academic years' duration[1]. If an employee who has completed their probationary period does not receive an evaluation before the official review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This definition does not include employees in positions such as temporary, temporary grant, returning retirees, or time-limited employees who do not have grievance rights.

- DEMOTION

  Demotion means the assignment of an employee by the appointing authority from one established position to a different established position having a lower state salary range.

- GRIEVANCE

  Grievance means a complaint filed by a covered employee or the employee's representative regarding an adverse employment action designated in Section 8-17-330 of S.C. Code of Laws taken by the SCTCS.

- INVOLUNTARY REASSIGNMENT

  Involuntary reassignment means the movement of an employee's principal place of employment in excess of thirty miles from the prior work station at the initiative of the agency. However, the reassignment of an employee by the President/System President in excess of thirty miles from the prior work station to the nearest facility with an available position having the same state salary range for which the employee is qualified is not considered an involuntary

[1] Reference procedure #8-2-102.1; Compensation Plan for Unclassified Faculty Personnel.

reassignment, and is therefore not grievable or appealable. Teaching faculty may be assigned to any campus/site within the college's service area depending upon the business needs of the college (Refer to SBTCE procedure #8-2-103.1; Faculty Teaching/Workload and Overload Compensation.)

- REASSIGNMENT

  Reassignment means the movement within an agency of an employee from one position to another position having the same state salary range, or the movement of a position within an agency which does not require reclassification.

- PROBATIONARY EMPLOYEE

  Probationary employee means a full-time or part-time employee occupying a part or all of an established FTE position in the initial working test period of employment with the State of twelve months' duration for non-instructional personnel, or two full academic years' duration for faculty. An employee who receives an unsatisfactory performance appraisal during the probationary period must be terminated before becoming a covered employee.

- PROMOTION

  Promotion means an employee's change from a position in one class to a position in another class having a higher state salary range. Failure to be selected for a promotion is not an adverse employment action that can be considered as a grievance or appeal.

- PUNITIVE RECLASSIFICATION

  Punitive reclassification means the assignment of a position in one class to a different lower class with the sole purpose to penalize the covered employee.

- RECLASSIFICATION

  Reclassification means the assignment of a position in one class to another class which is the result of a natural or an organizational change in duties or responsibilities of the position.

- REDUCTION IN FORCE

  Reduction in force means a determination made by the College President/System President to eliminate one or more filled positions in one or more organizational units within the agency due to budgetary limitations, shortage of work, or organizational changes.

- SALARY DECREASE BASED ON PERFORMANCE

  Salary decrease based on performance means the reduction of a covered employee's compensation based on the results of an Employee Performance Management System (EPMS) or Faculty Performance Management System (FPMS) evaluation.

- STATE HUMAN RESOURCES DIRECTOR

  State Human Resources Director means the head of the Office of Human Resources of the State Budget and Control Board, or his designee.

- SUSPENSION

  Suspension means an enforced leave of absence without pay pending investigation of charges against an employee or for disciplinary purposes.

- TERMINATION

  Termination means the action taken against an employee to separate the employee involuntarily from employment

III. GRIEVANCE AND APPEAL PROCEDURE

A. GENERAL

The purpose of this section is to provide "covered employees", as defined in Section II, with an avenue for filing grievances for actions covered under the South Carolina State Employee Grievance Procedure Act, as amended, and appealing final decisions to the State Human Resources Director. All eligible College/System Office employees who wish to file a formal grievance under these procedures shall follow the steps as outlined in Section D. In accordance with Section 8-17-370 of the S.C. Code of Laws, Technical college presidents do not have access to the state employee grievance process.

B. GRIEVABLE OR APPEALABLE ACTIONS UNDER THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT

Issues that are grievable or appealable include terminations, suspensions,

involuntary reassignments in excess of 30 miles[2], and demotions. Additional grievable actions are as follows:

- Promotions
  Promotions may be considered grievances or appeals in instances where the College President or System President (in the case for System Office employees), or in the case of appeals, the State Human Resources Director, determines that there is a material issue of fact as to whether or not the SCTCS has considered a qualified covered employee for a position for which the employee formally applied or would have applied if the employee had known of the promotional opportunity.

- Salary Decreases
  Salary decreases based on performance are adverse employment actions that may be considered as grievances or appeals.

- Reduction In Force
  A reduction in force is an adverse employment action considered as a grievance only if the System President, or as an appeal if the State Human Resources Director, determines that there is a material issue of fact that the agency inconsistently or improperly applied its reduction in force policy or plan.

C. ACTIONS NOT GRIEVABLE OR APPEALABLE UNDER THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT[3]

The following examples of employment actions do not constitute a basis for a grievance or an appeal:

1. A covered employee who voluntarily resigns or voluntarily accepts a demotion, reclassification, transfer, reassignment, or salary decrease shall waive any and all rights to file a grievance or an appeal concerning such actions and the covered employee can rescind such voluntary actions only if the College President (or System President in the case of System Office employees) or his designee agrees;

[2] Reassignment of an employee in excess of thirty miles from the prior work station to the nearest facility with an available position having the same state salary range for which the employee is qualified is not considered grievable or appealable. Teaching faculty may be assigned to any campus/site within the college's service area depending upon the business needs of the college (Refer to SBTCE procedure #8-2-103.1; Faculty Teaching/Workload and Overload Compensation.)

[3] Actions that are not grievable or appealable under the State Employee Grievance Procedure Act must be handled through the College or System Office's informal complaint process.

2. Reclassifications, reassignments, and transfers within the same salary range are not adverse employment actions which may be considered grievances or appeals;

3. A covered employee whose position is reclassified to a class with a lower salary range shall not have the right to file a grievance or an appeal concerning the reclassification to the State Human Resources Director unless a determination is made that a material issue of fact exists concerning a punitive reclassification;

4. A covered employee who is promoted and subsequently demoted prior to serving six months of satisfactory service in the class with the higher salary range shall not have the right to file a grievance or an appeal concerning the demotion, unless such demotion is to a class with a lower salary range than the class in which the employee was serving prior to promotion;

5. A covered employee who is promoted and subsequently receives a reduction in pay prior to completing six months of satisfactory service in the class with the higher salary range shall not have the right to file a grievance or an appeal concerning the reduction in pay, unless the action results in a lower rate of pay than that which the employee was receiving prior to promotion;

6. When the SCTCS promotes an employee one organizational level above the promoted employee's former level, that action is not a grievance or appeal for any other qualified covered employee;

7. A covered employee who receives a salary increase for assuming additional job duties or responsibilities, and subsequently has the additional job duties or responsibilities which justified the salary increase taken away prior to completing six months of service with the additional job duties or responsibilities, shall not have the right to file a grievance or an appeal concerning a salary reduction equivalent to the amount of the additional job duties or responsibilities increase.

D. STEPS IN THE GRIEVANCE PROCESS

The State Employee Grievance Procedure Act provides that an agency complete all actions on a grievance within a period of forty-five (45) calendar days. Any employee who does not have his/her grievance completed within forty-five (45) calendar days of the filing of such grievance, may appeal directly to the State Human Resources Director, so long as the employee initiates his/her appeal no later than fifty-five (55) calendar days from the initial date the grievance was filed within the SCTCS. Otherwise, the employee waives his/her right to appeal. Failure by the agency to issue a final decision within this 45 calendar day period is considered an adverse decision. The 45 calendar day period for action by the agency may not be waived except by mutual written agreement of both parties (refer to Addendum #1).

The following steps are a guideline to ensure timely completion of the agency grievance process. These steps are intended to start with the grieving employee's local Human Resource Officer and proceed from there. The internal time frames may be waived with the mutual consent of the parties (refer to Addendum #1).

1. First Step

The covered employee initiates a grievance by written correspondence [that includes the nature and substance of the grievance and the relief sought] to the College/System Office Human Resource Officer which must occur within fourteen (14) calendar days of the effective date of the action. The Human Resource Officer shall initially review the grievance to determine whether the matter involves a grievance as defined by the Act. The Human Resource Officer may conduct appropriate investigations and fact findings as he/she may consider necessary to make this determination. If it is determined that the matter is not grievable, the covered employee shall be so advised in writing by the College President (or System President in the case of System Office employees) or his/her designee, normally within five (5) calendar days[4] of receipt of the grievance. Such determination shall be a final decision within the SCTCS[5]. The College President (or System President in the case of System Office employees) shall notify the employee to contact the Human Resource Officer who shall provide information regarding the informal complaint process.

If it is determined that the matter is grievable, the Human Resource

[4] Unless holiday schedules, inclement weather, and other verifiable extenuating circumstances prevent adhering to this deadline.

[5] The Executive Director/System President delegates the authority to the College President to render this decision as the final decision of the agency.

Officer will promptly schedule a conference to occur between the covered employee's immediate supervisor, in conjunction with the appropriate Vice President (VP) of the College or Executive Council member of the System Office (if applicable), and the covered employee, normally within five (5) calendar days of receipt of the grievance. This conference may occur face-to-face or via telephone, depending on the preference of the employee. However, any initial determination by the Human Resource Officer that the matter may be grieved shall only entitle the covered employee to have the matter considered in accordance with this grievance procedure and shall in no way be construed to be a judicial decision of the merits of the grievance. At the conference with the covered employee's immediate supervisor and appropriate VP (or Executive Council member for System Office employees), the covered employee will have an opportunity to present his/her rationale for disagreement with the action taken against him/her. The immediate supervisor may conduct appropriate investigations and fact findings to determine whether to accept, reject, or modify the disciplinary action taken against the covered employee. The covered employee will be advised of his/her immediate supervisor's and VP's (or Executive Council member's, in the case of System Office employees) decision in writing within five (5) calendar days of the conference.

2. Second Step

If, in the opinion of the covered employee, the written decision of the first step official does not represent satisfactory disposition, then within five (5) calendar days of receiving the first step official's decision, the employee shall continue the grievance in writing to the second step official (College President or for System Office employees, the System President). The second step official will promptly schedule separate inquiries with the covered employee and any other parties as necessary. The second step official may designate others to assist in the investigation or in making recommendations.

The second step official shall make a decision within ten (10) calendar days of receipt of the grievance and notify the employee of such decision in writing.

a) For college employees, the second step decision may be further grieved by the employee as provided in III(D)(3).

b) For System Office employees, the decision rendered by the System President shall constitute the final agency decision. The System President may personally handle Step Two of the grievance procedure

or may appoint a designee(s) or ad hoc committee. The System President (or designee) shall conduct whatever inquiries, investigations, and/or fact finding sessions that are considered necessary. Following this review, the System President will determine whether a meeting with the employee is necessary. The option whether to meet with the employee or make a decision based on the findings shall belong to the System President. Any appeal of this decision shall be directed to the Budget and Control Board's State Human Resource Director within ten (10) calendar days of the agency's final decision.

c) In the event that the College President serves as the first step official, then the second step official shall be the System President of the State Board for Technical and Comprehensive Education who will render the final agency decision. If the final agency decision is not satisfactory to the covered employee, this decision may be appealed to the S. C. Human Resources Director, as provided in III(D)(4).

3. Third Step

If the decision reached by the second step official is not satisfactory to the covered employee, the grievance may be continued to the System President of the State Board for Technical and Comprehensive Education. The covered employee must submit a continuance of the grievance in writing to the System President within five (5) calendar days of receipt of the second step official's decision. The employee shall provide a written summary of the specific facts of the grievance and the relief sought.

The System President may personally handle Step Three of the grievance procedure or may appoint a designee(s) or ad hoc committee. The System President (or designee) shall conduct whatever inquiries, investigations, and/or fact finding sessions that are considered necessary. Following this review, the System President will determine whether a meeting with the employee is necessary. The option whether to meet with the employee or make a decision based on the findings shall belong to the System President. Within fifteen (15) calendar days of receipt of the grievance, the System President will render a decision, in writing, to all parties concerned. The decision of the System President shall be final within the agency.

4. Fourth Step (Appeals to S.C. State Human Resources Director)

If the decision of the System President is not satisfactory to the covered employee, the decision may be appealed to the State Human Resources

Director. Such appeal must be in writing. The appeal must be made within ten (10) calendar days of receipt of the System President's decision or within fifty-five (55) calendar days of the date of the initial grievance, whichever comes later. Failure to file an appeal within this time period shall constitute a waiver of the right to appeal by the employee. The Act allows covered employees to appeal to the State Human Resources Director any grievance involving issues specified in the Act only after all administrative remedies to secure relief within the agency have been exhausted.

E. LEGAL REPRESENTATION

Eligible employees may be accompanied by an attorney or other representative at any stage of the grievance process, though it is not necessary as this is a non-adversarial meeting. Legal representation shall be at the employee's expense.

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AGENCY ADDENDUM #1

<Employee First Name Last Name>
<Street Name>
<City, State Zip Code>

<Relevant Step Official>
<College Name>
<College Address>

Re: Consent to extend grievance hearing

My signature below evidences my consent to a <Number> (#) day extension of the <number of step> step grievance process due to <Insert Reason: e.g. holiday schedule, inclement weather, or other verifiable extenuating circumstance>.

<Employee Name> Date

Greg Cann

52

From: Sidney Shrum
Sent: Monday, January 15, 2007 12:39 PM
To: Greg Cann
Cc: Steve Valand
Subject: Ken Holbert - Non Report to Work Friday Jan 12, 2007

Greg,
This is to confirm that Ken Holbert did not return to work in the ET Division as required on Friday January 12, 2007.
Per our conversation, Ken was instructed, by you, that Thursday January 11, was his last day on extended medical leave and that he was to report to work on Friday, January 12, 2007 or have his employment considered terminated. As I understand it he was given this notice a week in advance and has had adequate time to receive any medical review that he might need to accomplish for this return.

My expectation was that he return to work for a full days work, beginning at 8:00am until the normal Friday end of day at 1:30pm. I did not receive any calls or emails from Ken on Friday and therefore am treating him as absent on that day. Since he is on leave without pay and has no annual leave or sick leave to pay for this day, he was absent with out permission. The message I understood you delivered to him verbally and also by email was clear that not returning to work on January 12 would be in effect resigning his position. I request that we declare his position vacant and begin the process of advertising for a replacement of his job. I do understand that you have had recent conversations with him about his return but that you in no way granted permission for him to be absent on Friday or work anything other than the required work day.

Ken has not worked in the last six months and has been away from the job for nine of the last 14 months. We can no longer work without someone in his position.

Thanks for your help in this manner.

Sid Shrum
Dean – ET Division

Greg Cann

53

From: Ken Holbert [redacted]
Sent: Friday, January 12, 2007 12:31 PM
To: Greg Cann
Subject: RE: Letter of Employment Status

Hello Mr. Cann,

This e-mail is to confirm our conversation, and the college's decision to terminate my employment. Can you please send me the information on the appeals process?

Thanks,

Ken Holbert

From: Greg Cann [mailto:Greg.Cann@gvltec.edu]
Sent: Friday, January 12, 2007 7:47 AM
To: Ken Holbert
Subject: RE: Letter of Employment Status

Ken,

Thanks for the update. I am glad that your doctor got my fax. I was a little worried since his fax line was so busy, but I finally got it to go through. Please call me or drop by my office today.

Thanks,

Gregory D. Cann SPHR
Human Resources
Greenville Technical College
P. O. Box 5616
Greenville SC 29606-5616
Phone (864) 250-8191
Fax (864) 250-8630
greg.cann@gvltec.edu
This e-mail may contain confidential or legally privileged information that is intended only for the individual or entity named as the recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or reliance upon the contents of this e-mail is strictly prohibited. If you have received this e-mail in error, please contact the sender, so that Greenville Technical College can arrange for proper delivery, and then please delete this message. Thank you.

From: Ken Holbert [mailto:[redacted]
Sent: Thursday, January 11, 2007 7:05 PM
To: Greg Cann
Subject: RE: Letter of Employment Status

Good Evening Mr. Cann,

Last Friday as we discussed I was scheduled to have an MRI. I spoke with someone at my family doctor that scheduled it, and stated that a C-Spine was scheduled for me and that she thought that the C-Spine covered your cervical cord and Thorax. Unfortunately it did not. So the doctor today scheduled physical therapy and a Thorax MRI. That one misunderstanding is the cause of any delay if there is one. As discussed I was to meet with my Neurosurgeon to go over the results today, and discuss work. Today you faxed my job description to him, and he received it.

I will continue to work at a resolution tomorrow.

54

Thanks,

Ken Holbert

From: Greg Cann [mailto:Greg.Cann@gvltec.edu]
Sent: Thursday, January 11, 2007 3:28 PM
To: Ken Holbert
Subject: Letter of Employment Status

Ken,

I wanted to send this to you so that we could recap our conversation today and so that you could have this so that your physician knows what is required. I will also send a copy through the mail to you. Please feel free to contact me should you have any questions.

Thanks,

Gregory D. Cann SPHR
Human Resources
Greenville Technical College
P. O. Box 5616
Greenville SC 29606-5616
Phone (864) 250-8191
Fax (864) 250-8630
greg.cann@gvltec.edu
This e-mail may contain confidential or legally privileged information that is intended only for the individual or entity named as the recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or reliance upon the contents of this e-mail is strictly prohibited. If you have received this e-mail in error, please contact the sender, so that Greenville Technical College can arrange for proper delivery, and then please delete this message. Thank you.

Greg Cann

55

From: Ken Holbert [redacted]
Sent: Friday, January 12, 2007 1:08 PM
To: Greg Cann
Subject: Dr statement
Attachments: 2007-01-11-STMT_Alfred-T-Nelson.pdf

Mr. Cann,

As you know this statement was signed after Dr. Nelson reviewed my job description and saw the letter of dismissal. I see it as a very painful position to be in to be terminated without being able to complete my full recovery, and to complete the workers compensation process that you had helped me with. I do hope that you will still agree with me based on my conversation with the workers comp agency that I incurred my injury at work. I hold no animosity toward you in your decision to terminate me today.

Thanks,

Ken Holbert

Greg Cann

52

From: Ken Holbert [redacted]

Sent: Friday, January 12, 2007 3:42 PM

To: Greg Cann

Subject: MRI and Doctors appointment as requested

Good afternoon Mr. Cann,

My MRI is scheduled for Tuesday at 1:00pm and my Doctors appointment is scheduled for Thursday at 8:50am. Since we had discussed that I worked 5 days in 2006 that I was not paid for, and I am released next Thursday, then it would have worked out fine. Please send the appeals information as soon as possible.

Thanks,

Ken Holbert

Greg Cann

59

From: Ken Holbert [redacted]
Sent: Friday, January 12, 2007 4:35 PM
To: Greg Cann
Subject: Clarkson / Holbert letter as discussed today
Importance: High
Attachments: Clarkson_Holbert-letter.pdf

Mr. Cann,

I am attaching a PDF file of the letter, FMLA attachment and envelope received from Mrs. Clarkson in July of last year. The envelope shows the postage, and you can back check it to your meter / records if you would like. I am attaching this because you stated that I received a package, and I stated that there was a mistake. In essence I am sending this to prove my truthfulness. I found it peculiar that there was no package enclosed that I called Mrs. Moore. At the time I had plenty of leave so I do not believe I received the Basic long term disability package. The supplemental disability package was never mentioned or discussed in the letter or otherwise including my annual enrollment meeting. In addition to this issue discussed today, one further point I would like to make is that Mrs. Lomax was kind enough to admit that HR made a mistake in deduction insurance funds in our conversation yesterday. I was quick to forgive because after all we are all human.

I still find it unfortunate that my five day error cannot be applied to the five days I will endure before being released from the doctor. Also, please forgive me for any problems with recollection or upsetting you. I know in your letter dated yesterday you referred to a discussion last Friday about being released. If you recall at the time I showed you the medicine I had been taking for Crohn's to help gain weight. I guess you can say that I am not accountable for things said up until next week. I have subsequently changed medications, the old medication I was taking has affected my memory, so I sincerely apologize for being panicky and off guard yesterday.

Thanks,

Ken Holbert

GREENVILLE TECH
College That Works

July 19, 2006

Mr. Ken Holbert
[redacted]

SUBJ: Notice of Declaration of Leave under the Family Medical Leave Act (FMLA)

Dear Ken:

Your current leave for your back injury began on July 12, 2006. This leave qualifies to be charged against your 12 weeks of FMLA leave entitlement for this calendar year. You will need to furnish medical certification at this time. Enclosed please find a form to be completed by your health care provider for our records, so that a serious health care problem can be documented and we can place you under FMLA protection. This form must be received in Human Resources within 2 weeks. Failure to comply when requested by the college may affect your rights under FMLA which is designed to assist employees who have a serious illness.

You must substitute paid sick leave in cases of your own illness. When all your sick leave is appropriately used up it will be your choice to substitute annual leave with your supervisor's approval, or take leave without pay.

If you are an active, permanent, full-time employee regularly working 30 hours a week for 12 months and participate in the State health plan, you are eligible for Basic Long Term Disability (BLTD) coverage. The BLTD plan has a 90-day benefit waiting period. To receive a claim form packet, you must contact Lydia Lomax, 250-8190, as soon as it appears you will be disabled for 90 days or more. **This benefit is provided at no cost to you.** You must however, be actively employed at the time the disability occurs and under the care of a physician.

An employee should request in writing to receive up to (180) calendar days of combined leave with pay and leave without pay or (180) working days of leave with pay for an extended disability due to illness, injury or maternity. Please submit this request at the same time this letter is issued.

You must continue to pay your portion of your health insurance premiums during your 12 week FMLA entitlement, or any period you are in paid annual or sick leave status. If you have exhausted your 12 week FMLA entitlement, and are in leave without pay status, you must pay both the employee and the employer portion of health insurance premiums. You must make any premium payments to your Business Office by the tenth of each month to maintain your health insurance coverage. If you do not return to work from your current leave, you may be liable for payment of health insurance premiums paid by the state during your FMLA leave.

Upon return to work, you should have a fitness-for-duty certification from your health care provider. You are entitled to return to work to the same or an equivalent position.

Enclosed is a copy of your rights under FMLA. If you have any questions regarding this letter or your employee rights and benefits, please do not hesitate to call me at 250-8191.

Sincerely,

Helen Clarkson

Helen Clarkson

CC: Employee File

0362

FAMILY AND MEDICAL LEAVE ACT OF 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

REASONS FOR TAKING LEAVE: Unpaid leave must be granted for any of the following reasons:

- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

ADVANCE NOTICE AND MEDICAL CERTIFICATION: The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

JOB BENEFITS AND PROTECTION:

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

UNLAWFUL ACTS BY EMPLOYERS: FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT:

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring civil action against an employer for violations.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FOR ADDITIONAL INFORMATION: Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.

If you have any questions, contact Penny Moore, ext. 8495.

U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Washington, D.C. 20210

(FR Doc 93-13028 Filed 6-3-93, 8:45 a.m.) WH Publication 1420, June 1993

GREENVILLE TECH
College That Works
P.O. Box 5616
Greenville, S.C. 29606-5616

ADDRESS SERVICE
REQUESTED

PRESORT
FIRST CLA

GREENVILLE
JUL 20 '05
PB METER 7045429
0371
U.S. POSTAGE

Mr. Ken Holbert
[redacted]

FGBBTHP 29642

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SOUTHEASTERN Neurosurgical & Spine INSTITUTE

Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

11.Jan.2007

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 11.Jan.2007 for evaluation of .

The diagnoses and plan are as follows:

ASSESSMENT:

PLAN: PATIENT TO REMAIN OUT OF WORK UNTIL RETURN APPOINTMENT WITH DR NELSON FOR MRI RESULTS.

Sincerely,

Alfred T. Nelson Jr, M.D.

62

SOUTHEASTERN Neurosurgical & Spine INSTITUTE

Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

11.Jan.2007

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 11.Jan.2007 .

KENNETH HOLBERT IS CURRENTLY UNDER MY CARE FOR LUMBAR AND CERVICAL ISSUES. HE HAD INCREASED BACK PAIN AFTER BUILDING A SWING SET FOR HIS CHILD WHICH EXACERBATED HIS PRE EXSISTING WORK INJURY.

Sincerely,

Alfred T. Nelson Jr, M.D.

Greg Cann

L3

From: Ken Holbert [redacted]
Sent: Thursday, January 11, 2007 12:52 PM
To: Penny Moore; Greg Cann
Subject: RE: Ken Holbert / Endoscopy / Excuse

Hello Mrs. Moore,

I plan to pay it tomorrow. Right now I am waiting on the information on the supplemental disability Mr. Cann is researching. I accidentally found out I was paying for it when I saw my yearly Benefits statement on my wifes desk earlier this week. I sincerely apologize for any inconvenience. Right now I am scheduled to have an MRI on my Thorax and am to go to physical therapy to regain strength in my shoulders and arms. I plan to do very minimal lifting if in fact the pain and numbness I am having in my arms and neck are stress related.

Unfortunately, (and I am not blaming anyone for anything), had I found out that I had this disability coverage before I went off payroll, it would have greatly relieved a lot of our families stresses. I had to liquidate all of my stock savings assets on Monday to pay our Bills. Currently my hands go numb typing an e-mail and I have to stop and shake them to get the circulation going. I truly want very much to return to work as soon as possible. I am not moonlighting or abusing the system in any way; I am just not feeling good at all.

I am sorry,

Ken Holbert

From: Penny Moore [mailto:Penny.Moore@gvltec.edu]
Sent: Wednesday, January 03, 2007 11:53 AM
To: Ken Holbert; Greg Cann
Subject: RE: Ken Holbert / Endoscopy / Excuse

Ken,

When you were in our office this morning, I forgot to tell you that since you are in a LWOP status you will need to pay your portion of insurances etc. to cover the month of January. Please send to Cheryl Block by January 10th, a check written to GTC in the amount of $331.02.

Blue Cross	294.56
Dental	21.34
LTD	3.76
Opt. Life	11.34

Thanks,
Penny

From: Ken Holbert [mailto[redacted]
Sent: Friday, December 22, 2006 10:33 AM
To: Greg Cann
Cc: Penny Moore
Subject: RE: Ken Holbert / Endoscopy / Excuse

Good Morning,

I have just checked my e-mail. I have gone from 169lbs to 153 lbs and have been under a lot of stress which has exacerbated a crohn's flare up. I will be seeing Dr. Dave's on January 10, 2007. If the foprm needs to be filled out before then, let me know. I will come see you upon returning to work on Jan, 3 2007.

Merry Christmas,

64

Ken Holbert

From: Greg Cann [mailto:Greg.Cann@gvltec.edu]
Sent: Friday, December 15, 2006 9:44 AM
To: Ken Holbert
Cc: Penny Moore
Subject: RE: Ken Holbert / Endoscopy / Excuse

Hi Ken,

Thanks for your email and picture. We have not referred you to another physician at this point, so we have not hired anyone for you. You will need to have your current physician, I can't remember his name, certify your current condition as a "serious health condition" using the Department of Labor Form to do so. We will need to get that form back to know how to proceed.

This request is separate from your worker's comp claim.....Greenville Tech has no responsibility for the approval of the worker's comp piece.....the State Accident Fund has sole responsibility for that side.

This may be confusing, so please feel free to call me if you have any questions.

Thanks,

Gregory D. Cann SPHR
Human Resources
Greenville Technical College
P. O. Box 5616
Greenville SC 29606-5616
Phone (864) 250-8191
Fax (864) 250-8630
greg.cann@gvltec.edu
This e-mail may contain confidential or legally privileged information that is intended only for the individual or entity named as the recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or reliance upon the contents of this e-mail is strictly prohibited. If you have received this e-mail in error, please contact the sender, so that Greenville Technical College can arrange for proper delivery, and then please delete this message. Thank you.

From: Ken Holbert [mailto:[redacted]
Sent: Friday, December 15, 2006 6:32 AM
To: Greg Cann; Lydia Lomax; Penny Moore
Subject: RE: Ken Holbert / Endoscopy / Excuse

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Thanks,

Ken Holbert

65

From: Greg Cann [mailto:Greg.Cann@gvltec.edu]
Sent: Thursday, December 14, 2006 11:15 AM
To: Ken Holbert; Lydia Lomax; Penny Moore
Subject: RE: Ken Holbert / Endoscopy / Excuse

Hi Ken,

I hope that you are feeling better. We will need for this doctor to complete an official certification since this is a different physician that is now treating you. Penny can send a copy to you.

Also, please be aware that we have sent Dr. Nelson a letter along with your position description requesting detailed information from him that would support his continued recommendation for your absences from work. Our request was sent to his office on November 28th. We have not yet received any communication from him at this point. Please be aware that we will need information from both physicians to consider your request for additional time away from work. This information will need to be submitted to our offices by 1/3/07 since this will be our first day back at work after the holidays.

Please feel free to contact me if you have any questions.

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From: Ken Holbert [mailto:[redacted]]
Sent: Thursday, December 14, 2006 7:42 AM
To: Greg Cann; Lydia Lomax; Penny Moore
Subject: Ken Holbert / Endoscopy / Excuse

Good Morning Mr. Can, Mrs. Lomax, and Mrs. Moore,

I had an Endoscopy done on Tuesday 12-12-06. The doctor scraped the growth on my tongue and I am now awaiting the lab results. They do not know what it is at this time. This growth occurred while on antibiotics because of the strep throat I got while in the hospital. The doctor is not sure if it is contagious and I am attaching a work excuse for this in PDF format.

\
Thanks,

Ken Holbert

66

3/4/2007

0370

GREENVILLE TECH
College That Works

Mr. Kenneth L. Holbert
[redacted]

January 11, 2007

Dear Mr. Holbert:

I wanted to follow up on our conversation today regarding your employment status with Greenville Technical College. As you know, we discussed on January 5, 2007 your upcoming appointment with your physician that was to occur today. You and discussed the fact that your 180-day extended disability period would be expiring on January 11, 2007. During that discussion, you indicated that you were returning to the physician today to receive an update on your ability to return to work. We also discussed this on January 8th.

Based on our discussion today, it was not apparent that you have obtained a release to return to work from your visit with your physician today. As you and I discussed, we are now at the point where you and your physician need to make the decision as to whether you can return to work. If your physician releases you to return to work, please drop by my office on Friday morning January 12th so that we can review your return to work documents. If you are not able to return to work tomorrow, the College has made the decision to backfill your current position. Unfortunately, this decision will result in your separation from the College.

If you have any questions concerning this letter, please feel free to contact me.

Sincerely,

Gregory D. Cann
Human Resources

0371

Greg Cann

68

From: Ken Holbert [redacted]
Sent: Monday, January 08, 2007 5:36 PM
To: Greg Cann
Subject: Short term disability and metting today
Importance: High

Good afternoon Mr. Gantt,

I appreciate your meeting with me today. Can you find out about the short term / long term disability that I pay extra for each month via payroll deduction? Also, did you here from the state accident fund?

Thanks,

Ken Holbert

Greg Cann

69

From: Ken Holbert [redacted]
Sent: Friday, January 05, 2007 8:11 AM
To: Greg Cann
Subject: Ken Holbert Doctors excuses / visit
Attachments: 2007-01-04-GASTROENTEROLOGY ASSOCIATES P.pdf; 2007-01-04_Alfred T Nelson.pdf; 2007-01-04_Baptist_Upstate_physicvians.pdf

Good Morning Mr. Cann,

I am attaching 3 PDF files. One is from the gastroenterologist allowing my return to work. On is from my neurosurgeon stating I am to be out until the 11th of January 2007. I left a copy of the federal form with his receptionist. The last statement is from my visit to my family doctor yesterday. He ordered a full cervical MRI that will be done today at 6:00 PM.

I have not contacted Sid as you had mentioned in our last conversation.

Thanks,

Ken Holbert

GREENVILLE TECH
College That Works

Dr. Alfred T. Nelson
Neurosurgical & Spine Institute
20 Medical Ridge Drive
Greenville SC 29605

November 28, 2006

Dear Dr. Nelson:

We understand that Kenneth L. Holbert is a patient of yours. As you know, Mr. Holbert has provided notes from your office indicating his need to be away for work. In order to allow us to get a clear perspective from you regarding his current disability as it relates to his job duties, I have attached a copy of his current job description. Would you please take a look at this description and indicate to me how his job duties are impacted by his current disability. If you have any questions, please feel free to contact me. We appreciate your assistance.

Sincerely,

Penny J. Moore

Penny J. Moore
Human Resources Manager

0383

GASTROENTEROLOGY ASSOCIATES, P.A.

KENNETH HOLBERT
SS[redacted] 55585G
12/08/2006

December 13, 2006

RE: Kenneth Holbert
Work Excuse

To Whom It May Concern:

The patient named above has been under my care and unable to work from December 12 thru 20, 2006.

Electronically Signed by: Glen G. Daves, MD.

317 St. Francis Drive, Suite 340, P.O. Box 8676, Greenville, S.C. 29604-8676
Phone (864) 232-7338 - Fax (864) 240-8140

Thanks,

Ken Holbert

79

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Sent: Thursday, December 14, 2006 11:15 AM
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Ken Holbert

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Greg Cann

75

From: Ken Holbert [redacted]
Sent: Sunday, December 24, 2006 12:24 PM
To: Greg Cann
Subject: RE: Ken Holbert / Endoscopy / Excuse

Thanks Mr. Cann,

May you have a very blessed Christmas and happy New Year.

Yours Truly,

Ken Holbert

From: Greg Cann [mailto:Greg.Cann@gvltec.edu]
Sent: Saturday, December 23, 2006 10:15 AM
To: Ken Holbert
Subject: RE: Ken Holbert / Endoscopy / Excuse

Ken,

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Thanks,

Gregory D. Cann SPHR
Human Resources
Greenville Technical College
P. O. Box 5616
Greenville SC 29606-5616
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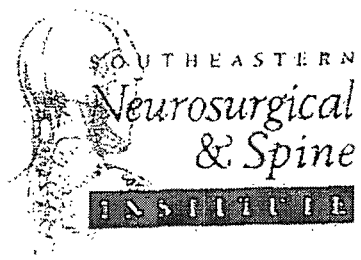

74

Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

04.Jan.2007

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT IS UNABLE TO WORK UNTIL HIS RETURN APPOINTMENT WITH DR NELSON ON 1-11-07.

Sincerely,

Alfred T. Nelson Jr, M.D.

GASTROENTEROLOGY ASSOCIATES, P.A.

KENNETH HOLBERT
SS# [redacted] 55585G
01/04/2007

93

January 4, 2007

RE: Kenneth Holbert
Work Excuse

To Whom It May Concern:

He/she may return to work/school 01/04/2007.

Electronically Signed by: Glen G. Daves, MD

317 St. Francis Drive, Suite 340, P.O. Box 8676, Greenville, S.C. 29604-8676
Phone (864) 232-7338 - Fax (864) 240-8140

0377

8. a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs, safety, or for transportation?

N/A

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery?

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

Signature of Health Care Provider

Neurosurgeon
Type of Practice

890 W. Faris Rd Ste 220
Address

Greenville SC 29605

864-455-8570
Telephone Number

01-05-07
Date

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

Employee Signature

Date

6. a. If additional **treatments** will be required for the condition, provide an estimate of the probable number of such treatments.

Physical Therapy
Cervical MRI
Return visit to see Dr. Nelson

If the patient will be absent from work or other daily activities because of **treatment** on an intermittent or part-time basis, also provide an estimate of the probable number of and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

Patient is unable to work at this time.

b. If any of these treatments will be provided by **another provider of health services** (e.g., physical therapist), please state the nature of the treatments:

Physical Therapy
MRI Cervical

c. **If a regimen of continuing treatment** by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

Physical Therapy
MRI Cervical

7. a. If medical leave is required for the employee's **absence from work** because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee **unable to perform work** of any kind?

No, not at this time.

b. If able to perform some work, is the employee **unable to perform any one or more of the essential functions of the employee's job** (the employee or the employer should supply you with information about the essential job functions)? If yes, please list the essential functions the employee is unable to perform:

Patient is unable to work at this time

c. If neither a. nor b. applies, is it necessary for the employee to be **absent from work for treatment**? Yes

Please FAX to Penny Moore 250-~~8495~~ 8830 or mail PO Box 5616, Greenville, SC 29606-5616

Certification of Health Care Provider
(Family and Medical Leave Act of 1993)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

*(When completed, this form goes to the employee, **Not to the Department of Labor.**)*

OMB No.: 1215-0181
Expires: 07/31/07

1. Employee's Name	2. Patient's Name *(If different from employee)*
Kenneth Holbert	

3. Page 4 describes what is meant by a **"serious health condition"** under the Family and Medical Leave Act. Does the patient's condition[1] qualify under any of the categories described? If so, please check the applicable category.

(1) _____ (2) ✓ (3) _____ (4) _____ (5) _____ (6) _____, or None of the above _____

4. Describe the **medical facts** which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

S/p left L5-S1 Hemilaminectomy and discectomy on 8-21-06. Patient has back pain. Patient goes to Physical Therapy. Patient has been having neck pain a Cervical MRI is scheduled for 01-05-07. Patient returns to see Dr. Nelson on 01-11-07.

5. a. State the approximate **date** the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present **incapacity**[2] if different):

Patient last day at work on 8-18-06. Date of surgery on 8-21-06 Patient will discuss return to work status when he returns to see Dr. Nelson on 01-11-07.

b. Will it be necessary for the employee to take work only **intermittently** or to work on a **less** than full schedule as a result of the condition (including for treatment described in Item 6 below)?

Patient is unable to work at this time.

If yes, give the probable duration:

c. If the condition is a **chronic condition** (condition #4) or **pregnancy**, state whether the patient is presently incapacitated[2] and the likely duration and frequency of **episodes of incapacity**[2]:

Patient is unable to work at this time.

[1] Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

[2] "Incapacity" for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

Form WH-380
Revised December 1999

0374

6. a. If additional **treatments** will be required for the condition, provide an estimate of the probable number of such treatments.

Physical Therapy
Cervical MRI
Return visit to see Dr. Nelson

If the patient will be absent from work or other daily activities because of **treatment** on an **intermittent** or **part-time basis**, also provide an estimate of the probable number of and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

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b. If any of these treatments will be provided by **another provider of health services** (e.g., physical therapist), please state the nature of the treatments:

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MRI Cervical

c. **If a regimen of continuing treatment** by the patient is required under your supervision, provide a general description of such regimen (*e.g.*, prescription drugs, physical therapy requiring special equipment):

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c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

Albert T. Wesley
Signature of Health Care Provider

Neurosurgeon
Type of Practice

890 W. Faris Rd Ste 220
Address

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Telephone Number

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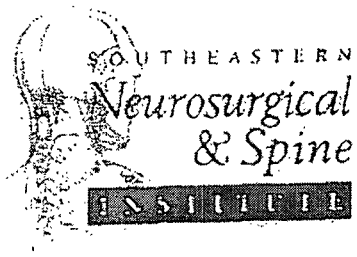

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Subject: RE: Ken Holbert / Endoscopy / Excuse

Good Morning Mr. Cann,

I had an Endoscopy on Tuesday of this week. The doctor scrapped my tongue and it is being tested in the lab to see what it is. At this point, they do not know if it is malignant, or contagious. They do not think it is thrush.

The timeline for this problem with my tongue is directly associated with the strep throat I got while in the hospital. I was on Antibiotics for 18 days and during the time on antibiotics this condition with my tongue appeared. I am attaching a picture in hopes that the doctor you have hired for me can help identify what this could be. I also applied for 180 days FMLA extension I thought. If this does not count, then I will come back to work. However, I do not want to be responsible for other co-workers having a tongue like mine over the Christmas holidays.

Thanks,

Ken Holbert

77

From: Greg Cann [mailto:Greg.Cann@gvltec.edu]
Sent: Thursday, December 14, 2006 11:15 AM
To: Ken Holbert; Lydia Lomax; Penny Moore
Subject: RE: Ken Holbert / Endoscopy / Excuse

Hi Ken,

I hope that you are feeling better. We will need for this doctor to complete an official certification since this is a different physician that is now treating you. Penny can send a copy to you.

Also, please be aware that we have sent Dr. Nelson a letter along with your position description requesting detailed information from him that would support his continued recommendation for your absences from work. Our request was sent to his office on November 28th. We have not yet received any communication from him at this point. Please be aware that we will need information from both physicians to consider your request for additional time away from work. This information will need to be submitted to our offices by 1/3/07 since this will be our first day back at work after the holidays.

Please feel free to contact me if you have any questions.

Thanks,

Gregory D. Cann SPHR
Human Resources
Greenville Technical College
P. O. Box 5616
Greenville SC 29606-5616
Phone (864) 250-8191
Fax (864) 250-8630
greg.cann@gvltec.edu
This e-mail may contain confidential or legally privileged information that is intended only for the individual or entity named as the recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or reliance upon the contents of this e-mail is strictly prohibited. If you have received this e-mail in error, please contact the sender, so that Greenville Technical College can arrange for proper delivery, and then please delete this message. Thank you.

From: Ken Holbert [mailto:[redacted]
Sent: Thursday, December 14, 2006 7:42 AM
To: Greg Cann; Lydia Lomax; Penny Moore
Subject: Ken Holbert / Endoscopy / Excuse

Good Morning Mr. Can, Mrs. Lomax, and Mrs. Moore,

I had an Endoscopy done on Tuesday 12-12-06. The doctor scraped the growth on my tongue and I am now awaiting the lab results. They do not know what it is at this time. This growth occurred while on antibiotics because of the strep throat I got while in the hospital. The doctor is not sure if it is contagious and I am attaching a work excuse for this in PDF format.

Thanks,

Ken Holbert

GASTROENTEROLOGY ASSOCIATES, P.A.

KENNETH HOLBERT
SS[redacted] 55585G
12/08/2006

December 13, 2006

RE: Kenneth Holbert
Work Excuse

To Whom It May Concern:

The patient named above has been under my care and unable to work from December 12 thru 20, 2006.

Electronically Signed by: Glen G. Daves, MD.

317 St. Francis Drive, Suite 340, P.O. Box 8676, Greenville, S.C. 29604-8676
Phone (864) 232-7338 - Fax (864) 240-8140

GREENVILLE TECH
College That Works

Dr. Alfred T. Nelson
Neurosurgical & Spine Institute
20 Medical Ridge Drive
Greenville SC 29605

November 28, 2006

Dear Dr. Nelson:

We understand that Kenneth L. Holbert is a patient of yours. As you know, Mr. Holbert has provided notes from your office indicating his need to be away for work. In order to allow us to get a clear perspective from you regarding his current disability as it relates to his job duties, I have attached a copy of his current job description. Would you please take a look at this description and indicate to me how his job duties are impacted by his current disability. If you have any questions, please feel free to contact me. We appreciate your assistance.

Sincerely,
Penny J. Moore
Penny J. Moore
Human Resources Manager

0383

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

0384

GENERAL INFORMATION

0001223033

1223033	H60	Greenville Tech
Position Number	Agency Code	Agency Name
ET Division	Greenville/Greenville	
Division / Section / Unit	City / County	
Kenneth R. Holbert	23	Y/N
Employee Name	County Code	Is Position in Central Office ?
Information Res. Co	AJ45	0003	06
Current State Title	Alphanumeric Code	Slot	Band
F52	AC AD Div Chair/Dean Tech	U009	0011
Full / Part Time Indicator	Supervisor State Title	Alphanumeric Code	Slot
3752			
Hours Per Week			
1950			
Base Hours			

SOURCE OF FUNDING

100.00	000.00	000.00
State %	Federal %	Other %

☐ OHR COPY ☒ AGENCY COPY

OFFICE OF HUMAN RESOURCES

H60	AJ45	0003
Agency Code	Alphanumeric Code	Slot

Authorized Date

☐ Delegated ☐ New Position ☐ Prototype

☐ State Title Changes ☒ Update

Info Resource Consultant II
Approved State Title

Approval Signature — 7-21-04 Date Approved

REQUESTED ACTION INFORMATION

Update
Requested Action

Info Resource Consult II | AJ45
Requested State Title | Alphanumeric Code

☒ E FLSA Designation

Classification Specialist Signature — 4/23/04 Date

Other Required Signature — 5/11/04 Date

THE FOLLOWING SECTION OF THE POSITION DESCRIPTION IS TO BE COMPLETED BY THE SUPERVISOR

1. What are the minimum requirements for the position (Minimum requirements must at least meet the state minimum requirements for classified classes but may include additional requirements?

Bachelors degree plus two (2) years experience in automated information or communication system design, installation, operation, or repair. This experience should include WinXP, networking, and PC troubleshooting. A+ certification, MCP, and/or MCSE are a plus.

2. What knowledge, skills, and abilities are needed by an employee upon entry to this job including any special certification or license? .)

Employee must possess excellent technical skills and organizational ability. Must be proficient in managing Windows XP networks, fileservers, and system administration. Must be knowledgeable of computer equipment, peripherals, and common office computer hardware and software. Strong ability to analyze complex software and hardware problems and provide solutions in a timely manner; and strong communications skills encompassing verbal, written, and computer formats are also desired. Employee must also be capable of performing installation, testing, troubleshooting, maintenance, repair and networking. Experience with CAD/CAM software is a plus. Strong interpersonal capabilities are a must in providing assistance to faculty, staff and students.

JUL 23 2004

3. Describe the guidelines and supervision an employee receives to do this job, including the employee's independence and discretion.

This position reports to the Dean of Engineering Technology. The employee is expected to function with little supervision of supervision and be innovative in accomplishing tasks as prioritized by the Dean of Engineering Technology.

RECEIVED
HUMAN RESOURCES SERVICES

4. Indicate additional comments regarding this position (e.g., work environment, physical requirements, overnight travel).

There are no additional requirements for this job.

RECEIVED
MAY 13 2004

MISCELLANEOUS DATA

Employee Number

SC TECHNICAL ~~COLLEGE~~
HRS
Position Dept. Number

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

0385

1. Job Purpose:

To act as the network administrator for the ET Division faculty, staff, and laboratory computer system; to ensure that all hardware and software is maintained and upgraded throughout the system; to perform or assist with the division's computer planning, specifications, purchasing, installation, inventory, training, and maintenance as directed; and to manage computer technicians as assigned.

2. Job Functions:

	Essential/ Marginal (E or M)	Percentage of Time
Network and Administration		
• Maintain the ET network server. This includes software and hardware installation, maintenance, preventative maintenance and repairs. Maintain a good working relationship with everyone in the division and work well with other people on campus.	E	25%
• Provide file system protection to the network. This includes documentation, security, system back-up and file and account management.	E	15%
• Assist the ET Dean in setting priorities for the division and maintaining computer support in line with these priorities. Ensure that the ET Division's network is in compliance with the campus network.	E	15%
Planning and Implementation & Training		
• Coordinate and/or troubleshoot any hardware or software problems or emergencies with all computer and computer related equipment within the division. Ensure evening programs are covered with adequate support and problem reporting methods.	E	30%
• Install new equipment and software. Train faculty and staff on new hardware and software. Oversee division's computer equipment inventory.	E	10%
• Direct or assist division personnel in the specification and purchasing of computer hardware, software, and any other ancillary items.	E	5%

3. Position's Supervisory Responsibilities:

If this position includes supervisory responsibilities, please indicate the state title and number of positions of the three highest subordinates.

	STATE TITLE	NUMBER
(1)		
(2)		
(3)		

Number of employees directly supervised: 0

Total number supervised: 0

4. Comments:

5. The above description is an accurate and complete description of this job. Kenneth L. Hulbert Jr. — Employee's Signature — 4-23-04 — Date

Greg Cann

From: Ken Holbert [redacted]
Sent: Wednesday, November 22, 2006 6:40 PM
To: Greg Cann
Cc: Lydia Lomax; Penny Moore
Subject: RE: Ken Holbert recent dr. Visit report

Greg,

I cannot see how an employee on sick leave with 2 doctors statements can be required to come into work to discuss matters with the H.R. Personnel and not get any credit whatsoever for that time. Can you research this for me?

Ken Holbert

From: Greg Cann [mailto:Greg.Cann@gvltec.edu]
Sent: Tuesday, November 21, 2006 11:40 AM
To: Ken Holbert
Cc: Lydia Lomax; Penny Moore
Subject: RE: Ken Holbert recent dr. Visit report

Ken,

Thanks for your message and doctor's note. We will take this into consideration. We need to get a copy of your position description to your treating physician so that he can inform us of why you are/are not able to return to work. Please inform Dr. Nelson that we will be sending your position description to him for evaluation. We may also want you to schedule a visit with our contracted physician to gain a second opinion related to your condition. I will be in touch with you later if we need to proceed in this manner.

Penny advises me that she has talked with you concerning your pay status. As you know, your November check will be impacted by 9.74 hours without pay. Also, you will enter a no-pay status as of December 1st 2006.

We are still awaiting word on the status of your first report of injury from the State Accident Fund. We will keep you apprised of any developments that we hear.

Gregory D. Cann SPHR
Human Resources
Greenville Technical College
P. O. Box 5616
Greenville SC 29606-5616
Phone (864) 250-8191
Fax (864) 250-8630
greg.cann@gvltec.edu
This e-mail may contain confidential or legally privileged information that is intended only for the individual or entity named as the recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or reliance upon the contents of this e-mail is strictly prohibited. If you have received this e-mail in error, please contact the sender, so that Greenville Technical College can arrange for proper delivery, and then please delete this message. Thank you.

From: Ken Holbert [mailto:[redacted]]

SOUTHEASTERN Neurosurgical & Spine INSTITUTE

Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

83

14 Nov 2006

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 14.Nov.2006 for evaluation of S/P left L5-S1 hemilaminectomy and discectomy on 08-21-06. Patient states that the low back continues to have pain. Patient take Aleve qid and Lortab qid. Patient states that he has been doing upper body workouts. Patient states that the bilateral arms have been going numb at night. Patient states that he does have carpal tunnel syndrome. Patient continues to have thrush.

The diagnoses and plan are as follows:

ASSESSMENT:
HNP-L
Pain, Lumbar
Limb Pain
Surg.Follow Up Exam

PLAN:

Medical Advice: Contact the office if there are any problems; and . Continue physical therapy .
Restrictions:
Work Status: unable to work for: 1 month.
Consults and referrals: Referral request: Physical Therapy: continue.
Schedule Follow-up: in 1 month and as needed.
Impression: His leg pain is gone. His main complaint today is numbness in both hands. He wears splints at night and that seems to help. I recommend he continue with physical therapy.

Sincerely,

Alfred T. Nelson Jr. M.D.

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Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

02.Nov.2006
RE: KENNETH L. HOLBERT
SNSI

TO WHOM IT MAY CONCERN:

Information regarding KENNETH L. HOLBERT (DOB: [redacted], is as follows:

KENNETH HOLBERT IS UNABLE TO RETURN TO WORK UNTIL HE RETURNS TO THE OFFICE ON 11-14-06.
CURRENT PROBLEMS
724.2 Pain, Lumbar
729.5 Limb Pain
V67.00 Surg Follow Up Exam

RESOLVED PROBLEMS
722.10 HNP-L

If other information regarding KENNETH L. HOLBERT is needed, please contact the office.

Sincerely,

Alfred T. Nelson Jr, M.D.

GASTROENTEROLOGY ASSOCIATES, P.A.

KENNETH HOLBERT
SS#[redacted] 55585G
10/18/2006

October 18, 2006

RE: Kenneth Holbert
Work Excuse

To Whom It May Concern:

The patient named above has been under my care and unable to work OR ATTEND ANY MEETINGS 101806 THROUGH 102506. IF YOU HAVE ANY QUESTIONS PLEASE CALL OUR OFFICE AT 864-232-7338.
Electronically Signed by: Glen G. Daves, MD.

317 St. Francis Drive, Suite 340, P.O. Box 8676, Greenville, S.C. 29604-8676
Phone (864) 232-7338 - Fax (864) 240-8140

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10-10-06

Dear Mrs. Moore,

I would like to request up to an additional 180 days of Accrued leave due to the extended disability relating to Back Surgery. According to the Doctors Letter I will be returing to work November 2, 2006.

Thanks

K. Holbert

SOUTHEASTERN Neurosurgical & Spine
Alfred T. Nelson Jr, M.D.
20 Medical Ridge Dri
Greenville, SC 296
(864) 295-3600 Fax: (864) 295-48

87

05.Oct.2006

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 05.Oct.2006 for evaluation of S/P left L5-S1 hemilaminectomy and discectomy on 08-21-06. Patient states that he fell with hitting/landing on his tailbone at work last November and thinks that injury may have caused the disc fragments. Patient states that when running he would have low back pain. Patient states that after the ; he was only treated for his neck not the back. Patient is here today with the students from Greenville Tech to verify the fall had at work last November. Patient has been going to PT. Patient states that everything is fine as far as the surgery goes except he has no stamina. .

The diagnoses and plan are as follows:

ASSESSMENT:
HNP-L
Surg Follow Up Exam

PLAN:

Medical Advice: Contact the office if there are any problems.
Restrictions:
Work Status: return to regular duty in 4 weeks; and unable to work for: 4 weeks from 10-05-06.
Consults and referrals: Referral request: Physical Therapy: continue for 4 more weeks.
Schedule Follow-up: in 6 weeks and as needed.
Impression: He states he was fine before a fall at work last November, and his back and leg problems started after that accident. I believe from what he tells me today that his back and leg pain started from his injury at work. He is here today with Daniel who witnessed his accident. I would like him to continue with physical therapy for 4 more weeks.

Sincerely,

Alfred T. Nelson Jr. M.D.

Please FAX to Penny Moore 250-8495 or mail to PO Box 5616, Greenville, SC 29606-5616

8630

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Certification of Health Care Provider
(Family and Medical Leave Act of 1993)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

*(When completed, this form goes to the employee, **Not to the Department of Labor.**)*

OMB No.: 1215-0181
Expires: 07/31/07

1. Employee's Name: Kenneth Lee Halbert, Jr.

2. Patient's Name *(if different from employee)*:

3. Page 4 describes what is meant by a **"serious health condition"** under the Family and Medical Leave Act. Does the patient's condition[1] qualify under any of the categories described? If so, please check the applicable category.

(1) ✓ (2) _____ (3) _____ (4) _____ (5) _____ (6) _____, or None of the above _____

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

HNP @ L5-S1 on the left

Left L5-S1 laminectomy/discectomy scheduled for 8-21-06

5. a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity[2] if different):

Patient's first office visit on 7-18-06

Patient will be unable to work for six weeks past the date of surgery

Surgery date 8-21-06

b. Will it be necessary for the employee to take work only **intermittently** or to work on a **less than full schedule** as a result of the condition (including for treatment described in Item 6 below)?

No, unable to work - surgery date 8-21-06

If yes, give the probable duration:

c. If the condition is a **chronic condition** (condition #4) or **pregnancy**, state whether the patient is presently incapacitated[2] and the likely duration and frequency of **episodes of incapacity**[2]:

N/A

[1] Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

[2] "Incapacity," for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment thereof, or recovery therefrom.

6. a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments.

[redacted] surgery 8-21-06

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number of and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

unable to work for six weeks past the date of surgery

surgery on 8-21-06

b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

unknown at this time

c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

surgery 8-21-06
prescription drugs

7. a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind?

Yes. surgery on 8-21-06

b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? If yes, please list the essential functions the employee is unable to perform: N/A

c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? Yes. surgery on 8-21-06

90

8. a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? N/A

b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? N/A

c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:

N/A

Signature of Health Care Provider

Neuro
Type of Practice

690 W. Faris Rd Suite 220
Address

Greenville, SC 29605

864-455-8570
Telephone Number

8-21-06
Date

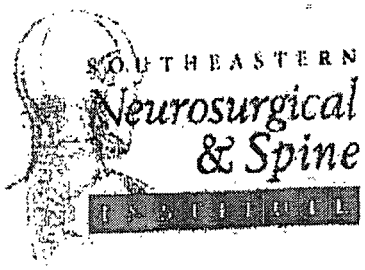
To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule;

Employee Signature

0394
Date

91



Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

10.Aug.2006

RE: KENNETH L. HOLBERT
DOB [redacted]

KENNETH L. HOLBERT was seen on 10.Aug.2006 for evaluation of Follow up on low back and left leg pain after the facet block. Patient continues to have left leg pain with weakness. Patient states that the facet block relieved the low back pain. Patient states that the bladder dysfunction is unchanged. .

The diagnoses and plan are as follows:

ASSESSMENT:
HNP-L
Pain, Lumbar
Limb Pain

PLAN:

Medical Advice: Contact the office if there are any problems.
Restrictions:
Work Status: unable to work for: 6 weeks.
Schedule Follow-up: as needed.
Comments: Left L5S1 laminectomy/discectomy.
Impression: He has had physical therapy. He has had a facet block. He continues to have left leg pain. He does have an HNP at L5S1 on the left. We discussed surgery today including the risks and benefits.

Sincerely,

Alfred T. Nelson Jr, M.D.

0395

Please FAX to Penny Moore 250-~~8495~~ 8630 or mail PO Box 5616, Greenville, SC 29606-5616

Certification of Health Care Provider
(Family and Medical Leave Act of 1993)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

*(When completed, this form goes to the employee, **Not to the Department of Labor**.)*

OMB No.: 1215-0181
Expires: 07/31/07

1. Employee's Name
Kenneth Holbert

2. Patient's Name *(If different from employee)*

3. Page 4 describes what is meant by a **"serious health condition"** under the Family and Medical Leave Act. Does the patient's condition[1] qualify under any of the categories described? If so, please check the applicable category.

(1) ____ (2) ✓ (3) ____ (4) ____ (5) ____ (6) ____, or None of the above ____

4. Describe the **medical facts** which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

lumbar MRI findings small disc protrusion at left L5-S1
Facet block scheduled on 7-31-06

5. a. State the approximate **date** the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present **incapacity**[2] if different):

7-18-06 - date the condition commenced
probable duration - patient is to remain out of work until 8-10-06- this date is depends on patients condition

b. Will it be necessary for the employee to take work only **intermittently or to work on a less than full schedule** as a result of the condition (including for treatment described in Item 6 below)?

unknown at this time

If yes, give the probable duration:

c. If the condition is a **chronic condition** (condition #4) or **pregnancy**, state whether the patient is presently incapacitated[2] and the likely duration and frequency of **episodes of incapacity**[2]: N/A

[1] Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

[2] "Incapacity," for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

Form WH-380
Revised December 1999

0396

93 * Trussea new pt please add to first group

6. a. If additional **treatments** will be required for the condition, provide an estimate of the probable number of such treatments.

Facet block on 7-31-06

If the patient will be absent from work or other daily activities because of **treatment** on an **intermittent** or **part-time** basis, also provide an estimate of the probable number of and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

unknown at this time
RTO 8-10-06

b. If any of these treatments will be provided by another **provider of health services** (e.g., physical therapist), please state the nature of the treatments:

Facet block by a radiologist

c. If a **regimen of continuing treatment** by the patient is required under your supervision, provide a general description of such regimen (*e.g.*, prescription drugs, physical therapy requiring special equipment):

facet block

7. a. If medical leave is required for the employee's **absence from work** because of the **employee's own condition** (including absences due to pregnancy or a chronic condition), is the employee **unable to perform work** of any kind?

patient is to remain out of work until approximately the return appointment on 8-10-06

b. If able to perform some work, is the employee **unable to perform any one or more of the essential functions of the employee's job** (the employee or the employer should supply you with information about the essential job functions)? If yes, please list the essential functions the employee is unable to perform:

Same as above

c. If neither a. nor b. applies, is it necessary for the employee to be **absent from work for treatment**?

Same as above

0397

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8. a. If leave is required to **care for a family member** of the employee with a serious health condition, **does the patient require assistance** for basic medical or personal needs or safety, or for transportation? N/A

b. If no, would the employee's presence to provide **psychological comfort** be beneficial to the patient or assist in the patient's recovery? N/A

c. If the patient will need care only **intermittently** or on a part-time basis, please indicate the probable **duration** of this need:

N/A

Signature of Health Care Provider

Neuro
Type of Practice

890 W. Faris Rd Suite 220
Address

Greenville, SC 29605

864-455-8570
Telephone Number

8-7-06
Date

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

Employee Signature

Date

0398

GREENVILLE TECH
The College That Works

July 19, 2006

Mr. Ken Holbert
[redacted]

SUBJ: Notice of Declaration of Leave under the Family Medical Leave Act (FMLA)

Dear Ken:

Your current leave for your back injury began on July 12, 2006. This leave qualifies to be charged against your 12 weeks of FMLA leave entitlement for this calendar year. You will need to furnish medical certification at this time. Enclosed please find a form to be completed by your health care provider for our records, so that a serious health care problem can be documented and we can place you under FMLA protection. This form must be received in Human Resources within 2 weeks. Failure to comply when requested by the college may affect your rights under FMLA which is designed to assist employees who have a serious illness.

You must substitute paid sick leave in cases of your own illness. When all your sick leave is appropriately used up it will be your choice to substitute annual leave with your supervisor's approval, or take leave without pay.

If you are an active, permanent, full-time employee regularly working 30 hours a week for 12 months and participate in the State health plan, you are eligible for Basic Long Term Disability (BLTD) coverage. The BLTD plan has a 90-day benefit waiting period. To receive a claim form packet, you must contact Lydia Lomax, 250-8190, as soon as it appears you will be disabled for 90 days or more. **This benefit is provided at no cost to you.** You must however, be actively employed at the time the disability occurs and under the care of a physician.

An employee should request in writing to receive up to (180) calendar days of combined leave with pay and leave without pay or (180) working days of leave with pay for an extended disability due to illness, injury or maternity. Please submit this request at the same time this letter is issued.

You must continue to pay your portion of your health insurance premiums during your 12 week FMLA entitlement, or any period you are in paid annual or sick leave status. If you have exhausted your 12 week FMLA entitlement, and are in leave without pay status, you must pay both the employee and the employer portion of health insurance premiums. You must make any premium payments to your Business Office by the tenth of each month to maintain your health insurance coverage. If you do not return to work from your current leave, you may be liable for payment of health insurance premiums paid by the state during your FMLA leave.

Upon return to work, you should have a fitness-for-duty certification from your health care provider. You are entitled to return to work to the same or an equivalent position.

Enclosed is a copy of your rights under FMLA. If you have any questions regarding this letter or your employee rights and benefits, please do not hesitate to call me at 250-8191.

Sincerely,

Helen Clarkson

Helen Clarkson

CC: Employee File

YOUR RIGHTS
under the
FAMILY AND MEDICAL LEAVE ACT OF 1993

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Employees are eligible if they have worked for a covered employer for at least one year, and for 1,250 hours over the previous 12 months, and if there are at least 50 employees within 75 miles.

REASONS FOR TAKING LEAVE: Unpaid leave must be granted for any of the following reasons:

- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

At the employee's or employer's option, certain kinds of paid leave may be substituted for unpaid leave.

ADVANCE NOTICE AND MEDICAL CERTIFICATION: The employee may be required to provide advance leave notice and medical certification. Taking of leave may be denied if requirements are not met.

- The employee ordinarily must provide 30 days advance notice when the leave is "foreseeable."
- An employer may require medical certification to support a request for leave because of a serious health condition, and may require second or third opinions (at the employer's expense) and a fitness for duty report to return to work.

JOB BENEFITS AND PROTECTION:

- For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

UNLAWFUL ACTS BY EMPLOYERS: FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA;
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT:

- The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- An eligible employee may bring civil action against an employer for violations.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FOR ADDITIONAL INFORMATION: Contact the nearest office of the Wage and Hour Division, listed in most telephone directories under U.S. Government, Department of Labor.

If you have any questions, contact Penny Moore, ext. 8495.

U.S. Department of Labor, Employment Standards Administrations, Wage and Hour Division, Washington, D.C. 20210

(FR Doc 93-13028 Filed 6-3-93, 8:45 a.m.) WH Publication 1420, June 1993

GREENVILLE TECH
College That Works
P.O. Box 5616
Greenville, S.C. 29606-5616

ADDRESS SERVICE
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FIRST CLASS

GREENVILLE
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29

PB METER
7045429

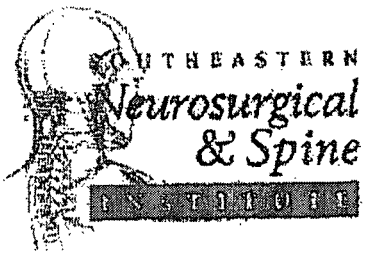
$02.37
0371
U.S. POSTAGE

Mr. Ken Holbert
[redacted]

FGBBTMP 29642

0401

98



Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

Injury July-2

18.Jul.2006

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 18.Jul.2006 for evaluation of Low back and left leg pain with weakness. Patient has bladder dysfunction. .

The diagnoses and plan are as follows:

ASSESSMENT:
HNP-L
Pain, Lumbar
Limb Pain

PLAN:

Medical Advice: Contact the office if there are any problems.
Restrictions:
Work Status: unable to work until return appointment.
Consults and referrals: Referral request: Radiologist for facet block.
Schedule Follow-up: as needed 2-3 weeks after facet block.
Type of follow-up visit: treatment evaluation.
Impression: 41 y.o. man with a history of low back pain since 1989. He was building a swing set recently and that is when his pain worsened. He has pain down his posterior left leg. He has had physical therapy. He has not had injections.

His MRI shows a small disc protrusion at left L5S1.

I would like to start with a facet block. I will see him back after the facet block.

Tests and Procedures
TO BE SCHEDULED
64475 Injection, anesthetic agent and/or steroid, paravertebral facet joint or facet joint nerve; lumbar or sacral, single level

Sincerely,

Alfred T. Nelson Jr, M.D.

FMLA letter July 12th

C402

99

EASLEY FAMILY PRACTICE

Phone: 864-859-2220
Fax: 864-859-4744

Michael Welborn, MD
Richard A. Banks, MD
Barbara S. Repik, MD
Deborah Ellis, FNP-C

Kenneth Halbert
was seen in our office on
7-11-06

This patient may return to work on

This patient may return to school on

List restrictions if applicable
7-12-06 — 7-18-06 out of work

Date: 7-11-06

Name of Physician Dr Richard Banks (RB)

0403

GASTROENTEROLOGY ASSOCIATES, P.A.

100

GLEN G. DAVES, MD
RICHARD C. GREER, MD
MICHAEL W. KELLY, MD
F. KAY HUNTINGTON, MD
MICHAEL L. CROWLEY, MD
C. STEPHEN YARBOROUGH, MD

JAMES D. GOULD, MD
(1939-1986)

JUDITH A. SPIVEY, MD
J. WILLIAMS HOLT,III, MD
GREGORY S. HOLT, MD
SUZY L. KIM, MD
AHMAD IDRIS, MD
JOSEPH S. LEBEL, MD

DATE: 3/16/06

PT NAME: Kenneth Holbert

SS#: 000 60 [redacted]

_____ Had an appointment today.

_____ Has been under my care from _____ to _____.

_____ May return to school/work parttime on _____.

_____ May return to school/work fulltime on _____.

✓ Special restrictions He has needs for daily rest, may require late arrival to work & should have adequate time for meals.

Glen Daves
Physician Signature

317 St. Francis Drive, Suite 340, Greenville, SC 29601
Ph (864) 232-7338-Fax (864) 240-8140

From: Ken Holbert [redacted] 101
Sent: Wednesday, January 11, 2006 2:55 AM
To: 'Sidney Shrum'
Cc: 'Carey Castle'
Subject: RE: FMLA request

Sid,

Carey stated that if I am on FMLA that was fine as long as I was under the guidelines. If I needed the leave for anything else then I should take the appropriate leave, (inferring to me that it would be granted). You stated that I could work 2 days a week until the formal adoption was completed. ETD1 is back up, and as Carey said, there is nothing going on, and I seem to be doing a good job. That is because of the support staff I have. However, there are duties that I must perform at tech that they cannot.

I am asking for FMLA because I do not want to come to work under the stress I have been under lately. I apologize, however I did not see in your e-mail below that you answered my request.

Unfortunately, it is my understanding that once an employee goes on FMLA, then any leave, (regardless of the need), during the 12 week period falls under FMLA. I was told this at the department of Revenue when I was graciously granted a full 12 weeks off with the adoption of Alicia Ann. I am required to use the first 10 days under family sick leave, and the rest would be used as annual leave, of which this year I will accrue an approximate additional 24 days.

I am asking for the leave because of the unnecessary stress at work, and the adjustment at home. I do not want any undue hardship placed on me before we finalize the adoption on February 14, 2006. I think that is both a disservice to my wife and children. You were right in your conversation with Mrs. Clarkson in stating that I am naïve, however I disagree with your statement that I am naïve by believing Mr. Thomas would not lie to me. I am known him for longer than, "just under a month", and he is a man of great integrity. I felt in my heart that I was being belittled and mocked. I am not stating this for retaliatory purposes. I believe that you know me better than that by now. I believe that you also know that I am very sensitive to emotional stress. I believe that you also know that I do not retaliate with anger and vengeance; I just want to lick my wounds until they scar. I do try to do the right thing, and as you said, sometimes doing the right thing brings these kinds of hardships upon me. I have too many wounds right now, and am tired.

Thanks,

Ken

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From: Sidney Shrum [mailto:Sid.Shrum@gvltec.edu]
Sent: Tuesday, January 10, 2006 7:27 PM
To: Ken Holbert
Cc: Carey Castle
Subject: RE: FMLA request

Ken

What you heard on the phone was me speaking to Helen Clarkson who was requesting a rundown on what is going on. She is our support person in HR who does not let us go outside of policy. I must be truthful with all of my superiors at Greenville Tech, and HR works in strict confidence. What Carey committed to was that he would past the info up the line. Helen Clarkson called me in response to a summary email I sent to her and Carey.

We have had no calls from Dr. Barton so I assume that there are no issues for now and I do know that Carey has passed the info from our conversation with him onto Steve Valand.

We have no control what he does with the info, but I do not expect any reaction.

Helen cautioned us that you must be working inside the guidelines of FMLA as Carey mentioned. Since we would not have granted you extended vacation time during a turnover semester period FMLA was the only way we have of granting you leave.

Sid

From: Ken Holbert [mailto:[redacted]
Sent: Tuesday, January 10, 2006 6:57 PM
To: Sidney Shrum; Ken Holbert
Subject: FMLA request

103

My family and I are working very hard right now to make sure that we can maintain a good healthy family relationship and in welcoming our new addition. I would like to request that I use the remaining FMLA time for this adjustment. It appears that the stress at work is just too much for me to bear right now, and some time off to let things cool down would be in the best interest of all.

I thought everything was settled yesterday after our meeting, and I took you and Carey at your word of only telling Steve Valand. Today, I was waiting to talk in line with you behind one of your students when I accidentally overheard you telling someone else about this issue, with a few other remarks. I went to the restroom when I was certain that you were discussing something that you probably did not want me to hear. When I came back you were still on the phone, and I wanted to let you know that I had been waiting to see you, so I came in and told you. I am not deceptive, and do not do things behind peoples back. However, what I overheard was so upsetting to me to the point of becoming nauseated and going home. I felt confused as to your true intentions and then remembered the first comment you made upon seeing my son. I want no animosity, and when someone gives me their word I take it at word value. You told me once that you give me a harder time than others, and do not know why. Well, I am asking for a few weeks of peace, and calmness in my life so that I can properly adjust to our new family.

Sid, I mean no harm to anyone, and I will be there if needed. I just do not want the additional stress that is going on at work right now. If you disagree, or need further clarification, please let me know.

Thanks,

Ken Holbert

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Ken Holbert

From: Ken Holbert [redacted]
Sent: Tuesday, January 10, 2006 6:07 AM
To: ET Tech Support
Subject: Ken Holbert task completed Monday 01-10-06
Importance: High

Good Morning,

Below is a list of task completed yesterday to be put on the task list. Hours worked are from 8:15am -6:15pm and I ate lunch while working.

Fixed James Peavy's computer
Fixed Glenn Galloways computer
Debated with Sid and Carey
Took Diane Grainger Morris a hole punch
Paid 2 compusa invoices delivered to purchasing
Took Mike Carey his camcorder, and gave it to Dan Benfield because Mike was not there 2 minutes after sending me an e-mail
Worked with Dave Fink to get my palm pilot to work with inventory
Got Bob Coutch to send me a list of incomplete items
Sent Dell an e-mail about a brand new workstation
Spent many many hours on ETD1 and on the phone with Microsoft at the minimal cost of $245.00 for the illusion of assistance. Recorded the conversation to gleen any instructions that may be helpful in the future.

Realized that Microsoft is like mission impossible, "There servers will self destruct just when you are comfortable that everything is working properly". Pay Microsoft to tell you to rebuild the server.

Thanks,

Ken

SOUTH CAROLINA STATE BUDGET AND CONTROL BOARD
EMPLOYEE INSURANCE PROGRAM
ACTIVE TERMINATION FORM

185

A

TO BE COMPLETED BY BENEFITS ADMINISTRATOR. PRINT IN BLACK INK

A. ACTION

REASON FOR TERMINATION (CHECK ONE):

- [x] LEFT EMPLOYMENT (T5)
  - Full-time to Part-time
  - Reduction in Force
  - Voluntary or Involuntary
- [ ] TRANSFER TO (TT): _____ Group ID #
  _____ Group Name
- [ ] SERVICE RETIREMENT (T7)
  • Regular • Police • GA • Judicial
- [ ] DISABILITY (T2)
  - Long Term Disability
  - Short Term Disability
- [ ] DECEASED (T1) Date of Death: _____
- [ ] CANCELLATION DUE TO NON-PAYMENT (TN)
- [ ] SABBATICAL LEAVE (TL)
- [ ] MILITARY LEAVE (TM)

B. ENR.

1. Social Security Number	2. Group ID Number	3. Group Name
[redacted]	H590804	Greenville Tech

4. Last Name	5. Suffix	6. First Name	7. M.I.
Holbert	JR.	Kenneth	L.

C. PLAN/DATES

CHECK COVERAGE(S) TO TERMINATE:

Effective Date: 02/01/2007

Effective Date: _____

- [x] HEALTH, BASIC LIFE, BASIC LTD
- [ ] OPTIONAL LIFE
- [x] DENTAL/DENTAL PLUS
- [ ] DEPENDENT LIFE CHILD
- [ ] DEPENDENT LIFE SPOUSE
- [ ] LONG TERM CARE
- [x] SUPPLEMENTAL LONG TERM DISABILITY

MONEYPLU$ (Notification To Flexible Benefits Administrator Only – MEDICAL SPENDING ACCOUNT)

D. CERT.

I HEREBY ATTEST THAT THE TERMINATION REASON IS CORRECT AND ACCURATE TO THE BEST OF MY KNOWLEDGE. THE ABOVE EMPLOYEE HAS BEEN OFFERED EITHER COBRA, DISABILITY OR SERVICE RETIREMENT INFORMATION, AND/OR ANY OTHER PERTINENT INFORMATION REGARDING CONTINUATION OR CONVERSION OF COVERAGE ACCORDING TO HIS/HER TYPE OF TERMINATION. FURTHERMORE, THIS EMPLOYEE AND ALL INTERNAL DEPARTMENTS HAVE BEEN NOTIFIED THAT THE INSURANCE COVERAGES HAVE BEEN TERMINATED AND A COPY OF THIS FORM HAS BEEN GIVEN/MAILED TO THE EMPLOYEE AND HMO FOR APPROPRIATE ACTION. CLAIMS WILL NOT BE HONORED AFTER THE DATE OF *TERMINATION BY ANY CARRIER UNLESS COVERAGE IS REINSTATED WITH THE APPROPRIATE APPLICATION, IF APPLICABLE.* CHECK ONE OR MORE FOR APPROPRIATE OPTIONS OFFERED:

- [x] COBRA
- [ ] RETIREE
- [ ] CONVERSION
- [ ] PORTABILITY

BENEFITS ADMINISTRATOR'S SIGNATURE Lydia M. Lomax DATE 01/22/07

EMPLOYEE NOTE: THIS FORM IS PROVIDED FOR INFORMATION ONLY. IT IS YOUR RESPONSIBILITY TO COMPLETE THE APPROPRIATE PLAN APPLICATION(S) FOR CONTINUATION OPTIONS UNDER EACH TERMINATION.

EIP USE ONLY

0403

REV. 4/02 WHITE COPY – STATE YELLOW COPY – AGENCY/SCHOOL/COUNTY PINK COPY – HMO/PAYROLL OFFICE GOLD COPY – EMPLOYEE

123

Authorization for Release of Information

Pursuant to an earlier telephone conversation with Kandy Peacock on Sunday, March 18, 2007, I, Kenneth L Holbert Jr. hereby authorize my physician to disclose to the South Carolina Technical College System/State Board for Technical and Comprehensive Education specific information concerning physician certifications dated January 11, 2007.

Kenneth L Holbert Jr.

Kenneth L. Holbert

3-19-2007

Date

106

Standard Insurance Company

Employee Benefits Department 800.628.9696 Tel 800.487.0961 Fax
PO Box 2800 Portland OR 97208-2800

State of South Carolina
Long Term Disability Benefits
Employer's Statement

Please type or print. Form may be returned for unanswered questions.
NOTE: Standard Insurance Company is acting only in an administrative capacity for the Basic LTD Plan.

1. EMPLOYEE

Full Name: Kenneth L. Holbert Social Security No.: [redacted]
Address: [redacted] City: [redacted] State: [redacted] Zip Code: [redacted]
Phone No.: [redacted] Birthdate: 07/04/1965

2. INFORMATION

Job Title: Information Resource Consultant II Date Employed: 01/24/2000
(Please attach a copy of position description.)
Employee's work location *(agency/institution)*: Greenville Technical College Group No.: H590804
Employee's coverage effective date: ☒ State Basic LTD 02/01/2000
☐ Supplemental LTD 9/1/1995 ☒ 90-day ☐ 180-day Benefit Waiting Period
Is employee currently insured with another carrier for disability coverage? ☐ Yes ☒ No Carrier:
Did employee receive a certificate of coverage for each appropriate plan? ☐ Yes ☒ No ☐ Don't Know *(Please forward Certificate of Coverage for State Basic LTD plan for covered employee when filing disability claim.)*
Last day of work before disability commenced: 06/30/2006
Date employee returned to work after disability ended: N/A
Is medical condition due to employment? ☐ Yes ☐ No ☒ Undetermined
Workers' Compensation claim? ☒ Yes ☐ No Carrier Name: State Accident Fund
Claim No.: 2005006659 Address: PO Box 102102, Columbia, SC 29221-5000
Have you considered allowing the employee to work in another occupation, or to modify and/or alter the job duties of the current occupation?
☐ Yes ☒ No Please explain:
On FMLA? ☒ Yes ☐ No Effective date: 7/12/06 through: 10/4/06
Is employee terminated? ☐ Yes ☒ No Effective: Reason:
Is employment scheduled for termination? ☐ Yes ☒ No Effective: Reason:
Hours worked per week before disability commenced: 37.5
Date sick leave benefits paid through: 10/13/2006 Salary continuation from: 10/16/06 through: 11/30/2006
Is Claimant on LWOP? ☐ Yes ☐ No Effective: 12/1/06 through: undetermined

3. SALARY *(Earnings as of last day worked before disability commenced)*

Regularly paid 37.5 hours per week, excluding overtime.
Please check ONE:
☒ Basic Yearly Earnings $ 52,331
☐ Basic Monthly Earnings $ _____ for _____ months per year
☐ Basic Hourly Earnings $ _____ for _____ months per year OR _____ days per year
☐ Basic Contract Earnings $ _____ length of contract: _____
☐ Commissions (Please attach list of commissions paid for the period specified in your Group Policy)
☐ Shift Differential ☐ Bonuses
Date of last increase: 7/1/06 Earnings prior to increase: $ 50,807
Yearly employment schedule, indicate: ☒ 12-month period ☐ Other (i.e. contract days, 9 mos., etc.): _____

RECEIVED
JAN 18 2007
Employee Benefits - LTD

ndard Insurance Company

Employee Benefits Department 800.628.9698 Tel 800.437.0961 Fax
Box 2800 Portland OR 97208-2800

107

State of ...
Long Term Disability Benef
Employer's Stateme

DEDUCTIBLE INCOME

Employee eligible for or now receiving benefits from:	Applied Yes	Applied No	Receiving Yes	Receiving No	Receiving Don't Know	Date of Application	Amount Weekly	Amount Monthly	Effective Date
Optional Retirement Plan Acct. No.: ☐ TIAA/CREF or ☐ Other: N/A	☐	☐	☐	☐	☐				
PORS N/A	☐	☐	☐	☐	☐				
SCRS	☐	☒	☐	☐	☐				
f. GARS N/A	☐	☐	☐	☐	☐				
g. JRS N/A	☐	☐	☐	☐	☐				
i. Social Security N/A	☐	☐	☐	☐	☐				
g. Workers' Compensation Claim No. 2005 - 006659	☒	☐	☐	☒	☐				
h. Leave Pool or Shared Leave	☐	☒	☐	☐	☐				
i. Other: (e.g. short-term disability insurance, another long-term disability plan, unemployment or union benefits, etc.)	☐	☒	☐	☐	☐				

If this employee does not belong to SCRS, please provide our office with the name and telephone number of the contact person for this employee's retirement plan.

Person to contact: _____ Telephone: (_____) _____

5. TAX INFORMATION

Is this employee subject to Social Security taxes? ☑ Yes ☐ No

If yes, what are the employee's year-to-date Social Security wages? $43,734.76

If the employee has Supplemental LTD Coverage:

What percentage of the Supplemental LTD premium does the employer pay? 0 %

the employee pay? 100 %

Are Supplemental LTD premiums paid with pre-tax dollars under a Section 125 or cafeteria plan? ☐ Yes ☒ No

Has this Supplemental LTD contribution percentage changed within the last three years? ☐ Yes ☒ No

Employer's Federal Tax ID Number: 57-0420967

6. ATTACHMENTS *(Please check and attach copies of the following)*

- ☑ Employee's current W-4 form, include withholding allowances
- ☑ The 2 most current Notice of Election forms with signed authorization that verifies Health Plan enrollment for at least 1 year or for the duration of coverage, whichever
- ☑ Supplemental LTD Enrollment form(s), including refusal of coverage if applicable
- ☑ Job class specification and position description
- ☐ Employment Application or Resume
- ☐ Deductible Income Documents (Social Security, Workers' Compensation, SCRS, etc.) if available

7. EMPLOYER REPRESENTATIVE COMPLETING THIS FORM

Employer: Greenville Technical College Phone No.: 864 250-8190 Policy No.: 621142

Address: PO Box 5616 City: Greenville State: SC Zip Code: 29

Acknowledgment

I hereby certify that the answers I have made to the foregoing questions are both complete and true to the best of my knowled belief. I acknowledge that I have read the applicable fraud notice on page 16 of this form.

Signature: Lydia M. Lomax Date: 01/16/200

Prepared by: LYDIA M. LOMAX Title: Benefits Counselor II

Phone No.: (864) 250-5190 Fax No.: (864) 250-8630

0411

SECOND STEP

GREENVILLE TECH
College That Works

109

Thomas E. Barton, Jr.
President

Area Commission

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Greenville Plastic Surgery, P.A.

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Batson Accounting & Tax, P.A.

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T. Walter Brashier Co.

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Superintendent
Greenville County Schools

O.T. Hill
Beaverdam Baptist Church

Raymond A. Mattson, Jr.
University Center Advisory Council

Charles J. Saylors
Chairperson
Greenville County School Board

February 21, 2007

Mr. Kenneth L. Holbert
[redacted]

Dear Mr. Holbert:

I have reviewed the letter that you sent to me regarding your appeal related to your recent separation from the College. As you know, you were separated from the College due to the fact that you did not return to work at the end of your 180-day extended disability period. You indicated that you did not receive a letter regarding your separation; however, I have checked with the Human Resources Department, and you were in fact sent a letter indicating that you would be separated from the College. I have attached a copy of this letter for your reference.

You indicated that Mr. Cann told you that telecommuting was not allowed for college employees. Telecommuting may be a viable option in some circumstances; however, you were on an approved FMLA leave and extended disability leave since July 2006. Our State Board for Technical and Comprehensive Education procedure is very clear when it states that telecommuting may not be used as a substitute for other types of leave such as sick leave, family medical leave, annual leave, faculty non-work days, or workers compensation. I have included a copy of the telecommuting procedure for your review.

Based on the facts that I have reviewed regarding your separation from the College, it is my decision to uphold the original decision that was made in January to separate you from employment with the College since you did not return to work at the end of your 180-day extended disability leave. If you have any further questions related to my decision, please feel free to contact my office.

Sincerely,

Tom Barton

Thomas E. Barton, Jr.
President

TEB:vm

Attachment

P.O. Box 5616
Greenville, South Carolina
29606-5616
864-250-8000
www.greenvilletech.com

Thursday, February 15, 2007

109

Dear Dr. Barton,

I am writing this letter to appeal my termination grievance that was denied by my supervisor and Vice President of Curriculum in a letter I received on February 10, 2007. I have further researched my particular issues in regards to my termination of employment with Greenville Technical College on or about January 12, 2007. I have documentation to substantiate all of my claims. My doctor listed me as able to return to work on January 18, 2007. I did not receive a termination letter, and received information the college filed with the Standard insurance company the next week that stated that I was not terminated, and was not scheduled to be terminated. On Monday January 29, 2007, I came to work with the note from my doctor, and a copy of the GTC form filed with the standard insurance company and worked 2 hours before being told I was terminated. The basis for my appeal is for the following reasons:

1 - Wrongful termination due to changes in college policy as a result of the college's hiring of a new Human Resource director. The policy changes include telecommuting, which was approved during my leave and subsequently denied including any credit for work performed by the new HR director, Gregg Cann. Mr. Cann does not believe that the State Tech OHR system allows for telecommuting. However, upon conversations with the state OHR office, I asked some general questions, one of which was in regards to the telecommuting policy. I was told that it was agency or college specific as to whether it is allowed. I was referred to SC Code of laws as stated below:

SECTION 8-11-15. Minimum full-time workweek; alternative scheduling strategies and alternate work locations authorized.

(A) The minimum full-time workweek for employees of state agencies and institutions is thirty-seven and one-half hours. The agency or institution may vary an employee's work schedule through the use of alternative scheduling strategies to meet the needs and service delivery requirements of the agency or institution.

(B) State agencies may use alternate work locations, including telecommuting, that result in greater efficiency and cost savings.

Upon taking FMLA leave beginning on July 12, 2006, I was told by Mrs. Moore in HR that it was the college's policy to allow an employee to work from home pending approval by the employee's supervisor. I told this to my supervisor, Sid Shrum, and he agreed, and subsequently required me to perform certain job duties from home. I worked approximately 5 days before being told by Mr. Cann that the state did not allow Tech Employees to work from Home. Even after being told that I was required to perform specific job related duties.

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The time between the expiration of my FMLA leave and the time that the doctor released me to work was exactly 3 work days. The Monday in between was a holiday. I worked enough hours during my FMLA time to cover that period.

There are other issues in regards to the causes of my termination that will be added pending further information.

I have worked as a state employee for 18 years and for Greenville Tech in both a full time and part time capacity since 1994. I have learned a lot at Greenville Tech and I considered my job in the ET Division to be one of solving puzzles. I can still be a valuable asset to the college if given the chance.

I am asking to be re-employed by Greenville Tech in my old job, or if necessary, any position within the same classification where my skills can be utilized. I am also asking that if you do not believe that my current health status is sufficient enough to work for Greenville Tech, that you assist me with applying for South Carolina Ste Employee retirement disability. Thirdly, I ask for any other applicable and allowable fees that result from my time and duration of termination and appeals.

Again, I will add to the information stated above as more documentation is reviewed. Almost all of my personnel records were removed from my office prior to my first trip over there to clean it out. This has resulted in an increase in the amount of time and research I have put into filing my appeals and the basis of it. As an example, Mr. Cann is currently researching why my job description form has been altered. HR's copy has information on it that my copy does not.

Yours Truly,

Ken Holbert

111-112

SC TECHNICAL COLLEGE SYSTEM

111 Executive Center Dri
Columbia, SC 2921
(803) 896-533
Fax (803) 896-538
www.SCTechSystem.co

10

Barry W. Russell
System President

resident's Office: (803) 896-5280

Academic Affairs: 896-5361

The Center for Accelerated Technology Training: 896-5334

Communications: 896-5322

Development: 896-5320

Finance: 896-5315

Human Resource Services: 896-5352

Information Technology: 896-5406

South Carolina State Board for Technical and Comprehensive Education

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Guy C. Tarrant
At Large

Joe E. Taylor, Jr.
Ex Officio

James H. Rex
Ex Officio

March 18, 2007

VIA FACSMILE (864.295.4868)
& CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alfred T. Nelson, Jr., M.D.
Southeastern Neurosurgical & Spine
Institute
20 Medical Ridge Drive
Greenville, SC 29605

Re: Kenneth L. Holbert
[redacted]

Dear Dr. Nelson:

The above-referenced patient is an employee of Greenville Technical College, a college within the jurisdiction of the S.C. Technical College System. During a recent conference, Mr. Holbert presented 3 physician's certifications, bearing your electronic signature all dated January 11, 2007. Two of the three are contradictory. Copies of those 3 statements are enclosed for your review and examination.

Please understand that the matter pending before us is time sensitive and your cooperation is sincerely appreciated. THIS IS NOT A MEDICAL INQUIRY. Our sole purpose is to validate the authenticity of these medical certifications since they all contain the same date, and two contain contradictory information. Please certify, using the form attached for your convenience, that the medical certifications enclosed with this letter are exactly as you signed them, and have not been altered.

Please sign the enclosed affidavit and return it to my attention by facsimile (803.896.5353) and mail no later than Tuesday, March 20, 2007. A self-addressed envelope has been provided for your convenience. Thank you for your immediate attention to this matter.

Sincerely,

Kandy N Peacock

Kandy N. Peacock
Chief Human Resource Administrator

Enclosures

cc: Dr. Barry W. Russell, System President

Southeastern Neurosurgical & Spine Institute, P.A.

890 West Faris Rd. Suite 220 Greenville, SC 29605

To: Kandy Peacock / Date: 3.20.07

Fax #: 1-803-896-5353 Phone #:

From: Emily Williams
Phone: (864) 455-8577
Fax: (864) 455-1735

Re: Kenneth Holbert

Sheets To Follow: ____ (Including Cover Sheet)

THIS FACSIMILE MESSAGE IS PRIVILEDGED AND CONFIDENTIAL. IT IS INTENDED SOLEY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THAT PERSON OR THE PERSON RESPONSIBLE FOR DELIVERING TO THAT PERSON, YOU ARE HEREBY ADVISED THAT ANY SISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE MESSAGE IN ERROR, PLEASE IMMEDIATELY NOTIFY THE SENDER BY TELEPHONE AND SHRED THE ORIGINAL MESSAGE.

SC TECHNICAL COLLEGE SYSTEM

111 Executive Center Drive
Columbia, SC 29210
(803) 896-5320
Fax (803) 896-5397
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FAX ED 32001 EDW

115

Barry W. Russell
System President

President's Office: (803) 896-5230

Academic Affairs: 896-5361

The Center for Accelerated Technology Training: 896-5334

Communications: 896-5327

Development: 896-5220

Finance: 896-5315

Human Resource Services: 896-5352

Information Technology: 896-5406

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Ex Officio

James H. Rex
Ex Officio

March 18, 2007

VIA FACSMILE (864.295.4868)
& CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Alfred T. Nelson, Jr., M.D.
Southeastern Neurosurgical & Spine
Institute
20 Medical Ridge Drive
Greenville, SC 29605

Re: Kenneth L. Holbert
[redacted]

Dear Dr. Nelson:

The above-referenced patient is an employee of Greenville Technical College, a college within the jurisdiction of the S.C Technical College System. During a recent conference, Mr. Holbert presented 3 physician's certifications, bearing your electronic signature all dated January 11, 2007. Two of the three are contradictory. Copies of those 3 statements are enclosed for your review and examination.

Please understand that the matter pending before us is time sensitive and your cooperation is sincerely appreciated. THIS IS NOT A MEDICAL INQUIRY. Our sole purpose is to validate the authenticity of these medical certifications since they all contain the same date, and two contain contradictory information. Please certify, using the form attached for your convenience, that the medical certifications enclosed with this letter are exactly as you signed them, and have not been altered.

Please sign the enclosed affidavit and return it to my attention by facsimile (803.896.5353) and mail no later than Tuesday, March 20, 2007. A self-addressed envelope has been provided for your convenience. Thank you for your immediate attention to this matter.

Sincerely,

Kandy N. Peacock

Kandy N. Peacock
Chief Human Resource Administrator

Enclosures

cc: Dr. Barry W. Russell, System President

0418

116

Authorization for Release of Information

Pursuant to an earlier telephone conversation with Kandy Peac ck ( ) Sunday, March 18, 2007, I, Kenneth L Holbert Jr) erel / authorize my physician to disclose to the South Caroline Technical (olle) System/State Board for Technical and Comprehensive Education) peci c information concerning physician certifications dated January 11, 200).

Kenneth L Holbert Jr

Kenneth L. Holbert

3-19-2007

Date

SOUTHEASTERN
Neurosurgical
& Spine
INSTITUTE

117

Alfred T Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax (864) 295-4868

11.Jan.2007

RE: KENNETH L. HOLBERT
[redacted]

KENNETH L. HOLBERT was seen on 11.Jan.2007 for evaluation of Follow up on low back and neck pain. S/P left L5-S1 hemilaminectomy and discectomy on 08-21-06. Patient returns with cervical MRI on 01-05-07. Patient states that he has a lot of neck pain. Patient states that while lying on a heating pad the bilateral arms went numb. Patient state: that the bilateral shoulder and upper arm pain and the numbness in the arms wakes him up at night. Patient states that the low back pain is basically resolved. .

The diagnoses and plan are as follows:

ASSESSMENT:
HNP-L
Pain, Cervical
Pain, Thoracic
Pain, Lumbar
Limb Pain
Surg Follow Up Exam

PLAN: Patient may return to work on 1-12-07.

Tests and Procedures
TO BE SCHEDULED
72146 MRI, spinal canal and contents, thoracic; without contrast material
Associated ICD: 724.1 Pain, Thoracic

Sincerely,

Alfred T. Nelson Jr, M.D.

118

SOUTHEASTERN Neurosurgical & Spine INSTITUTE

Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

11.Jan.2007

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 11.Jan.2007 for evaluation of .

The diagnoses and plan are as follows:

ASSESSMENT:

PLAN: PATIENT TO REMAIN OUT OF WORK UNTIL RETURN APPOINTMENT WITH DR NELSON FOR MRI RESULTS.

Sincerely,

Alfred T. Nelson Jr, M.D.

119

SOUTHEASTERN Neurosurgical & Spine

Alfred T. Nelson Jr. M.D.
120 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

11.Jan.2007

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 11.Jan.2007 .

KENNETH HOLBERT IS CURRENTLY UNDER MY CARE FOR LUMBAR AND CERVICAL ISSUES. HE HAD INCREASED BACK PAIN AFTER BUILDING A SWING SET FOR HIS CHILD WHICH EXACERBATED HIS PRE EXSISTING WORK INJURY.

Sincerely,

Alfred T. Nelson Jr, M.D.

120

AFFIDAVIT OF MEDICAL PROVIDER

Re: Kenneth L. Holbert
DOB: [redacted]

I Alfred Nelson MD of Southeastern Neurosurgical & Spin Institute, examined three medical certifications dated January 11, 2007, on March 20 2007. By my signature below, I certify that the statements are exactly as wer signed by the physician and provided to the patient, and have not been altered.

Signature 3/20/07

M.D
Title

SWORN TO BE BEFORE ME

Donna N Phillips
Notary Public for South Carolina

This 20th day of March, 2007.

My Commission Expires: Nov. 18, 2012

SC TECHNICAL COLLEGE SYSTEM
Human Resource Services
111 Executive Center Drive
Columbia, SC 29210-8424

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Kenneth L. Holbert	*Kandy N. Peacock*
	DATE: *March 18, 2007*
FAX NUMBER: *864.269.2838*	TOTAL NO OF PAGES INCLUDING COVER: *2, including cover page*
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
RE: *As we discussed - Authorization*	YOUR REFERENCE NUMBER:

☐ URGENT ☐ FOR REVIEW x PLEASE COMMENT ☐ PLEASE REPLY
☐ AS REQUESTED

Dear Mr. Holbert,

Please sign the attached Authorization and return it as soon as possible. Since I will be out of the office, it will assist me greatly if you could return it tonight. Thanks so much for your assistance.

PHONE: 803-896-5354
FAX: 803-896-5353

Authorization for Release of Information

Pursuant to an earlier telephone conversation with Kandy Peacock on Sunday, March 18, 2007, I, _____ hereby authorize my physician to disclose to the South Carolina Technical College System/State Board for Technical and Comprehensive Education specific information concerning physician certifications dated January 11, 2007.

_____

Kenneth L. Holbert

_____

Date

SC TECHNICAL COLLEGE SYSTEM

Columbia, SC 29210
(803) 896-5320
Fax (803) 896-5387
www.SCTechSystem.com

124

Barry W. Russell
System President

President's Office: (803) 896-5280

Academic Affairs: 896-5361

The Center for Accelerated Technology Training: 896-5334

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Robert E. Barnett
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Bruce Herbert Ellis
At-Large

Montez C. Martin, Jr.
At Large

Guy C. Tarrant
At Large

Joe E. Taylor, Jr.
Ex Officio

James H. Rex
Ex Officio

Via Certified Mail
Return Receipt Requested

March 15, 2007

Mr. Kenneth Lee Holbert, Jr.
[redacted]

Dear Mr. Holbert:

This letter serves as a follow-up to our conversation of March 14, 2007. In our conversation, I requested that you provide original copies of the physician's statements that you presented as part of your grievance hearing on Tuesday, March 13, 2007. As I informed you, Dr. Russell has requested an opportunity to view these documents before he renders his final decision. Please forward those to this office no later than March 19, 2007 or Dr. Russell will have no other alternative than to render a decision based on the information presented.

Sincerely,

Kandy N. Peacock

Kandy N. Peacock
Chief Human Resource Administrator

cc: Dr. Barry W. Russell
Grievance File

0427

Thursday, March 15, 2007

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MAR 16 2007
SC TECH COLLEGE SYSTEM
EXECUTIVE DIRECTOR'S OFFICE

Dear Dr. Russell,

Thank you and Ms. Peacock for meeting with me. I am sending you the 3 original notes from Dr. Nelson on January 11, 2007. I am also attaching a picture of the closet that resulted in my injuring my neck and back at work. Below is a list of hours worked in 2006 of which I did not receive credit. I will calculate a subtotal of hours worked in January 2006, and then below do a subtotal of hours worked from July through December 2006 when I was given VPN permission from the Doctor. The e-mails that will be attached will add as a reference to the work that was performed. I worked over Christmas break in 2005; however I think that the hours worked in January 2006 were applied to hours from 2005 that were short due to a miscommunication.

Thanks,

Ken Holbert

1-04-2006	8.5 hours at the office.
1-05-2006	8.5 hours at the office.
1-06-2006	5.0 hours at the office.
1-08-2006	5.0 hours trying to repair a broken server
1-09-2006	10.00 hours in preparation for spring semester
1-10-2006	6.00 hours at the office.

Subtotal for January 2006 43.00 hours

7-12-2006 through 12-31-2006

During that time I worked 32 hours before Gregg Cann was hired and 203 hours after he was hired both at home and at work. These two amounts total to 235.00 hours

January 2006 subtotal 43.00 hours
7-12-2006 subtotals 235.00 hours

Total 278.00 hours

Yours Truly,

Ken Holbert

Ken Holbert

SOUTHEASTERN Neurosurgical & Spine INSTITUTE

126

Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

11.Jan.2007

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 11.Jan.2007 for evaluation of Follow up on low back and neck pain. S/P left L5-S1 hemilaminectomy and discectomy on 08-21-06. Patient returns with cervical MRI on 01-05-07. Patient states that he has a lot of neck pain. Patient states that while lying on a heating pad the bilateral arms went numb. Patient states that the bilateral shoulder and upper arm pain and the numbness in the arms wakes him up at night. Patient states that the low back pain is basically resolved. .

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Pain, Cervical
Pain, Thoracic
Pain, Lumbar
Limb Pain
Surg Follow Up Exam

PLAN: Patient may return to work on 1-12-07.

Tests and Procedures
TO BE SCHEDULED
72146 MRI, spinal canal and contents, thoracic; without contrast material
Associated ICD: 724.1 Pain, Thoracic

Sincerely,

Alfred T. Nelson Jr, M.D.

SOUTHEASTERN Neurosurgical & Spine INSTITUTE

127

Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

11.Jan.2007

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 11.Jan.2007 for evaluation of .

The diagnoses and plan are as follows:

ASSESSMENT:

PLAN: PATIENT TO REMAIN OUT OF WORK UNTIL RETURN APPOINTMENT WITH DR NELSON FOR MRI RESULTS.

Sincerely,

Alfred T. Nelson Jr, M.D.

128

Alfred T. Nelson Jr, M.D.
20 Medical Ridge Drive
Greenville, SC 29605
(864) 295-3600 Fax: (864) 295-4868

11.Jan.2007

RE: KENNETH L. HOLBERT
DOB: [redacted]

KENNETH L. HOLBERT was seen on 11.Jan.2007 .

KENNETH HOLBERT IS CURRENTLY UNDER MY CARE FOR LUMBAR AND CERVICAL ISSUES. HE HAD INCREASED BACK PAIN AFTER BUILDING A SWING SET FOR HIS CHILD WHICH EXACERBATED HIS PRE EXSISTING WORK INJURY.

Sincerely,

Alfred T. Nelson Jr, M.D.

SC TECHNICAL COLLEGE SYSTEM

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111 Executive Center Drive
Columbia, SC 29210
(803) 896-5320
Fax (803) 896-5387
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Barry W. Russell
System President

President's Office: (803) 896-5280

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Robert E. Barnett
At Large

Monte C. Martin, Jr.
At Large

Guy C. Tarrant
At Large

Joe E. Taylor, Jr.
Ex Officio

Inez M. Tenenbaum
Ex Officio

Via Certified Mail
Receipt Notification Requested

March 8, 2007

Mr. Kenneth Lee Holbert, Jr.
[redacted]

Dear Mr. Holbert, Jr:

This letter is confirming the rescheduling of your *third step grievance appeal meeting* with Dr. Barry W. Russell, System President, and me on Tuesday, March 13, 2007. Your scheduled time to meet is 10:00 a.m. The meeting will be held in the office of the System President, South Carolina Technical College System, System Office, 111 Executive Center Drive, Columbia, South Carolina.

You will have up to 25 minutes to present your own information regarding the appeal. Dr. Russell and I may then ask questions regarding that information and informal discussion usually takes place. This meeting is *not* adversarial in nature so you do not need an attorney, although you may have one present with you if you wish. In this non-adversarial meeting, your attorney would be primarily present to advise you as needed. After the meeting, Dr. Russell will probably discuss this matter with the Human Resource Office and Greenville Technical College staff before making any decision.

Unless I hear otherwise from you, I will expect to see you on Tuesday, March 13, 2007.

Sincerely,

Kandy N. Peacock

Kandy N. Peacock
Chief Human Resource Administrator

cc: Dr. Barry W. Russell

SC TECHNICAL COLLEGE SYSTEM

130

111 Executive Center Drive
Columbia, SC 29210
(803) 896-53[illegible]
Fax (803) 896-5[illegible]
www.SCTechSystem.co[illegible]

Barry W. Russell
System President

President's Office: (803) 896-5280

Academic Affairs: 896-5361

The Center for Accelerated Technology Training: 896-5334

Communications: 896-5322

Development: 896-5320

Finance: 896-5315

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Benjamin D. Snoddy
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Joe W. Pearce, Jr.
Sixth Congressional District

Robert E. Barnett
At Large

Montez C. Martin, Jr.
At Large

Guy C. Tarrant
At Large

Joe E. Taylor, Jr.
Ex Officio

Inez M. Tenenbaum
Ex Officio

Via Certified Mail
Receipt Notification Requested

March 7, 2007

Mr. Kenneth Lee Holbert, Jr.
[redacted]

Dear Mr. Holbert, Jr:

This letter is confirming the scheduling of your *third step grievance appeal meeting* with Dr. Barry W. Russell, System President, and me on Friday, March 9, 2007. Your scheduled time to meet is 10:00 a.m. The meeting will be held in the office of the System President, South Carolina Technical College System, System Office, 111 Executive Center Drive, Columbia, South Carolina.

You will have up to 25 minutes to present your own information regarding the appeal. Dr. Russell and I may then ask questions regarding that information and informal discussion usually takes place. This meeting is *not* adversarial in nature so you do not need an attorney, although you may have one present with you if you wish. In this non-adversarial meeting, your attorney would be primarily present to advise you as needed. After the meeting, Dr. Russell will probably discuss this matter with the Human Resource Office and Greenville Technical College staff before making any decision.

Unless I hear otherwise from you, I will expect to see you on Friday, March 9, 2007.

Sincerely,

Kandy N. Peacock

Kandy N. Peacock
Chief Human Resource Administrator

cc: Dr. Barry W. Russell

0433

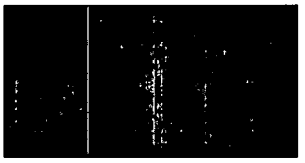
131

RECEIVED
MAR - 6 2007
SC TECH COLLEGE SYSTEM
EXECUTIVE DIRECTOR'S OFFICE

Wednesday, February 28, 2007

To: Dr. Barry W. Russell, System President
SC State Board for Technical and Comprehensive Education
111 Executive Center Drive
Columbia, SC 29210

From: Kenneth Lee Holbert, Jr.



Dear Dr. Russell,

I am writing this grievance letter to appeal Greenville Technical College's decision to terminate my employment due to my inability to come back to work on January 12, 2007. I received a letter from Dr. Barton responding to my appeal upholding the college's decision to terminate my employment on Friday, February 23, 2007. I had been employed by the College as the Network Administrator for the Engineering Technology Division, and was classified as an information resource consultant II. I have been employed by the State since March 17, 1989, and both part time and full time by Greenville Tech since 1994.

I am attaching a copy of Dr. Barton's letter and the letter he refers to as my termination letter in this package. The letter to which Dr. Barton refers is a letter dated January 11, 2007 from Greg Cann director of Greenville Technical Colleges Human Resources Department. The letter states that if I do not get a release to return to work on January 12, 2007 by my doctor, then the college will be forced to backfill my current position. It goes on to say that this will result in my separation from the college.

I did indeed get a note to return to work on January 12, 2007 during my January 11, 2007 doctor's appointment that morning. The note was to be light duty but did not list the restrictions, so I was going to call the doctors office back to get a revised note, however I first called Mr. Cann. He and I discussed getting a return to work note. When I told him that getting a note would not be a problem, he said if I did and could not do my job, then he would sue my doctor. Later that day he clarified that I could come back to work under light duty, and would fax a copy of the type of acceptable light duty, and my job description to the doctor. He faxed the job description, and not the light duty letter. Because of that the doctor decided to keep me out until the follow up MRI and tried to schedule it ASAP. I will list the reasons I am giving for my appeal, and then further clarify them by reason number. I will attach most of my supporting documentation with the copy I will be mailing. I will add to this grievance as further information becomes available if that is acceptable.

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What I am asking for is to be placed back into my job, and given the benefits I am entitled to before and during this appeals process. If I find that my neck problems hinder my ability to work, then I request that I be given time to file for SC Retirement disability before being terminated. At the very least, if I cannot get my job back, then I am asking that I be afforded the opportunity of filing for state retirement disability, which has to be done prior to termination, and should have been done to being prior to my termination.

I am appealing my termination based on the following reasons:

1. Violation of the AMERICANS WITH DISABILITIES ACT of 1990, (ADA)
2. Violation of an implied contract with Greg Cann, HR director of Greenville Technical College.
3. Violation of FMLA law.
4. Retaliatory discharge.

Documentation and reasons for wrongful termination:

5. 1. The Violation of the AMERICANS WITH DISABILITIES ACT of 1990, (ADA), has been occurring since I officially began working for Sid Shrum in 2005, and occurred by Sid Shrum before that when he served as one of my raters. I was originally hired to work under a computer team to supervise my job duties. That changed to reporting to the Dean of the ET Division, of which each department head had a role in my annual review. That changed to reporting to the assistant dean, which was Sid Shrum.

The department heads and Mr. Shrum were aware of my medical conditions, which are Crohn's disease, ADHD, and Allergic Rhinitis, (treated by allergy injections), during the first year I was in the ET Division. They also knew that stress caused flare ups of Crohns disease, and extreme flare ups were treated with Prednisone, which causes medically induced mania in me.

When Mr. Shrum became my supervisor, he would constantly harass me and cause stress. I have documentation of the harassments including recordings when the harassments became severe last year. *During September of 2004 is when my medical problems became more serious while at Greenville Tech*. My ADHD medicine price was changed because of the availability of a generic brand by BCBS state insurance. I had been on the brand name since March of 1997. The generic medicine, and the stress caused me to have a severe crohns flare up which was followed by 8 months of being on prednisone, 3 car wrecks multiple trips to the hospital for various injuries. I changed back to the brand name after 3 months; however the damage had already been done. In October of 2005, I quit using any alcohol in dealing with the Crohns disease, and have resorted to medications that have brought me back to normal. I can only take prednisone in extreme

situations, and thus very cautiously. It was also during this time that we were adopting a baby. We spent $7500.00 in adoption assistant fees, and the birth mother decided to keep the baby. This was in June 2005.

Mr. Shrum has frequently told me that in discussions with his wife and others, that he gives me a much harder time than he has ever given any other employee he has had, and he does not know why. On November 10, 2005, I injured my back and neck at work. I notified Mr. Shrum, and HR. I told them that I was going to the doctor to get treatment, however because we were adopting a baby that was to be born on November 14, 2005, I would not file workers comp unless it was serious. I did not realize at the time that I had fragmented 2 pieces of bone from the L5S1 vertebrae. I also did not realize that I had no choice, and was required to file. I began physical therapy on November 11, 2005 and continued through December 2005. I came back to work in January 2006. It was at that time that the worst of the harassment by Mr. Shrum occurred. Upon arriving back to work I was questioned by Mr. Shrum, and the dean Carey Castle in regards to the Greenville county school district issue, what information I had, and if I was going to file a lawsuit. I stated that this was personal and I was under no obligation to tell them. They stated that I was, and that the school district had everything to do with Greenville Tech because the Greenville county school district was Greenville Tech's biggest customer. One day, I walked up to Mr. Shrum's office, and stood behind a student in line to speak with Mr. Shrum. He was on the phone talking about me and the school district issue with the HR director. After that incident, I felt forced to take the remainder of my FMLA until our formal adoption on February 14, 2006 because the harassment was so unbearable that I was uncertain that I would still be employed. Upon returning to work on February 15, 2006, I was still in a constant state of nagging pain; however, the harassment by my supervisor became more severe. It got to a point where I had to ask a mutual friend that was also an attorney if he would speak to Dr. Barton for me. My friend asked me to go, and we met with Dr. Barton together.

Dr. Barton asked, if I was on state time when purchasing at the school auctions. I told him I was not. He then asked if I represented Greenville Tech. I told him that I did not. He said that I did not have to tell anyone at GTC about it. That upset Mr. Shrum, and he told me that he was upset with me because he thought he may lose his job over my meeting. Other things Mr. Shrum has said are statements like; I am going to file your workers comp just so that you can get a drug test. When he met my adopted baby boy, who is bi-racial, his only comment was, "I thought his hair would be curlier".

My back injury got to the point of being unbearable, and I was out of work from July 12, 2006 until January, 18, 2007. I was given a second return to work notice on January 18, 2007. I went back to work on January, 22, 2007, and worked 2 hours before being told to turn in my keys, and employee badge. I brought a copy to work on 1-22-07 of the form filled out by Greenville Tech to the Standard Insurance Company, which stated that I was not terminated, nor was I scheduled to be terminated, as well as the doctors statement that I was able to return to work.. I did this because Mr. Cann had stated previously that if I was only going to be out until the following Thursday

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which would be January 18, 2007; then that would be acceptable, and I could come back to work. I have that on recording as well.

I will not go on and on in regards to my harassment. Other harassment statements were from other department heads like Mike Carey, "Ken, if a network Administrator cannot work 37.5 hours per week, then we need to find a replacement". "By the way, Caleb, (my employee), is getting married and will need health insurance, he can take your place". When I was told by Mr. Shrum that I was in his gun sights, and I better be careful because he was going to try to either allow me to transfer or he would work on getting rid of me, I began recording most every conversation I had with him. He continually harassed me before during and after surgery. *I have recordings of all of the alleged harassment incidents.*

My basis for filing a grievance under the AMERICANS WITH DISABILITIES ACT of 1990 is that it began before my termination. It made my illnesses worse, and resulted in lengthening my recovery from surgery. I went off of payroll at the end of November 2006 and was not informed of the supplemental disability that I was entitled to receive. I even met with HR in October to discuss my enrollment issues and the Supplemental Long Term disability was never brought up. The surgery was due to an accident I had at work of which I did file a workers compensation claim. The stress caused by no income From November forward and the other stresses from Mr. Shrum, such as e-mails asking me to lift when I got back to work, and piling junk in front of my office to move in December 2006, if I were to return, caused my disabilities to get so bad that I went from 178lbs in September 2006 to 150lbs in December 2006.

2. *Violation of an implied contract with Greenville Technical College.*

During the week of January 11, 2007, I was having some severe problems with my shoulders, arms and hands. I was getting about 3 hours sleep per day, and was exhausted. During the course of that week, I had been told so many inconsistencies by Greenville Tech that I recorded all of my conversations with Mr. Cann. On January 11, 2007 after sending me the letter stating that I would be terminated. Mr. Cann stated during a phone conversation that he would allow me to work light duty, *(which earlier in the day he stated that he would not allow)*, and would fax over an acceptable light duty statement when he faxed my job description to the doctor. I went back by the doctor's office that afternoon for clarification purposes as requested by Mr. Cann, and the doctor gave me a note to stay out until the results of the MRI could be evaluated. It was not until Friday, January 12, 2007 that I found out when the MRI was scheduled for Tuesday, 1-16-07 and my return appointment was scheduled for Thursday, 1-18-07. I left a voicemail for Mr. Cann Friday afternoon. I also began Physical therapy that helped my neck, shoulders and arms greatly on that Friday 1-12-07. *Mr. Cann had previously stated that one more week out would be acceptable. I have that recorded.* Because I had received no official termination letter, only the form sent to the standard insurance company on Friday January 19, 2007, I went to work the following Monday for two hours.

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The other violation of an implied contract is that Penny Moore in HR stated that it was Greenville Tech's policy that you can telecommute from home if approved by your supervisor. One other HR employee had done so during her back surgery. I told this to my supervisor, and he had me do things from home as work. I was actually ordered to do work from home. Mr. Cann was hired at Greenville Tech about a month after I took sick leave, and denied me the ability to do any work at home, and retroactively dismissed all credit for work I did at home. During 2006 there are 9 days I was not paid for. I worked 5 days in January and the other 4 days during July, and August.

3. *Violation of FMLA law.*

The violations of FMLA laws are listed above.

4. *Retaliatory discharge.*

My discharge from Greenville Tech was officially for 3 days beyond my FMLA approved time. However, it is my belief that the evidence I will produce will show that Mr. Shrum was so frustrated with me and upset that about my meeting with Dr. Barton that he was going to do anything he could make sure that I was either fired or transferred.

The attachments are numerous and include termination letters, e-mails, the standard insurance form filled out by Greenville Tech and all other pertinent information. Any copies of recordings will be mailed with the hard copy tomorrow.

Yours Truly,

Ken Holbert

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STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION
STATEMENT OF POLICY

POLICY NUMBER: 8-3-102

PAGE: 1 of 1

POLICY TITLE: SICK LEAVE

LEGAL AUTHORITY: Section 59-53-20 of the 1976 Code of Laws of South Carolina, As Amended; Section 19-710 of the State Human Resources Regulations

DIVISION OF RESPONSIBILITY: Human Resource Services

DATE APPROVED BY BOARD: April 11, 1979

DATE OF LAST REVISION: February 12, 2004

CHAIRMAN

EXECUTIVE DIRECTOR

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SC STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION / THE SC TECHNICAL COLLEGE SYSTEM.

It shall be the policy of the State Board for Technical and Comprehensive Education to grant sick leave to all of its employees in accordance with the Sick Leave Guidelines of the State Human Resources Regulations.

All procedures on sick leave will be subject to review and audit by the State Board for Technical and Comprehensive Education and the State Budget and Control Board to ensure compliance with applicable State and Federal guidelines.

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STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION
PROCEDURE

PROCEDURE NUMBER: 8-3-102.1

PAGE: 1 of 9

TITLE: SICK LEAVE

POLICY REFERENCE NUMBER: 8-3-102

DIVISION OF RESPONSIBILITY: HUMAN RESOURCE SERVICES

DATE OF LAST REVISION: April 15, 2003

Director, Human Resource Services

Executive Director

DISCLAIMER

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I. Eligibility

Sick leave shall be granted to and accrued by:

A. Full-time employees in permanent positions, temporary grant employees if provided through the grant, and

B. Part-time employees in permanent positions who are scheduled to work at least one-half (1/2) the workweek of the agency on a twelve (12) month basis or who are scheduled to work the equivalent of one-half (1/2) the workweek of the agency on a twelve (12) month basis during the full school or academic year of nine (9) months or more.

II. Sick Leave Record

A leave record shall be maintained by the employing agency for each employee covered under the provisions of the Sick Leave Act, which shall be subject to audit by the State Budget and Control Board and the State Board for Technical and Comprehensive Education. Such records shall:

A. Reflect leave earnings and charges in terms of hours.

B. Indicate the number of leave hours earned during the current calendar year.

C. Indicate the number of leave hours used during the current calendar year.

D. Indicate the number of leave hours carried forward from the previous calendar year, but not exceeding the maximum accrual authorized.

E. Indicate the number of hours in the employee's official workweek.

F. Include any other information the agency may require.

G. Be reviewed by or reported in writing to the employee not less than once per calendar year and be supported by individual leave slips signed by the employee and the supervisor. These leave slips shall be retained for not less than two (2) weeks after review by the employee.

III. Earnings

A. Full-time employees in permanent positions

All full-time employees in permanent positions shall be credited with sick leave beginning with the date of employment at the rate of one and one-fourth (1-1/4) working days per month of service or fifteen (15) days per year.

B. Part-time employees in permanent positions

All part-time employees in permanent positions shall be credited with sick leave beginning with the date of employment on a pro rata basis that produces the equivalent earnings of one and one-fourth (1-1/4) working days per month or fifteen (15) days per year for full-time employees.

C. Additional sick leave may be granted

In addition to sick leave that may be credited as provided under this section, the Executive Director or Chief Executive Officer may grant up to fifteen (15) days of additional sick leave in extenuating circumstances only upon reasonable assurance that the employee is expected to return to active duty within that period of time. Upon return to active duty, the employee will have all sick leave credits applied to the leave deficit at the rate of one and one-fourth (1 1/4) days per month until the deficit has been erased. Where no competent medical prognosis is available and an approximate date of return to active duty cannot be ascertained, the employee should be placed in leave without pay status.

IV. Maximum Accumulation

Full-time and part-time employees in permanent positions shall be permitted to accrue up to one hundred ninety-five (195) days and carry over from one calendar year to the next any unused sick leave to a total maximum accumulation of one hundred eighty (180) days.

V. Earned Leave in Excess of Maximum Accumulation

Any employee who, prior to January 2, 1969, accumulated sick leave in excess of one hundred eighty (180) days pursuant to the then existing policy of any State agency, shall not forfeit the excess, but shall retain such excess leave which shall become the maximum amount the employee may carry over into future years. If the employee subsequently reduces the amount of sick leave carried over to one hundred eighty (180) days or less, one hundred eighty (180) days shall become the maximum amount of unused sick leave the employee may thereafter carry over.

VI. Crediting and Charging Sick Leave

A. Crediting Sick Leave

Employees shall not be credited with leave earnings for any month in which they are not in pay status for one-half or more of the workdays of the month. Employees who are in pay status one-half or more but not all of the workdays of the month shall be credited with leave earnings for the full month. An employee shall be credited with sick leave earnings while on annual leave, sick leave, or

other authorized leave with pay.

B. Charging Sick Leave

An employee's sick leave credit shall be charged for the actual time an employee must be away from the job. When a holiday is observed by the institution while an employee is on sick leave, such day shall not be charged as a day of sick leave.

C. Leave to accrue while in leave with pay status

Sick leave will accrue to the credit of an employee who is in leave with pay status such as annual, sick, and military leave with pay.

D. Leave not earned while in leave without pay status

Employees shall not earn sick leave while on leave without pay.

VII. Verification and Use of Sick Leave

A. Verification

The use of sick leave shall be subject to verification. When there is reason to believe that sick leave is being abused, the appointing authority may, before approving the use of sick leave, require a certificate of a physician or other acceptable documentation describing the disability and giving the inclusive dates. It is recommended that a documentation from a medical provider be submitted by an employee who is out three (3) or more days.

B. Use of sick leave

An employee shall be granted sick leave if absent for any of the following reasons:

1. Personal illness or injury incapacitating the employee to perform duties of the position.

2. Exposure to a contagious disease such that presence on duty could endanger the health of fellow employees when certified by a licensed

physician.

3. Appointment for medical or dental examination or treatment when such appointment cannot reasonably be scheduled during non-work hours. To the degree possible, examination appointments must be approved in advance by the appointing authority.

4. Sickness during pregnancy or other temporary disabilities. To the extent permissible, the date on which sick leave for disability is to begin shall be at the request of the employee based on the determination and advice of a doctor. In no event shall such date be prescribed unilaterally by an appointing authority except on the basis of professional medical opinion that the employee is physically incapable of performing normal duties or that continuing to perform normal duties would be hazardous to the health of the employee.

5. Treatment of substance abuse: Sick leave may be charged by an employee for the purposes of participating in public and/or private treatment and rehabilitation programs which have been approved by the South Carolina Department of Mental Health.

6. Sickness of immediate family members: Employees may use not more than ten (10) days of their earned sick leave annually to care for sick members of their immediate families. For purposes of this section, the employee's 'immediate family' means the employee's spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, or legal guardian and grandchildren.

7. An adoptive parent may use up to six weeks of his accrued sick leave to take time off for purposes of caring for the child after placement. The leave authorized by this section may be requested by the employee only if the employee is the person who is primarily responsible for furnishing the care and nurture of the child.

   Note: Leave taken under this section may qualify as FMLA leave and, if so will run concurrently.

VIII. Transfer

Employees, with the exception of temporary grant employees, who transfer without a break in service from one State agency to another shall transfer their accumulated sick leave up to the total amount accrued adjusted to the scheduled workweek of the gaining agency. In the case of any employee transferring from an agency under whose system the employee has, prior to January 1, 1969, a maximum accumulation in excess of that currently authorized by the gaining agency, the total shall be transferred. An employee of a state agency transferring to a school district of the state or a school district employee transferring to a state agency is permitted to transfer to and retain at his new employer all sick leave he accumulated at his former employer regardless of his employment status at the new employer. Sick leave not to exceed sixty days lost by a school district employee as a result of changing employment from a state agency to a school district is restored if the employee was employed by the school district or the state agency after June 28, 1984, and is employed on June 30, 1991

IX. Leave With or Without Pay for Extended Disability

For any extended period of disability due to illness, injury or maternity exceeding the amount of accrued sick leave, the employee may apply for leave without pay which, along with any paid leave that has been taken, shall not exceed one hundred eighty (180) days. The written request for leave without pay shall specify the inclusive dates. The request shall not be denied for bona fide illness or disability for employees. The leave without pay shall be granted with reinstatement privileges to the same position or one of comparable grade for which the employee is qualified. Institutions shall require a physician's certificate or other acceptable documentation describing the disability and giving the projected inclusive dates of disability prior to approval.

Dates set forth in the physician's certificate can be amended by the physician. As long as disability is certified by a physician, the amount of leave authorized shall not exceed (1) one hundred eighty (180) calendar days of combined leave with pay and leave without pay, or (2) one hundred eighty (180) working days of leave with pay; otherwise the employee shall forfeit reinstatement privileges and be separated from State service. In extenuating circumstances, the Executive Director or Chief Executive Officer, at his discretion, may extend the period of leave to a total of three hundred sixty-five (365) days. Leave taken under this section may qualify for FMLA and, if so, will run concurrently. Under the Americans with Disabilities Act of 1990, certain extended illnesses may be protected as disabilities and may require reasonable accommodation.

The employee shall have the option of using or retaining accrued annual leave prior to leave without pay. The employee shall use all sick leave before going on leave without pay status unless the agency head, at his discretion, grants an exception at the employee's request.

X. Worker's Compensation

In the event of an accidental injury arising out of and in the course of employment with the State, which is covered under Worker's Compensation, a disabled employee shall make an election to receive compensation under one of the following methods:

A. To be placed on paid leave status using accrued sick and/or annual leave. When such leave credits are exhausted before the employee can return to work, the employee shall be entitled to Worker's Compensation disability benefits at the time the specified amount of leave is exhausted.

B. To use Worker's Compensation benefits awarded in accordance with Title 42 of the 1976 Code. The employee would receive the disability benefits equal to 66 2/3% of the employee's gross weekly pay, not to exceed the established maximum rate.

C. To receive sick and/or annual leave on a pro-rated basis in conjunction with Worker's Compensation according to the formula approved by the Budget and Control Board.

Before the election is made, the effect of each available option on the employee's future leave must be explained to the employee by the employer. The election must be in writing and signed by the employee and the person who explains the options. The election of the employee is irrevocable as to each individual incident. Regardless of which method of disability compensation an employee elects, he would continue to be eligible for payment of medical cost provided by the State Accident Fund. Leave under this section may qualify as FMLA and, if so, will run concurrently.

XI. Hiring Additional Employees in Permanent Positions

Additional employees in permanent positions shall not be hired to replace employees on sick leave or leave without pay due to illness, disability, or maternity. Temporary or

substitute employees may be hired for limited periods of time to provide coverage during the absences of employees on extended leave.

XII. Break in Service

When an employee, excluding a temporary grant employee, experiences a break in service, all sick leave credits are forfeited and may not be reinstated. An employee experiences a break in service under the following circumstances:

A. When, in transferring from one State agency to another, an employee does not report to work with the gaining agency within fifteen (15) calendar days following the last day worked (or approved day of leave) at the losing agency.

B. By remaining in leave without pay status for a period of more than one (1) year. See Exceptions.

C. If, following a reduction in force by the employing agency, the employee is not recalled within twelve (12) months of the effective date of layoff.

D. By separation from State service and subsequent reemployment regardless of lapse of time. An employee is considered to have terminated from State service (as opposed to an interagency transfer) if he or she is paid for unused annual leave, except for the following: (1) an employee who is separated from a position in which he earns both sick and annual leave and who, within fifteen (15) calendar days of separation, is appointed to a position in which he earns sick leave; and (2) an employee who is separated due to a reduction in force and who, within twelve (12) months from the date of separation, is appointed to a position by any State agency.

Exceptions:
An employee in leave without pay status for more than one calendar year shall not experience a break in service if:

1. The employee is on military tour of duty with re-employment rights under federal and/or State Law.

2. The employee is participating in the Government Employees Interchange Program.

3. The employee is on disability leave without pay that has been extended by the Office of Human Resources.

4. A disciplinary act such as suspension or dismissal is set aside or the employee is reinstated as may be directed by a subsequent decision of a grievance break in service.

5. The employee is a teacher or official of academic rank at a State-supported institution of higher learning on sabbatical leave.

XIII. Termination of Employment

A. Upon Retirement

At retirement, after March 31, 1991, an employee shall receive service credit for not more than ninety (90) days of his unused sick leave at no cost to the employee. The leave must be credited at a rate where twenty days of unused sick leave equals one month of service. This additional service credit may not be used to qualify for retirement.

B. Upon Termination Other Than Retirement

Upon termination of employment with the State (other than retirement), employees shall forfeit all accumulated sick leave credits.

XIV. Sickness During Annual Leave

When sickness occurs during a period of annual leave and lasts three (3) or more consecutive days, sick leave may be granted to cover the length of illness. A physician's certificate may be required.

This application for sick leave must be made within two (2) days after expiration of annual leave. If sick leave is exhausted, the employee may be placed on leave without pay or may use any accrued annual leave.

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STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

PROCEDURE NUMBER:	8-3-102.2
PAGE:	1 of 5
TITLE:	FAMILY AND MEDICAL LEAVE ACT
POLICY REFERENCE NUMBER:	8-3-102
DIVISION OF RESPONSIBILITY:	HUMAN RESOURCE SERVICES
DATE OF LAST REVISION:	April 15, 2003

Director, Human Resource Services

Executive Director

DISCLAIMER

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I. DEFINITIONS

A. SPOUSE - a husband or wife as defined or recognized under state law for purposes of marriage, including a common law marriage if it is recognized.

B. PARENT - a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a child. This term does not include parents "in law."

C. SON or DAUGHTER - a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.

D. SERIOUS HEALTH CONDITION - an illness, injury, impairment, or physical or mental condition that involves:

1) Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice, or residential medical care facility; or

2) Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider; or

3) Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days or for prenatal care.

II. ELIGIBILITY

FMLA shall be granted to any State employee who has worked for the State at least 12 months, and who has worked at least 1250 hours (defined as FLSA compensable hours of work) during the 12-month period prior to the request for FMLA leave, including on-call hours, and is employed at a work site where 50 or more employees are employed by the employer within 75 miles of that work site.

A. In order to determine if exempt employees meet the 1250 hours of service, work records may be kept. Otherwise, exempt employees are presumed to have met the 1250 hours of service.

B. The State of South Carolina is considered a single employer for the purpose of determining FMLA leave.

III. USE OF FMLA LEAVE

An eligible employee shall be granted up to a total of 12 weeks of FMLA leave in each calendar year for any of the following reasons:

A. For the birth of a son or daughter and to care for that child;

B. For placement of a son or daughter for adoption or foster care with the employee;

C. To care for the employee's spouse, son, daughter or parent with a serious health condition; and

D. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job.

Note: Eligibility for reasons A and B above expires 12 months after the date of the birth or placement.

IV. CHARGING FMLA LEAVE

It is local management's responsibility to ensure the declaration of leave as FMLA leave based on information provided by the employee.

A. When leave is designated as FMLA leave the employee must be notified. No leave may be designated as FMLA leave after the leave has ended.

B. An eligible employee's FMLA leave allowance shall be charged for the actual time (or at a maximum in quarter hour increments) an employee must be away from the job.

C. Any leave taken that qualified as FMLA leave should be declared as such. The FMLA leave should run concurrently with any other leave and the leave should be charged against both leave categories' allowances.

V. SCHEDULING FMLA LEAVE

An eligible employee requesting FMLA leave must give 30 days advance notice to local management of the need to take unpaid FMLA leave when the need for leave is foreseeable. When the need for leave is not foreseeable, such notice must be given as soon as practicable. The use of FMLA leave will be subject to verification. Local management may require that an employee's request for FMLA leave to care for the employee's seriously ill spouse, son, daughter or parent, or due to the employee's own

serious health condition, be supported by a certification issued by the health care provider.

VI. USE OF PAID AND UNPAID LEAVE

Generally FMLA leave is unpaid; however,

A. Eligible employees will be required to substitute their accrued sick leave for unpaid FMLA leave when the FMLA leave request qualifies for sick leave usage, or

B. An eligible employee may elect to substitute accrued annual leave for unpaid FMLA leave.

VII. FMLA LEAVE RECORD

A leave record shall be maintained by local management for each employee covered under the provisions of the FMLA. Such record shall:

A. Reflect the maximum FMLA leave allowance (12 weeks in a calendar year) and charges in terms of hours.

B. Indicate the number of FMLA leave hours used in the current calendar year.

C. Indicate the number of hours in the employee's official workweek.

D. Other information as determined by local management.

VIII. REINSTATEMENT FROM FMLA LEAVE

On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when the FMLA leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. That position must involve the same or substantially similar duties and responsibilities, which must entail equivalent skill, effort, responsibility, and authority.

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STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

PROCEDURE

IX. TRANSFER OF FMLA LEAVE

For eligible employees who transfer from one state agency to another, the transferring agency is responsible for transferring the employee's FMLA leave records in that calendar year to the receiving agency.

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STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION

STATEMENT OF POLICY

POLICY NUMBER: 8-3-103

PAGE: 1 of 1

POLICY TITLE: OTHER LEAVE TYPES

LEGAL AUTHORITY: Section 59-53-20 of the 1976 Code of Laws of South Carolina, As Amended; Section 19-712 of the State Human Resources Regulations

DIVISION OF RESPONSIBILITY: Human Resource Services

DATE APPROVED BY BOARD: April 11, 1979

DATE OF LAST REVISION: February 12, 2004

Ralph A. Odom
CHAIRMAN

EXECUTIVE DIRECTOR

DISCLAIMER

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It is the policy of the State Board for Technical and Comprehensive Education that court leave, voting leave, organ donor, American Red Cross Certified Disaster Service Leave, blood drive and donation, bone marrow donor, military leave, and administrative leave shall be considered in accordance with the State Human Resources Regulations.

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SECTION 712

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19-712 | 19-712.01 | 19-712.02

19-712 OTHER LEAVE PROGRAMS

SCOPE AND PURPOSE

This Regulation governs the leave programs, other than annual and sick leave and holidays.

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19-712.01 OTHER LEAVE TYPES

Leave taken under this Section may qualify as Family and Medical Leave Act (FMLA) leave and, if so, will run concurrently.

A. Administrative Leave

State employees in full-time equivalent (FTE) positions who are physically attacked while in the performance of official duties and suffer bodily harm as a result of the attack must be placed on administrative leave with pay by their employers rather than sick leave. The period of administrative leave for each incident may not exceed 180 calendar days. Denial of the use of administrative leave by the agency will be grounds for review by the Office of Human Resources (OHR) upon request of the employee. Administrative review by OHR will be final. (S.C. Code Ann. § 8-11-40)

B. Adoption Leave – *(Refer to Section 19-710.04 B. 7.)* (S.C. Code Ann. § 8-11-155)

C. American Red Cross Certified Disaster Service Leave

An employee who is a certified disaster service volunteer for the American Red Cross may use up to 10 days of paid leave in a calendar year to participate in specialized disaster relief services with the approval of the agency designee.

D. Blood Drive and Donation Leave

1. Agencies may periodically arrange volunteer blood drives for their employees. The blood drives may be held at the times and places as may be determined by the agency head. The agency's employees are permitted to participate in the blood drive during their work hours without using sick and annual leave. (S.C. Code Ann. § 8-11-175)

2. An employee desiring to donate blood at a time, other than an agency arranged volunteer blood drive, must be excused from work by his agency during the employee's regular work hours for the purpose of making the donation without prejudice to the employee and no leave or makeup time may be required. Any employee desiring to donate blood as provided in § 8-11-175 of the South Carolina Code of Laws shall notify his agency of the scheduled donation and the amount of time needed for the donation as far in advance as may be practicable. The agency may deny the employee's request for time to donate if the absence of the employee would create an extraordinary burden on the agency. In considering the employee's request, the agency shall take into consideration such factors as the necessity and type of blood donation, and any other factor the agency considers appropriate. The agency may, as condition of approving the request, require the employee to provide documentation of the donation. (S.C. Code Ann. § 8-11-175)

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E. Bone Marrow Donor Leave

An employee who works an average of 20 hours or more a week and who seeks to undergo a medical procedure to donate bone marrow may be granted bone marrow donor leave with pay. The total amount of paid leave may not exceed 40 work hours unless a longer length of time is approved by the agency head. Such leave may require verification by a health care practitioner of the purpose and length of each request. If a medical determination finds that the employee does not qualify as a bone marrow donor, the paid leave of absence granted to the employee before that medical determination is not forfeited. (S.C. Code Ann. § 44-43-80)

F. Court Leave

1. Jury Duty (With Pay)

   a. An employee, who is summoned as a member of a jury panel, shall be granted court leave with pay. Any jury fees and travel payment shall be retained by the employee. This court leave with pay shall not apply to agencies whose employees are exempt from jury duty by law.

   b. An employee, who is excused from jury duty and was not required to be at court the number of hours equal to the employee's workday, is required to return to the job according to arrangements between the employee and the agency designee. The employee must be on authorized leave for any time the employee is excused from jury duty and does not return to work.

   c. An employee who is summoned to jury duty will be required to work on any given day only the number of hours that equal the employee's work schedule, minus the hours required to be at court.

2. Subpoenaed As a Witness (With Pay)

   An employee, who is subpoenaed as a witness and who will not receive any personal gain from the outcome of the litigation, shall be entitled to court leave with pay for those hours required for the subpoena and may retain any witness fee and travel expenses.

3. Exceptions

   a. An employee engaged in personal litigation is not eligible for court leave with pay, but may be granted annual leave or leave without pay with appropriate authorization.

   b. When an employee is subpoenaed to represent an agency as a witness or defendant, his appearance is considered a part of the employee's job assignment. The employee shall be reimbursed for any meals, lodging, and travel expenses that may be incurred according to State Travel Guidelines as provided in the annual Appropriation Act and Budget and Control Board Regulations.

   c. When an employee attends, in an official capacity, a mediation or mediation-arbitration conference, his attendance is considered a part of the employee's job assignment.

   d. When an employee appears as a witness or in any other official capacity in a hearing before the State Employee Grievance Committee, his appearance is considered a part of the employee's job assignment.

G. Death in Immediate Family Leave

1. An employee, upon request, shall be granted up to three consecutive workdays of leave with pay on the death of any member of the employee's immediate family. Immediate family is defined as the spouse, great-grandparents, grandparents, parents, legal guardians, brothers, spouse of brothers, sisters, spouse of sisters, children, spouse of children, grandchildren, great-grandchildren of either the employee or the spouse.

2. An employee requesting leave for a death in the immediate family shall submit a statement to the appropriate

authority stating the name of the deceased and the relationship to the deceased.

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H. Educational Leave

An employee is encouraged to schedule classes during off-duty hours, whenever possible. When a class cannot be scheduled during off-duty hours, the agency may adjust the employee's work schedule, if doing so will not interfere with normal efficient operations of the agency. When a class cannot be scheduled during off-duty hours and the agency cannot feasibly adjust the work schedule of the employee, the employee may be allowed to take annual leave or may be granted leave without pay in order to attend classes.

I. Extended Disability Leave

Under the Americans with Disabilities Act (ADA), certain extended illnesses may be protected as disabilities and may require reasonable accommodation. (29 CFR § 1630)

1. For any extended period of certified disability due to illness, injury, or maternity, an employee may request leave not to exceed (1) 180 workdays of leave with pay, or (2) 180 calendar days of combined leave with pay and leave without pay.

2. The agency shall require, prior to approval of an extended disability, certification by the health care practitioner to include: (1) the date on which the serious health condition commenced, (2) the probable duration of the condition, and (3) appropriate medical facts within the knowledge of the health care practitioner regarding the condition. Dates set forth in the health care practitioner's certificate may be amended. The agency may require additional documentation from the health care practitioner issuing the certificate or may secure additional medical opinions from other health care practitioners.

3. An agency may not deny an employee's request for the 180-day disability leave for bona fide illness or disability if the employee is in an FTE position.

4. Should the employee return within the approved 180-day period, the agency shall reinstate the employee to the same position or one of a comparable pay band for which the employee is qualified.

5. If the employee is unable to return within the 180-day period, the agency must separate the employee from State service.

6. In extenuating circumstances, two extensions are available:

   a. The agency head may extend the 180-day period of leave to a total of 365 days provided the health care practitioner certifies the employee's return within this time period; and
   b. The agency head may request from OHR an extension of the disability leave beyond the 365 days without a break in service provided the health care practitioner certifies the employee's return to work within the time frame of the requested extension.

J. Family and Medical Leave Guidelines

For more detailed information, consult the Family and Medical Leave Act (FMLA) and relevant federal regulations. (29 CFR § 825)

1. Eligibility and Reasons for FMLA Leave

   a. Family Medical Leave Act leave shall be granted to any employee who has worked for the State at least 12 months, and who has worked at least 1,250 hours (defined as FLSA compensable hours of work) during the 12-month period prior to the request for FMLA leave, including "on-call" hours, and is employed at a work site where 50 or more employees are employed by the employer within 75 miles of that work site. (29 CFR § 825.110 and 29 CFR § 785)

      (1) In order to determine if an exempt employee meets the 1,250 hours of service, work

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records may be kept. Otherwise, an exempt employee is presumed to have met the 1,250 hours of service. (29 CFR § 825.10

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(2) State government is considered a single employer for the purpose of determining FMLA leave. (29 CFR § 825.108)

b. An eligible employee shall be granted up to a total of 12 weeks of FMLA leave, in each calendar year, for any of the following reasons:

(1) For the birth of a son or daughter and to care for that child;

(2) For placement of a son or daughter for adoption or foster care with the employee;

(3) For caring of the employee's spouse, son, daughter, or parent with a serious health condition; and

(4) For a serious health condition that makes the employee unable to perform the functions of the employee's job. (29 CFR § 825.200 and 29 CFR § 825.112)

Note: Eligibility for Reasons A. and B. expires 12 months after the date of the birth or placement. (29 CFR § 825.201)

2. Scheduling FMLA Leave

An eligible employee requesting FMLA leave must give 30 days advance notice to the employing agency of the need to take FMLA leave when the need for leave is foreseeable. When the need for leave is not foreseeable, such notice must be given as soon as practical. The use of FMLA leave shall be subject to verification. The agency may require that an employee's request for FMLA leave to care for the employee's seriously ill spouse, son, daughter, or parent, or due to the employee's own serious health condition, be supported by a certification issued by the health care practitioner. (29 CFR § 825.302 and 29 CFR § 825.303)

3. Use of FMLA Leave

The agency is responsible for declaring leave as FMLA leave based on information provided by the employee. (29 CFR § 825.208)

a. When the agency designates leave as FMLA leave, it must notify the employee. No leave may be designated as FMLA leave after the leave has ended, except as provided for under the FMLA. (29 CFR § 825.208)

b. Use of FMLA leave shall be calculated by either the actual time or in quarter hour increments. (29 CFR § 825.205 and § 825.206)

c. The agency should declare any leave taken that qualifies as FMLA leave. The FMLA leave should run concurrently with any other leave, and the leave should be charged against both leave categories' allowances. (29 CFR § 825.208)

4. Use of Paid and Unpaid Leave

Generally, FMLA leave is unpaid; however,

a. An eligible employee will be required to substitute his accrued sick leave for unpaid FMLA leave when the FMLA leave request qualifies for sick leave usage, or (29 CFR § 825.207)

b. An eligible employee may elect to substitute accrued annual leave for unpaid FMLA leave. (29 CFR § 825.207)

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5. FMLA Leave Record

A leave record shall be maintained by the employing agency for each employee subject to the provisions of the FMLA. Such record shall:

a. Reflect the maximum FMLA leave allowance (12 weeks in a calendar year) and charges in terms of hours.

b. Indicate the number of FMLA leave hours used in the current calendar year.

c. Indicate the number of hours in the employee's established workweek. (29 CFR § 825.500)

6. Transfer of FMLA Leave

For an eligible employee who transfers from one agency to another, the transferring agency is responsible for transferring the employee's FMLA leave records in that calendar year to the receiving agency.

K. Hazardous Weather and Emergency Leave

1. Upon issuing a Declaration of Emergency, the Governor has the authority to excuse all employees of State government from reporting to work during extreme weather or other emergency conditions. "Emergency conditions" means circumstances that would expose employees to harmful or unsafe conditions as determined by the Governor's Office. Unless such a Declaration of Emergency has been issued, all State government employees are expected to report to work.

Exception - Nothing contained in this Section precludes the necessary immediate evacuation of a facility by an individual in an appropriate supervisory capacity in the interest of personal safety.

2. The Declaration may be applicable to all employees in the entire State, or only to those employees who live or work in one geographical region of the State, or a combination of geographical regions.

3. During a Declaration of Emergency, all essential and direct care services will be maintained. Each agency shall identify essential employees by position, classification, or internal title, and post a list thereof. Generally, no change of the essential employee roster should be authorized after the Governor's Declaration of an Emergency. Nonessential employees will not be expected to report to work.

4. Notification of Declaration of Emergency

a. Between the Hours of 8:00 a.m. and 5:00 p.m.

(1) The Declaration of Emergency shall be communicated from the Governor's Office to the State Human Resources Director.

(2) The State Human Resources Director will communicate the Declaration of Emergency to each agency in accordance with the list of agency representatives to be contacted in the case of an emergency declaration. Each agency will be responsible for submitting to the Office of Human Resources (OHR), in an appropriate form developed by the Office, the designated agency official (and two alternates) to contact in order to ensure the expeditious dissemination of the Declaration of Emergency to all affected agencies. Each agency is responsible for informing the State Human Resources Director when the listing of agency representatives to be notified by OHR is to be revised.

(3) The Governor's Office will issue a statement to the news media concerning the release of employees due to the emergency.

b. Between the Hours of 5:00 p.m. and 8:00 a.m.

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All Declarations of Emergency will be transmitted by the Governor's Office to the news media. Employees will assume an individual responsibility to respond in an appropriate manner to closings as they may be announced.

5. Compensation During Declaration of Emergency

Notwithstanding any other provisions of law, when the Governor declares a state of emergency for the State or any portion of the State, he can provide State employees with leave with pay for absences from work due to the state of emergency for hazardous weather of up to five days for each declaration of a state of emergency. In the event that the Governor does not provide State employees with leave with pay, an employee who does not report to work or who reports late to work shall use annual leave or compensatory time to make up hours scheduled but not worked, take leave without pay, or be allowed to make up the hours at a time to be scheduled by the agency. The employee must be given the option of making up the hours if the employee so desires. (S.C. Code Ann. § 8-11-57)

L. Military Leave

1. Short Term Military Training

All officers and employees of this State or a political subdivision of this State, who are either enlisted or commissioned members of the South Carolina National Guard, the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, or the United States Coast Guard Reserve are entitled to leaves of absence from their respective duties without loss of pay, time, or efficiency rating, for one or more periods not exceeding an aggregate of 15 regularly scheduled average workdays in any one year during which they may be engaged in training or any other duties ordered by the Governor, the Department of Defense, the Department of the Army, the Department of the Air Force, the Department of the Navy, the Department of the Treasury, or any other department or agency of the government of the United States having authority to issue lawful orders requiring military service. Saturdays, Sundays, and State holidays may not be included in the 15-day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled workday for the officer or employee involved. In the event any such person is called upon to serve during an emergency, he is entitled to such leave of absence for a period not exceeding 30 additional days. Any one year means either a calendar year or, in the case of members required to perform active duty for training or other duties within or on a fiscal year basis, the fiscal year of the National Guard or reserve component issuing the orders. (S.C. Code Ann. § 8-7-90)

2. Long Term Military Leave of Absence

Every employee of the State or any political subdivision thereof who, on or after June 25, 1950, has been, or shall be commissioned, enlisted, or selected for service in the Armed Forces of the United States (excluding short term training) shall, so long as the requirements and regulations of the Armed Forces shall prevent his return to his civil employment for a period of 90 days thereafter, but in no event for a period longer than five years from the date of entry into the Armed Forces of the United States, be entitled to leave of absence from his duties as an employee of the State or any political subdivision thereof, without loss of seniority or efficiency or register ratings. The word "employee" as used herein shall not be construed to mean an officer or official elected or appointed to a term pursuant to a statute or the Constitution of this State. (S.C. Code Ann. § 25-1-2250 and § 8-7-20)

Sabbatical Leave

When provided in statute, an institution of higher learning may establish a policy for a leave of absence for a sabbatical for academic personnel.

State Employee Grievances and Appeals Attendance

Refer to Section 19-712.01 F. 3. c. and d.

Voting Leave

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An employee who lives at such distance from the assigned work location as to preclude voting outside of working

hours may be authorized a maximum of two hours of leave with pay for this purpose. To work at the polls during elections, an employee must be on authorized leave.

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P. Workers' Compensation Leave

1. If there is an accidental injury arising out of and in the course of employment with the State, which is covered under Workers' Compensation, an employee who is not eligible for or who has exhausted his paid administrative leave, shall make an election to use either earned leave time (sick or annual or both) or Workers' Compensation benefits awarded in accordance with Title 42 of the South Carolina Code of Laws. (S.C. Code Ann. § 8-11-145)
2. The employee shall make an election under one of the following options:

   a. To use sick leave, annual leave, or both. When earned leave is exhausted before the employee can return to work, the employee shall be entitled to Workers' Compensation benefits at the time leave is exhausted;

   b. To use Workers' Compensation benefits awarded in accordance with Title 42 of the South Carolina Code of Laws, as amended; or

   c. To use sick leave, annual leave, or both on a prorated basis in conjunction with Workers' Compensation benefits according to the formula approved by the Budget and Control Board. (S.C. Code Ann. § 8-11-145)

3. Before the election is made, the effect of each available option on the employee's future leave earnings must be explained to the employee by the employing agency. The election must be in writing and signed by the employee and the person who explains the options. The election of the employee is irrevocable as to each individual incident. (S.C. Code Ann. § 8-11-145)
4. Regardless of which option an employee elects, he would continue to be eligible for payment of medical costs provided by the State Accident Fund. (S.C. Code Ann. § 8-11-145)

.. Organ Donor Leave

All officers and employees of this State who wish to be an organ donor and who accrue annual or sick leave as part of their employment are entitled to leaves of absence from their respective duties without loss of pay; time, leave, or efficiency rating for one or more periods not exceeding an aggregate of thirty regularly scheduled workdays in any one fiscal year during which they may engage in the donation of their organs. Saturdays, Sundays, and State holidays may not be included in the thirty-day aggregate unless the particular Saturday, Sunday, or holiday to be included is a regularly scheduled workday for the officer or employee involved. The officer or employee must show documentation from the attending physician of the proposed organ donation before leave is approved that confirms that the employee is the donor. (S.C. Code Ann. § 8-11-65 (A.))

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19-712.02 OTHER LEAVE RECORDS

A. The agency shall maintain all leave records for each employee eligible for such leave. Such records must include the number of leave hours used during the current calendar year.

B. Leave records shall be reviewed by or reported to the employee no less than once per calendar year and be supported by individual leave forms signed by the employee and the agency designee.

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STATE OF SOUTH CAROLINA

State Budget and Control Board

OFFICE OF HUMAN RESOURCES

MARK SANFORD, CHAIRMAN
GOVERNOR

THOMAS RAVENEL
STATE TREASURER

RICHARD ECKSTROM
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DANIEL T. COOPER
CHAIRMAN, WAYS AND MEANS COMMITTEE

HENRY J. WHITE
EXECUTIVE DIRECTOR

1201 MAIN STREET, SUITE 800
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0900

SAMUEL L. WILKINS
DIRECTOR

May 1, 2007

Mr. Kenneth L. Holbert
[redacted]

Ms. Mary Broadwater
General Counsel
State Board for Technical & Comprehensive Education
111 Executive Center Drive
Columbia, South Carolina 29210

Re: Kenneth L. Holbert v. State Board for Technical & Comprehensive Education (SBTCE)

Dear Mr. Holbert and Ms. Broadwater:

The State Human Resources Director has determined that jurisdictional requirements have been met under the State Employee Grievance Procedure Act concerning the appeal of Kenneth L. Holbert v. SBTCE. A hearing is scheduled before the State Employee Grievance Committee on **July 3, 2007, at 9:00 a.m., 1401 Senate Street, corner of Senate and Marion Streets, 2nd floor hearing room, Columbia, South Carolina.** A mediator who has been assigned by the State Human Resources Director will meet with both parties prior to the hearing in an effort to resolve the appeal, avoiding the additional time and costs that a hearing requires. To accomplish a timely resolution at this stage, it is essential that the parties or their representatives attending a mediation conference have full authority to negotiate and recommend settlement.

The mediation effort should not interfere with the timely preparation and exchange of necessary information leading to the date of the hearing before the State Employee Grievance Committee. The State Employee Grievance and Appeal Regulations contain specific time frames for submitting documents, requesting subpoenas, and exchanging witness lists. These regulations have the force and effect of law and both parties must comply with them, regardless of the ongoing attempt to resolve the appeal by mediation. Therefore, the appeal process leading up to the scheduled hearing date does not stop unless a mediation agreement is signed by both parties prior to the hearing date.

If the appeal is not resolved through mediation, the employee has the burden to establish, at the hearing before the Committee, that the agency's decision to discipline the employee is improper based upon §8-17-340(E) of the S.C. Code of Laws of 1976, as amended.

The Administrative Procedures Act in § 1-23-320 of the S.C. Code of Laws requires that both parties to an appeal be afforded a statement of the matters asserted. This letter is intended to comply with that law.

Mr. Holbert contends:

1) one reason for his wrongful termination is the hazardous low threshold not properly identified which resulted in an accident requiring surgery and extended time for rehabilitation.

SBTCE contends:

1) Mr. Holbert's employment was terminated effective January 11, 2007, when he was unable to return to work at the end of his 180-day extended disability leave.

Prior to the hearing the employee is requested to identify and state why, on the enclosed Grounds for Appeal Form, which portions of §8-17-340(E) (see enclosure) would require the Committee to change the agency's disciplinary action. The Grounds for Appeal Form should be returned to the Office of Human Resources, 1201 Main St., Suite 800, Columbia, South Carolina 29201 and received no later than seven calendar days before the date of the Committee hearing.

All documents submitted concerning this appeal, which could possibly include polygraph examination results, will be forwarded to the Committee for review approximately one week prior to the hearing date. All objections raised by either party to these documents before transmittal to the Committee, including objections to any polygraph examination results, must be made to this office prior to that time. This time frame, however, will not preclude appropriate evidentiary objections from being raised by either party at the hearing.

Please refer to our website at www.ohr.sc.gov/OHR/OHR-commappeal.phtm for further information regarding the State Employee Grievance Procedure Act; the State Employee Grievance and Appeal Regulations; a copy of the Witness and Representative forms; a copy of the Grounds for Appeal form; a flowchart for the steps in the Grievance Committee process; and a sample opening statement. If you do not have internet access, please contact Ms. Sandra Brabham at (803) 737-0388 for a copy of the State Employee Grievance Procedure Act, the State Employee Grievance and Appeal Regulations, and the forms listed above.

Please let me know if you have any questions.

Sincerely,

Terry M. Baggott

Terry M. Baggott
Grievance and Mediation Services Manager

Enclosure

c: Dr. Barry W. Russell (without enclosure)

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE) 2007 MAR 27 P 2:45

Greenville County School District,) Civil Action No. 2006-CP-23-07828
)
Plaintiff,) FILED-CLERK OF COURT GREENVILLE CO. S.C. PAUL B. WICKENSIMER
)
vs.)
) PLAINTIFF'S RESPONSE TO
Kenneth Holbert, Jr., Scott Mann, and) DEFENDANTS' OFFER OF
the WH Group,) JUDGMENT
)
Defendants.)
)

The Greenville County School District (the "School District") submits this response to Kenneth Holbert, Jr. ("Holbert"), Scott Mann ("Mann"), and the WH Group's (collectively referred to as" the Defendants' ") Offer of Judgment ("Offer").

INTRODUCTION

Although the School District is not required to file a formal response to the Defendants' Offer, the unorthodox nature of the Offer and the Defendants' attempt to sensationalize the Offer and every issue in this lawsuit through the media compels the School District to explain its rejection of this Offer. Several cogent reasons exist for rejecting the Offer. First, Holbert and Mann seek monetary payment from the School District for their questionable conduct of zealously obtaining confidential information from the School District. They engaged in this conduct despite knowing they should not have such information, and they retained it in their or their representatives' possession for their own dubious purposes and gain. Second, they seek to compel the School District to take certain actions that a court could not order it to do.

Third and most importantly, Holbert and Mann present the Offer as if the real facts of this situation support their claims. Hence, they set forth in their pleadings and in statements

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that the media attributes to them or to their agents certain self-serving assertions that they want accepted as fact. The truth, however, is that many of these statements of so-called "fact" are simply false.

For example, the Defendants portray themselves as innocent purchasers of items that, unbeknownst to them, contained confidential information. They also portray themselves as good Samaritans whose sole objective in this situation is to protect the public's best interest. At various times they have given the impression that they purchased "rooms full" of documents with confidential information in them, that they have one computer with 100,000 social security numbers on it, that they acted as anointed assistants in a South Carolina Law Enforcement Division "SLED" investigation of the School District, that they have no knowledge or interest in Senator David Thomas' efforts to sue the School District, and that all they ever wanted was simply to return to the School District the data they obtained from it. Every single one of these assertions, among others, is false.

DISCUSSION

The School District has conducted depositions, witness interviews, and exhaustive searches of its records and files. It has spent enormous amounts of time and energy reviewing the information it has gathered. These efforts to know the truth about the actions of Holbert and Mann convinced the School District that, based upon current knowledge, their motives and intentions are highly suspect.

A thorough review of the evidence will show that Holbert and Mann, either directly or through their representatives, acted with three motives: (a) personal financial gain by using the confidential information as leverage to sell the School District a service or product; (b) financial gain acquired by successfully bringing a class action lawsuit against the School

District; and (c) personal use by Mann as leverage for his sister in obtaining a settlement (or to win) in a lawsuit that she has pending against the School District and in which she is represented by Senator Thomas. Moreover, because they or their representatives needed the confidential information to further these objectives, the evidence strongly suggests that Holbert and Mann never had any intention of either returning to the School District or destroying the confidential information they possessed. This explains why they kept it even though returning it was such a simple and proper thing to do.

The numerous falsehoods, inaccuracies and misstatements of Holbert and Mann and their representatives as borne out by the evidence are addressed separately below.

1. **Statements have been attributed to Holbert and Mann, and/or their representatives, that they have purchased numerous computers that contain confidential information on them from the School District over a six year period.**

Such statements have been attributed to Holbert, Mann and their representatives repeatedly by the media. Because Holbert and Mann refused to return any of the confidential information, the School District had no choice but to initiate this action to ensure the return and safe keeping of the confidential information, and to discover facts to corroborate or refute the Defendants' claims. Upon the filing of this action, the Court required Holbert and Mann to produce the computers and papers they had previously refused to turn over to the School District.

To date, Holbert and Mann have only turned over two computers formerly in their possession that contain any confidential information. With regard to these computers, one is a server that none of the Defendants purchased from the School District---despite Holbert's claim that he bought it. Based on the evidence reviewed so far, Holbert obtained it from a co-worker

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after the co-worker mentioned that he had gained possession of it and it had some confidential information on it. This server is unique, and it contained much of the information about which the Defendants have been complaining. The School District has identified no other such server as being out in the public and containing confidential information.

With regard to the other computer produced by Holbert and Mann that contained any confidential information, Holbert admitted in his deposition he used de-coding software to retrieve confidential information that had been deleted. Holbert also testified in his deposition that he turned over to Sen. Thomas the only two computers he knew had confidential information on them. Therefore, there is no evidence to support the previous statements and implications by Holbert that he "found more computers which contained even more sensitive information about students . . ." than what he found on the server and this one computer.

2. **SLED agents conducted an investigation into the confidential information being sold at auction to see if any criminal law had been violated, and SLED told Holbert to purchase certain items at the Carolina High School auction.**

Holbert and Mann make these allegations in their Answer and Counterclaim, Holbert testified about them in his deposition, and the media reported extremely misleading and inaccurate stories to the public about SLED's involvement apparently based on statements from Holbert and Mann and their representatives. The School District has deposed Agent Keel, the SLED agent Senator Thomas contacted. Agent Keel testified quite clearly in his deposition that SLED never opened an investigation or a preliminary inquiry into the School District's sale of computers at auction. Moreover, he stated that **SLED would not have given any authority for the Defendants to make such an allegation in their pleadings.**

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According to Agent Keel, in March 2006 Senator Thomas called SLED on his own accord and suggested to SLED that something illegal could be going on with the School District's sale of computers. Senator Thoams led Keel to believe he was representing Holbert, and the senator wanted SLED to come to Greenville the very next day to the Carolina High School auction to confiscate computers and hold a press conference. Agent Keel made clear in his deposition that this type of call was not usual protocol for SLED, was highly unusual, and he would not act solely based on this statement from Senator Thomas.

Over a period of two days, Agent Keel contacted law enforcement personnel in other branches to ask whether any such allegations by Senator Thomas would implicate any criminal laws. He was told they would not, and satisfied that there was no potential of criminal activity, he never even began a preliminary inquiry into the matter. Agent Keel testified he tried numerous times to get back with Senator Thomas to advise him of his findings, but the senator would not return his calls.

Agent Keel did, however, attempt to bring the Department of Education and the School District into the situation. According to Agent Keel, Senator Thomas would not let him disclose his involvement and refused to meet with either the Department of Education or the School District. Senator Thomas told Agent Keel he intended to sue the School District and he was looking for the right cause of action to bring. Agent Keel told him he had no involvement with civil matters. Agent Keel did try, however, to get Holbert to meet with the Department of Education and the School District. Although Holbert initially agreed to do so, Agent Keel later learned from the Department of Education that Holbert changed his mind and refused to meet with either. When Agent Keel contacted Holbert and asked him why, Holbert told him "I've been advised by my attorney not to talk anymore." When Agent Keel asked him who his

attorney was he stated it was Senator Thomas. Holbert also told Agent Keel that he could not return the computers because his partner, Scott Mann, and Senator Thomas needed them for a lawsuit that Mann's sister had brought against the School District

As established in Agent Keel's deposition, the School District believes SLED's only involvement in this case resulted from Senator Thomas' taking advantage of his position as a state senator. This gives him access to SLED and puts SLED in the position of having to return phone calls he made to them. The School District also believes Agent Keel's deposition shows that Senator Thomas contacted SLED to bolster his prospects of filing a lawsuit against the School District.

3. **Holbert and Mann "unknowingly, "unwillingly," and "unintentionally" purchased items from School District auctions that contained confidential information.**

Holbert and Mann, and their representatives have repeatedly stated to the media and alleged in their pleadings that they were not aware that items they purchased at School District auctions contained confidential information. Evidence from third party witnesses, however, shows quite the opposite, particularly with regard to how Holbert came into possession of the server in 2004 and what Holbert did at the Carolina High School auction in March 2006.

Although Holbert's testimony and allegations are that he purchased the server at an auction held by the School District in the summer of 2004, there is absolutely no evidence to support this story. The School District has no record that it ever released this server to be sold at auction, and the School District has no record that it ever sold this server. Moreover, Holbert himself has no specific receipt documenting his purchase of this server. His version of how he obtained it is clearly suspect.

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Holbert's testimony under oath is that he purchased the server at the May 2004 auction as part of a "lot" that consisted of numerous computers, monitors and the server. He claims that he asked a co-worker to pick up the items he purchased for that co-worker to use at Greenville Tech, and the co-worker did not go to do this until the last day possible. According to Holbert, the co-worker said that when he arrived, he saw another Greenville Tech employee take the server, but Holbert's co-worker made no effort to claim it for Holbert. Thereafter, Holbert also made no attempt to get the sever back until several months later. At that time, he says he learned that the server had confidential information on it, and because he felt responsible since he had purchased it, he traded a server that he already had for the one the other person picked up from the School District.

The School District believes, however, that the evidence will show that Holbert did not acquire the server as he said, but deliberately sought to obtain it from the Greenville Tech employee specifically because Holbert learned that it contained confidential information that he wanted for his own personal benefit. The School District will show that the only time Holbert's co-worker picked up any computers that Holbert purchased from the School District was in September of 2003, not in May of 2004. Morevoer, records show that Holbert did purchase computers in September 2003 and that the same co-worker took some of those for his use at Greenville Tech. Further, this co-worker will confirm he did not see the Greenville Tech employee take the server from a pallet in September 2003. Therefore, the Plaintiff believes Holbert's testimony that "he" purchased the server, that "he" purchased it in May 2004, and the Greenville Tech employee picked up "his" server is false.

Information available to the School District supports a different story. Although the School District never actually sold the server, the Greenville Tech employee that Holbert says

took it from the lot Holbert purchased actually did take possession of it, but did so after the May 2004 auction. When that Greenville Tech employee took the server home to use for his work and personal purposes, he discovered that it had some confidential information on it. Apparently, several weeks or months later he mentioned to Holbert that he had seen this confidential information. Holbert became extremely excited and begged the Greenville Tech employee to trade him the server for another one Holbert had. In other words, Holbert seemed to want the server solely because he heard it contained confidential information. The Greenville Tech employee will state that Holbert did not buy or purchase the server at an auction and misled him about the reasons for needing to trade. Hence, this employee denies that Holbert ever claimed that he purchased the server or that he was concerned because he [Holbert] was the one who had legal title to it. More importantly, this employee will state that he first rejected Holbert's request to trade and indicated he would just "blow up the data" because he felt that was the safest and right thing to do. Holbert, however, insisted that he not destroy the data.

The second situation that shows that Holbert and Mann were deliberately looking for confidential information is the alleged purchases made at the Carolina High School auction in March 2006. By that time, Holbert and Mann had gone to Senator Thomas and left with him the server and computer that contained the confidential information in either April/May 2005 or August 2005. March 2006 is also when Senator Thomas attempted unsuccessfully to involve SLED in the situation.

Despite the reality, however, of SLED's refusal to investigate, Holbert testified that he spoke with the SLED agent prior to going to the preview at the Carolina High School auction, and the SLED agent told him to look for and to purchase any items that contained confidential

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or sensitive information. Holbert also testified that he called the SLED agent while he was at the preview for the auction and was told what to buy after he described what he saw. Instead of telling anyone at the School District about seeing confidential information on documents at the preview, Holbert testified that he told the SLED agent, and he purchased them at his direction. Other witnesses will state that Holbert told them he had to attend an auction at the request of SLED. Once again, the facts demonstrate otherwise.

The SLED agent testified in his deposition that he did not direct Holbert to attend the auction. SLED never began any type of investigation, and Agent Keel never instructed Holbert to do or to buy anything. Agent Keel understood that Holbert purchased items at school auctions as part of his business, such as the one at Carolina High School. Agent Keel, however, emphatically declared that he never directed Holbert to buy anything.

Thus the facts are clear. While Holbert and Mann went to Carolina High School around the time of the auction in March 2006 not at the direction of SLED, but of their own accord, their purpose in going was unquestionably as they claim: to look for any items they could find that had confidential information on them. This conduct is hardly the work of good Samaritans.

4. Holbert and Mann met with officials from the School District in October 2004 in order to get them to do something about the confidential information on the computers, but no one from the School District did anything or attempted to get the information back.

Holbert's version of the reason for and what happened at the October 2004 meeting with Lonnie Luce, the Deputy Superintendent for the Greenville County School District, is starkly different from information gathered from interviews of the other people who attended this meeting. Holbert regularly moonlighted from his job at Greenville Tech. Working with

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other Greenville Tech employees, they designed a system to capture use taxes on items sold over the internet, and they formed a company known as RMC, Inc. to sell that system.

To raise capital for this company, these same people attempted to develop a separate computer system concept that would allow a business or government entity to maintain data on one computer as a single point system for security purposes. They planned to meet with the Department of Education and various school districts to sell this concept. As a result, these people met with Lonnie Luce in October 2004 to discuss their new concept.

Prior to this meeting, Holbert told one of the members of his new business venture about the server and the confidential information on it. According to this individual, Holbert was almost gleeful about the confidential information on the server, claiming "it was perfect," and he attempted to show his colleague the data. The colleague repeatedly told him he was upset that Holbert had the confidential information, did not want to see it and wanted no part of it. Holbert later stated he wanted to bring up the confidential data at the meeting with Luce. This first colleague (along with another partner who attended the meeting) strongly disagreed and told Holbert not to mention it at the meeting. They believed it was wrong for Holbert to have it or to discuss it at the meeting because it would look like they were trying to pressure the School District to buy their concept.

During the meeting it became clear that their proposed computer concept would not help the School District because it was not compatible with the School District's computer systems and data storage. At some point during the meeting, Holbert or Mann, to the surprise of some of the partners, brought up the confidential data that Holbert had obtained, and he showed it to Luce. One partner was so upset by this move that he left the meeting. He believed that Holbert had exercised very poor judgment.

Therefore, Holbert's account of why the October 2004 meeting took place and what happened at the meeting is different from what other witnesses are expected to say happened. The School District believes it is more than a coincidence that Holbert desired to obtain the server from the Greenville Tech employee sometime in the late summer of 2004 and that he intended to raise the confidential information at the October 2004 meeting.

5. Mann purchased computers that had confidential information on them.

Although Mann has been involved with Holbert, has attended some school auctions with Holbert, and he went to the media about the confidential information, there is absolutely no evidence that Mann ever purchased one computer from the School District. Mann has not produced any receipts from any computer purchases he made at school auctions. Moreover, in the Offer, only Holbert seeks compensation for the costs of the computers that were purchased at the School District auctions and turned over to the court appointed Trustee.

Therefore, the question arises as to why Mann is involved in this situation and why he ever met with the media, but possible answers come from third party eye witnesses who have no stake in the outcome of this litigation. One of the RMC partners was surprised that Mann showed up at the October 2004 meeting with Luce. He later confronted Mann about his involvement with the confidential information. Mann told him in no uncertain terms that he had an axe to grind with the School District over its firing of his sister, a former teacher.

Another witness, SLED Agent Mark Keel, also testified in his deposition that when he talked with Holbert in March 2006, Holbert led Keel to believe – after Keel provided Holbert with an opportunity to cooperate – that he could not turn over the confidential information to the School District because Mann and Senator Thomas wanted to use the information. Holbert told Agent Keel that Mann's sister, a former school teacher with the School District, had been

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fired, and she was pursuing a lawsuit against the School District. The School District believes Mann intended to use the confidential information against the School District, and therefore, they would not release the confidential information. Interestingly, Senator Thomas represents Mann's sister in that lawsuit against the School District. Therefore, the School District believes evidence will show that Mann (and Senator Thomas) had an ulterior purpose for acquiring and retaining possession of the confidential information.

6. **At the Carolina High School auction in March 2006, Holbert purchased a room full of documents that contained confidential information.**

Although Holbert and Mann acquired some documents that had been in the possession of Carolina High School, the facts surrounding how they did so are highly suspicious. For example, Darlene Clinkscales, the Attendance Clerk for Carolina High School in 2006, and Butch Lawson, the Plant Engineer for Carolina High, were among those assigned the task of determining which records needed to be disposed of and which needed to be moved to the new school. Clinkscales selected a particular box and watched as Lawson and his staff placed that box, with others, in a trash bin on rollers and put them in a dumpster outside the building. These records were discarded by March 10, 2006, ten days before the auction took place. Yet, that specific box is one Holbert claims he purchased at the auction.

Moreover, after the Department of Education contacted the School District pursuant to Agent Keel's efforts, the School District had employees canvass the rooms at Carolina High School the evening prior to the auction to see if there were any documents or other items left that contained confidential information. The employees have stated that the night before the auction no documents were in areas open to the public. The School District was not even

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aware that Holbert claimed to have purchased confidential documents at this auction until after the Defendants published their story on November 27, 2006.

In short, just as with Holbert's claims about SLED's involvement and about his innocent acquisition of confidential information, evidence also exists that contradicts his claim that he purchased a room full of documents at Carolina High School in March 2006.

7. **Holbert and Mann and their agents/representatives contend that the School District never sought to obtain the confidential information from them and never tried to do anything to prevent confidential information from being on computers sold at auction.**

By making these statements and alleging in their pleadings that the School District did nothing to get the confidential information, Holbert and Mann and their agents/representatives attempt to deflect attention away from one of their clear objectives: suing the School District. Senator Thomas testified he gained possession of the one computer and server at issue as early as April/May 2005. However, instead of returning the confidential information to the School District, Holbert and Senator Thomas deliberately sought to determine how best to use the confidential information against the School District.

Senator Thomas claims that he never represented Holbert or Mann. Yet Holbert and Mann acted as if he did, and stated in their deposition their belief that he did. They also told others that Senator Thomas represented them, and they reported to the media that Senator Thomas was their attorney. Accordingly, Holbert claims that he and Mann sought advice from Senator Thomas and acted according to what he instructed them to do. Moreover, in Senator Thomas' deposition, attorneys for Holbert and Mann objected to Thomas' answering questions about his discussions with Holbert or Mann and about advice he gave them. In making these objections, their attorneys relied on the attorney client privilege. Despite these actions and

statements, Holbert and Mann try in their Offer to distance themselves from Senator Thomas by referring to him merely as the "first public official who offered a place to safe keep the computers." All of these facts raise serious questions regarding the authenticity of the allegations made by the Defendants and Senator Thomas.

The files from Senator Thomas' office show that he was serving as much more than a custodian of the records, however. Rather, what he was actually doing was researching how to bring an action against the School District. Holbert even assisted him with research by e-mailing him cases and materials he found that might provide a basis to sue the School District, even if no actual damages could be shown. Incredibly, despite the clear implications of these documents from Thomas' file, Holbert testified in his deposition that he could not recall if he ever had a conversation with Senator Thomas about bringing a lawsuit. He also stated: "As a matter of fact, I didn't even know he was thinking about [bringing a lawsuit] when it came out in the paper." This deposition testimony flies in the face of the very e-mails Holbert sent to Thomas in November and December 2005 regarding research for bringing an action, one of which Holbert referenced as: "Important information case NOTES!!! Lawsuit."

Additional evidence further contradicts Holbert's deposition testimony. Witnesses interviewed by the School District will state that in 2005 Holbert told them that Senator Thomas represented him, and that Thomas would be filing an action against the School District on his behalf. One of them will also say that Holbert told him that he [Holbert] was reading a draft complaint Thomas had sent him when he [Holbert] was involved in a car accident in September 2005.

According to other witness interviews, one of Holbert's supervisors met with Holbert in early 2006 to make sure that Holbert was not going to involve Greenville Tech in any lawsuit

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he filed. This witness was also aware that Senator Thomas met with Dr. Barton at Greenville Tech on Holbert's behalf after the supervisor questioned Holbert about the potential lawsuit.

At his deposition, Thomas testified that while he had the computer and server and was working with Holbert, he was attempting to persuade the South Carolina General Assembly to pass a personal identity theft bill. As proposed, that bill would have changed the law so as to allow a plaintiff to recover statutory per se damages even if that plaintiff had no actual damages. In addition, Senator Thomas, his firm, and even Holbert also conducted their own research into bringing a class action against the School District. Senator Thomas actually "shopped the case" with one of the largest class action law firms in the state to see if they were interested in bringing it, all while he kept the computers Holbert had given him and never told anyone at the School District.

Despite their attempts to use the confidential information against the School District, Holbert and Senator Thomas concluded that there was no basis for a legal action. During the mind boggling eighteen months it took for Thomas to admit he had reached this conclusion, however, neither he nor Holbert and Mann made any effort whatsoever to return the confidential information to the School District or even to tell the School District they had it. Senator Thomas even testified that he made sure the School District did not know of his involvement and admitted that he never approached the School District about the confidential information until December 2006, after the media published the stories.

Interestingly, in his deposition, Sen. Thomas testified that after the story broke in the news media in November 2006, he became nervous about having the computers at his office because he was concerned somebody might steal the computers now that the public knew he had them. This testimony is highly questionable. At the very time Senator Thomas contacted

SLED, the same day of the Carolina High School auction in March 2006, Thomas appeared on an ETV television program to promote the passage of his personal identity theft bill. On the air, he recited the facts of how he acquired from a person he did not identify computers belonging to a government agency he did not reveal. Yet he stated that he had two computers in his office that contained 50,000 social security numbers and names and addresses of individuals that had come from a computer sold by a government entity. He even stated he had this information under lock and key in his office. Nothing he did at that time indicated any concern that someone might steal this information even though he announced it on a state-wide television show. Moreover, he also stated on this show that he had already contacted SLED and had concluded by that time (March 2006) that no laws had been violated due to the sale of those computers.

If Holbert and Mann were only trying to protect the students and employees of the School District, they certainly need to explain why they were hiring attorneys, researching how to sue the School District, hiding from their involvement, calling SLED for inappropriate reasons, acquiring papers from a high school auction in March 2006, and all the while, never informing the School District.

As for Senator Thomas, if in fact he was not their counsel as he claims, no logic can possibly explain why a state senator, an actual elected servant of the public, would not call the superintendent one time over the eighteen month period to discuss the issue. Instead, Senator Thomas for the first time almost eighteen months after gaining possession of the server and computer sent a letter to Wade Cleveland on December 1, 2006, advising the School District he intended to sue the School District. Yet even this occurred after he failed to return Mr. Cleveland's phone call about the confidential information.

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Not surprisingly, the media blindly reported that Senator Thomas attempted on at least three occasions to return the confidential information to the School District, but according to the accounts, the School District refused to respond. The facts show Senator Thomas did not lift a finger to return a single item until December 1, 2006, four days after the story was reported in the media. And worse, the one time an independent person (SLED – Agent Keel) tried to set up a meeting with Holbert and the School District, Senator Thomas apparently told Holbert not to cooperate. Considering that Holbert and Mann testified that they gave the information to Thomas because they believed he would know how to return it to the School District, Thomas' retention of it belies any argument that he was acting as a concerned public servant in this matter.

8. **In 1998, Holbert purchased computers from the School District that contained confidential information of former students, and he contacted several School District officials, including Harold Graves and Eston Skinner, who came out and removed the confidential information.**

Holbert claims that he purchased a computer with confidential information on it at a school auction in 1998, made a copy of that information, gave it to Harold Graves, a School District employee at the time who then gave it to Ann Sutherlin, a board member. He also claims that he called Eston Skinner, the School District's purchasing agent, who came and removed the data from the computer. The School District submits, however, it knows of no independent evidence that that supports any of these claims. No School District records indicate any sales of a computer to Holbert in 1998, and Holbert has not provided any identifying information for such a computer. No evidence shows that anyone ever notified Ann Sutherlin or gave her a disc. Mr. Skinner will deny that he ever met with Holbert to erase any information on a computer. Working as he does in the procurement department of

the School District, not the IT department, he has no involvement with computer related activities.

9. **The WH Group is a business entity owned by Holbert and Mann that participated in acquiring computers from the School District that contained confidential information.**

Representatives of Holbert and Mann have repeatedly stated in the media that Holbert and Mann ran a company known as the WH Group and through that company they acquired computers and items from the School District. In their pleadings, Holbert and Mann admit this is false. Why? The WH Group does not exist. It is not an entity formed under any corporate laws, does not have any employees or members, and has never filed any tax returns. Holbert and Mann have no documents to show that the WH Group ever purchased anything from the School District. The School District, therefore, questions why Holbert and Mann attempted to portray themselves as business partners through this alleged entity. The end result of such questionable behavior has been that the School District has had to go to great effort to discover the true nature of the WH Group.

CONCLUSION

At this early stage of the litigation, the School District seriously doubts many of the allegations and representations on which Holbert and Mann base their Offer of Judgment. Until further discovery allows the parties to ferret out the truth, the School District must reject the Offer of Judgment.

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NELSON MULLINS RILEY & SCARBOROUGH LLP

By: _____

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Attorneys for Greenville County School District

Greenville, South Carolina
March 27, 2007

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CERTIFICATE OF SERVICE

I, the undersigned administrative assistant, of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Greenville County School District, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by having them hand delivered to the following individual:

Pleadings:

PLAINTIFF'S RESPONSE TO DEFENDANTS' OFFER OF JUDGMENT

Counsel Served:

Mr. David W. Gantt, Esq.
Pfeiffer, Gantt & Gleaton, PA
200-A South Main Street
Greenville, South Carolina 29601

Wendy Miller

March 27, 2007

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER

2007 MAR 27 P 2:48

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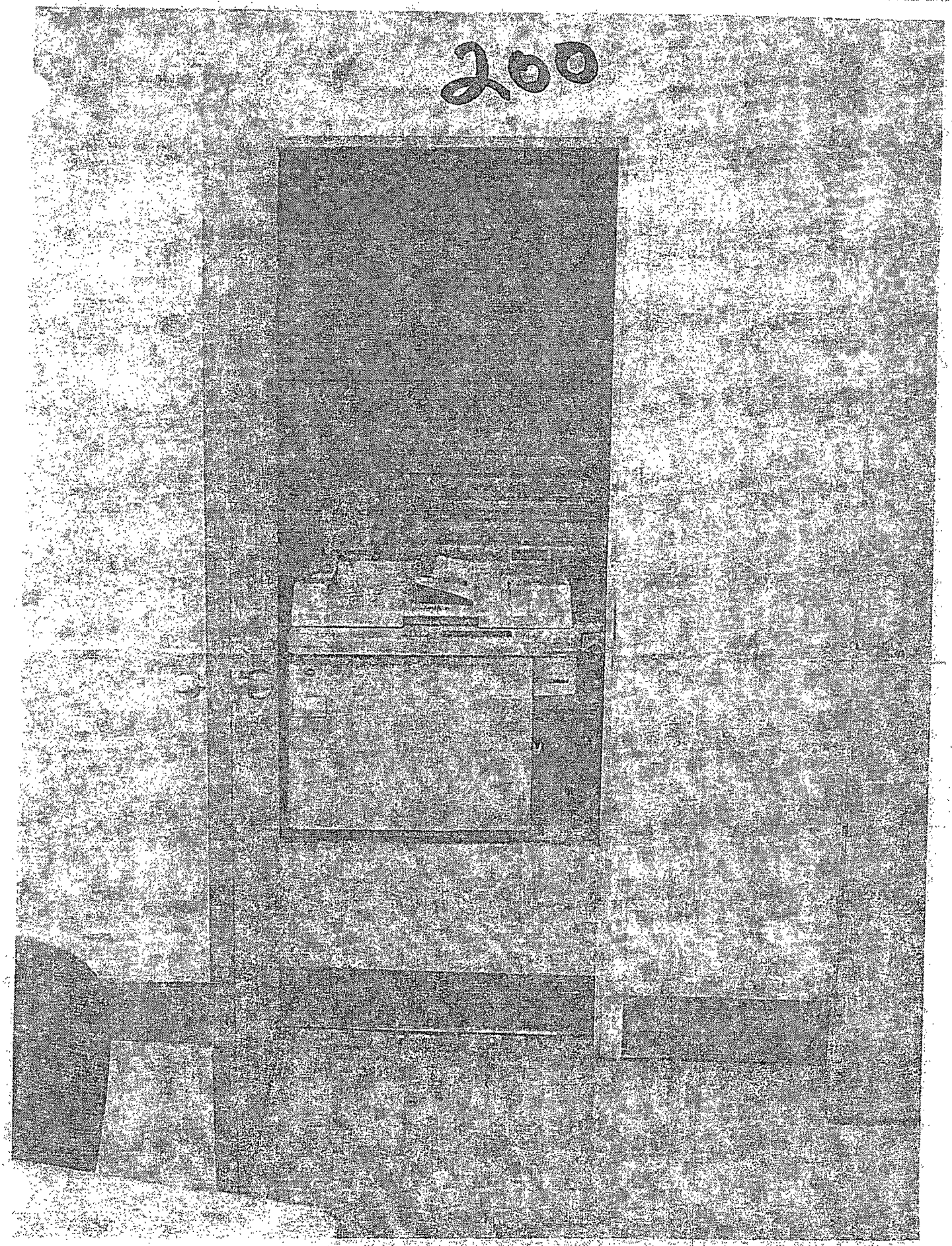

C489

SEE ADDENDUM

HEALTHSOUTH
Diagnostic Center of Greenville
1 Cannon Drive
Greenville, SC 29605
864/242-4011

Account #: 155246 Mail
Name: HOLBERT JR, KENNETH L
Home Phone: [redacted]
SSN: [redacted]
Date of Birth: [redacted] Sex: M
Ref: 01914 DIXON C CUNNINGHAM JR MD
Date of Procedure: 6/28/06

MRI LUMBAR SPINE

INDICATION: Severe low-back pain. No radiation into the leg.

TECHNICAL: Standard noncontrast MRI of the lumbar spine performing sagittal and axial T1- and T2-W images.

FINDINGS: Alignment of the lumbar spine is normal. Lumbar vertebrae display normal marrow signal. Lumbar vertebral bodies maintain normal height without compression deformity. The visualized lower spinal cord and conus medullaris have normal size and signal intensity. Conus ends normally by L1-2 disc level. Today's numbering scheme assumes five nonrib-bearing lumbar-type vertebral bodies.

Examination of intervertebral disc levels on sagittal images demonstrates moderate degenerative disc disease at L4-5 and L5-S1 levels where there is desiccation and disc space narrowing. Mild posterior annular bulge is seen at these 2 levels. Disc spaces rostral to L4-5 maintain normal T2 water hydration and disc space height.

Examination of intervertebral disc levels on lower three intervertebral disc levels on axial T1- and T2-W images demonstrates:

L3-4: Minimal annular bulge without resultant spinal canal or neural foraminal encroachment. Normal facets.

L4-5: Moderate annular bulge flattens ventral surface of thecal sac but does not cause significant spinal canal or neural foraminal encroachment. Normal facets.

L5-S1: Mild annular bulge with superimposed broad-based left posterolateral disc protrusion which involves the foraminal and extraforaminal zones. While this closely approximates the exiting left L5 nerve root, there is no clear impingement of the exiting left L5 nerve root. Correlation for symptoms of left L5 radiculopathy is suggested. No neural foraminal stenosis or spinal canal stenosis. Mild bilateral facet osteoarthropathy. Asymmetric enlargement of the left S1 traversing nerve root is seen which may simply represent a conjoined nerve root sleeve. Less likely explanation

**********CONTINUED**********

PRELIMINARY

CORRECTED REPORT

HEALTHSOUTH
Diagnostic Center of Greenville
1 Cannon Drive
Greenville, SC 29605
864/242-4011

Account #: 155246 Mail
Name: HOLBERT JR, KENNETH L
Home Phone: [redacted]
SSN: [redacted]
Date of Birth: [redacted] Sex: M
Ref: 01914 DIXON C CUNNINGHAM JR MD
Date of Procedure: 6/28/06

PAGE TWO...

For this appearance would be a disc extrusion or sequestered disc fragment. If the patient does not have left lumbar radiculopathy or left sciatica symptoms, consider first asymmetric appearance of the S1 nerve roots due to a conjoined nerve root. If there are radicular symptoms, possibility of a disc extrusion or sequestered disc fragment exists.

Limited visualized paraspinal planes are clear.

IMPRESSION:
1) DEGENERATIVE DISC DISEASE AND MILD ANNULAR BULGE AT L4-5 WITHOUT NEURAL IMPINGEMENT.
2) BROAD-BASED LEFT POSTEROLATERAL DISC PROTRUSION AT L5-S1 WHICH APPROXIMATES THE EXITING LEFT L5 NERVE ROOT BUT DOES NOT DEFINITELY IMPINGE IT. SUSPECT CONJOINED NERVE ROOT ACCOUNTS FOR ASYMMETRIC PROMINENCE OF THE TRAVERSING LEFT S1 NERVE ROOT RATHER THAN SEQUESTERED OR EXTRUDED DISC FRAGMENT. IF THERE ARE SYMPTOMS OF LEFT L5 RADICULOPATHY OR LEFT S1 RADICULOPATHY, FURTHER EVALUATION WITH LUMBAR MYELOGRAPHY COULD BE PERFORMED. AGAIN, THE PATIENT REPORTS LOW-BACK PAIN ON THE QUESTIONNAIRE WITHOUT RADICULAR SYMPTOMS.

ADDENDUM: 7-25-2006: MRI LUMBAR SPINE IS REVIEWED 7-25-2006 WITH PARTICULAR ATTENTION TO THE L4-5 DISC SPACE. QUESTION HAS ARISEN REGARDING THE SEVERITY OF DISC BULGING AT THIS LEVEL. THE DEGREE OF DISC BULGING AT THE L4-5 LEVEL IS "MILD" AND, AGAIN, DOES NOT PRODUCE ANY EVIDENCE OF NEURAL IMPINGEMENT. LCA/law

NAVEEN N. PARTI, M.D./law

Thank you for referring this patient to HealthSouth Diagnostic Center.

dd: 6-29-2006
dt: 6-29-2006
dc: 7-25-2006

PRELIMINARY

PLANNING STAGE DOCUMENT

Kennety L. Holbert / [redacted]	Information Resource Consultant II	Sept 1, 2000
EMPLOYEE NAME/SS#	JOB CLASSIFICATION	JOB DATE

Engineering Technology Division	Sid Shrum	FROM: 3/15/05 TO 3/15/06
ORGANIZATION UNIT	RATER	RATING PERIOD

It should be noted that this evaluation is actually based on performance from March 15, 2005 up to November 13, 2005. Ken was out on FMLA for the remainder of the evaluation period and elected not to extend the evaluation period. Activities since his return from work, on Feb 15, are not included. (space is provided below for employee comments)
Also attached is list of additional accomplishments from employee submitted prior to evaluation)

1. **JOB DUTY:** Maintain the ET Division Network Servers. This includes software and hardware installation, maintenance, preventive maintenance and repairs.

   SUCCESS CRITERIA: Ensure that ET Division servers are online 90% of the time while school is in session.

   Evaluation: Overall 90% Goal met Servers ran with only one failure. This occurred during Ken's leave and required longer than expected to repair. Cooling of server room still an issue needing to be addressed. – **Meets Exp.**

2. **JOB DUTY:** Provide file and system protection to Network. This includes documentation, security system back-up and file and account management.

   SUCCESS CRITERIA: Implement or maintain file and system protection to protect faculty, staff and student data from deliberate damage.

   Evaluation: No major file maintenance problems have occurred. Ken continues to work on reliable backup systems. – **Meets Exp**.

3. **JOB DUTY:** Assist the ET Computer Support Team in prioritizing network, hardware and software issues for the ET division.

   SUCCESS CRITERIA: Maintain a working task list to demonstrate that prioritized objectives are met in timely manner. This task list is to be updated weekly, and made available to the dean and department heads for review.

   Evaluation: Working task list is not being fully utilized to date. Task list not officially reviewed or distributed. Only recently available for viewing in a convenient location and format – **Meet Exp (-)**

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4. JOB DUTY: Coordinate, delegate and/or [illegible] ot the ET Division hardware, software, and network problems including emergencies.

SUCCESS CRITERIA: Develop a list of general standard operating procedures for the overall network management.

Evaluation: Ken has developed a strong team to trouble shoot problems. As demonstrated by the teams success during his recent FMLA period. Ken's implementation of robust network setup early in the year also contributed to this success. **Exceeds Exp**

5. JOB DUTY: Assist ET Division Departments in purchasing and installing new equipment and software.

SUCCESS CRITERIA: Install software and hardware in a timely manner.

Evaluation: When focused on issues, Ken is very good at expediting purchases and Installation of hardware/software. His fire fighting skills are very good, and researches problems to insure proper fix. -**Meets Exp**

6. JOB DUTY: Supervise ET Tech Support technicians, managing time and task to insure efficient use of resources.

SUCCESS CRITERIA: ET Tech support staff will be managed to efficiently utilize resources assigned to this part of the ET Division.

Evaluation: Supervision is not one of Ken's strongest points. He has always had a need for collaborative support in certain areas of supervision. This past year one of the part time computer techs was terminated for performance. This termination, although request by Ken, resulted "partly" in Ken's lack of success in supervising this employee although he did seek collaborative support in his actions. Although Ken did himself insure that the uncompleted task were done. **Meets Exp (-)**

3-16-06
Employee Signature & Date

3/16/06
Rater Signature & Date

Reviewer Signature & Date

Other Signature as Required

ATTACHMENT FOR OBJECTIVES
OPTIONAL

Kenneth L. Holbert	Information Resource Consultant II	September 1, 2000
EMPLOYEE NAME/SS#	JOB CLASSIFICATION	JOB DATE
Engineering Technology Division	Sid Shrum	FROM: 3/15/05 TO 3/15/06
ORGANIZATION UNIT	RATER	RATING PERIOD

No optional objectives are included for this employee for this evaluation period.

3-10-06	3/10/06	
EMPLOYEE SIGNATURE/DATE	RATER SIGNATURE/DATE	REVIEWER SIGNATURE/DATE
EMPLOYEE SIGNATURE/DATE	RATER SIGNATURE/DATE	REVIEWER SIGNATURE/DATE

PLANNING & DEVELOPMENT

Kennety L. Holbert / [redacted]	Information Resource Consultant II	Sept 1, 2000
EMPLOYEE NAME/SS#	JOB CLASSIFICATION	JOB DATE

Engineering Technology Division	Sid Shrum	FROM: 3/15/05 TO 3/15/06
ORGANIZATION UNIT	RATER	RATING PERIOD

1. **JOB DUTY:** Maintain the ET Division Network Servers. This includes software and hardware installation, maintenance, preventive maintenance and repairs.

   SUCCESS CRITERIA: Ensure that ET Division servers are online 90% of the time while school is in session.

2. **JOB DUTY:** Provide file and system protection to Network. This includes documentation, security system back-up and file and account management.

   SUCCESS CRITERIA: Implement or maintain file and system protection to protect faculty, staff and student data from deliberate damage.

3. **JOB DUTY:** Assist the ET Computer Support Team in prioritizing network, hardware and software issues for the ET division.

   SUCCESS CRITERIA: Maintain a working task list to demonstrate that prioritized objectives are met in timely manner. This task list is to be updated weekly, and made available to the dean and deparmtne heads for review.

4. **JOB DUTY:** Coordinate, delegate and/or troubleshoot the ET Division hardware, software, and network problems including emergencies.

   SUCCESS CRITERIA: Develop a list of general standard operating procedures for the overall network management.

5. **JOB DUTY:** Assist ET Division Departments in purchasing and installing new equipment and software.

   SUCCESS CRITERIA: Install software and hardware in a timely manner.

6. **JOB DUTY:** Supervise ET Tech Support technicians, managing time and task to insure efficient use of resources.

   SUCCESS CRITERIA: ET Tech support staff will be managed to efficiently utilize resources assigned to this part of the ET Division.

KLH 3-10-06 3/10/06

S.C. TECHNICAL COLLEGE SYSTEM
PERFORMANCE APPRAISAL DOCUMENT
(REFER TO PLANNING STAGE PREVIOUSLY COMPLETED)

Kenneth L. Holbert	Information Resource Consultant II	September 1, 2000
EMPLOYEE NAME/SS#	JOB CLASSIFICATION	JOB DATE
Engineering Technology Division	Sid Shrum	FROM: 3/15/05 TO 3/15/06
ORGANIZATION UNIT	RATER	RATING PERIOD

JOB DUTIES FROM PLANNING STAGE (Indicate M, E, or B)

1. M 2. M 3. E 4. M(-) 5. M(-) 6. _____ 7. _____ 8. _____

PERFORMANCE COMMENTS: Ken evaluation is based on 9 month due to FMLA. He needs to continue to work on focusing on work task and improve supervision skills. He continues to support the college goals with work to bring in outside donations to the division of used equipment sometime on his own time.

PERFORMANCE CHARACTERISTICS
Rate agreed upon characteristics either (A) Acceptable or (UA) Unacceptable

1. Competence	A (+)	8. Time Use	A (-)	15. Reliability	A
2. Self-Management	A	9. Safety	A	16. Delegation	A
3. Job Knowledge	A	10. Responsibility	A (-)	17. Acceptance	A (-)
4. Quantity	A	11. Judgement	A	18. Internal Relations	A
5. Quality	A	12. Leadership	A	19. Adaptability	A
6. Problem Analysis	A	13. Initiative	A	20. Communication	A
7. Accuracy	A	14. Dependability	A	21. Additional	A

PERFORMANCE OBJECTIVES (If applicable)
(Indicate either M,E, or B)

No Optional Objectives Included for this employee for this evaluation period.

STRENGTHS, WEAKNESSES, AND ANY ACTION REQUIRED BY AGENCY/EMPLOYEE: Ken works hard, but sometime has problems focusing on task at hand. Department head do not feel he is always readability available when he is needed. He needs to continue to work to improve communication and focus on job duties.

Ken is interested in pursuing if other areas of the college might have opportunities to take advantage of his interest in recruiting donations as a lateral transfer, now that ET Tech support is stable.

OVERALL PERFORMANCE RATING:
(B) BELOW PERFORMANCE REQUIREMENTS*
(M) MEETS PERFORMANCE REQUIREMENTS
(E) EXCEEDS PERFORMANCE REQUIREMENTS*

***EXPLANATION/JUSTIFICATION REQUIRED TO SUPPORT THESE RATINGS (use separate sheet if necessary):**

EMPLOYEE COMMENTS (use separate sheet if necessary):

3-16-06
Employee Signature & Date

3/16/06
Rater Signature & Date

Reviewer Signature & Date

Other Signature as Required

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Holbert

rom: Ken Holbert [Ken.Holbert@gvltec.edu]
ent: Thursday, March 09, 2006 5:29 PM
o: Ken Holbert
ubject: FW: Additonal Info for Annual review.
ttachments: ADDACC301-302.doc

m: Sidney Shrum
t: Thursday, March 09, 2006 4:13 PM
Ken Holbert
bject: Additonal Info for Annual review.

),
ou would like to send me any additional accomplishments to attach to your annual review, feel free to do so.
e from a previous review we attached the document above from a previous year.

0457

Additional accomplishments: 209 bmitted by: Ken Holbert

As the network administrator for the ET Division, I have found that a basic understanding of the technological principles of each department would assist me in providing the most efficient and effective means of provide the very best service possible in terms of software and hardware support. This also assists me in determining the computer support needs of each department and how this equipment might be integrated into the computer network and automation environment of the future.

My willingness and openness to learning has already benefited the division by past donations, and time spent on my own in learning new technologies and overcoming obstacles. Negotiating and ordering highly technical software and hardware for all of the departments. This past year I have implemented my own electronic storage of documents by scanning the invoices, purchase requisitions and purchase orders into the computer, and converting them to Adobe Acrobat files. I was the first to provide detailed accounting for credit card charges, including scanning the statement/receipts, and creating an organized spreadsheet for proper accountability.

Other achievements are listed below:

1. Was able to acquire a donation of over $30,000 worth of much needed electrical equipment for Marco Gotshaw's program. I decided to split the donation with him.

2. I took annual leave to go to auctions and to acquire donations for other departments within the college. I have never once taken a write off for any Gift in Kind donations for the college.

3. Donated a projector cart to the GMT department. I am not sure if foundation has it on record. I did not receive an acknowledgement.

4. Donated pallet racks to shipping and receiving. Again,. I am not sure if foundation has it on record. I did not receive an acknowledgement.

5. I have a robot on loan to the MET department that they use to take to Schools. I also have a vacuum-form machine, a centrifugal pump and other item used by the MET dept on loan.

6. I have given multiple computer parts and other items needed to various departments without filling out donation forms.

7. I donated multiple overhead projectors, and projector screens to the BCT department.

KH

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n Holbert

From: Ken Holbert [Ken.Holbert@gvltec.edu]
Sent: Tuesday, June 27, 2006 2:39 PM
To: Sidney Shrum
Subject: Home / Bed
Attachments: Dr_2006-06-26.pdf

y,

an hardly stand the pain now. I have called the doctor and neurologist. I apologize and am planning to go home and go to d. I may stay in bed tomorrow and be back on Thursday. The doctors office will be contacting me shortly. I am attaching a py of my visit report.

anks,

n

0499

Greenville Technical College

Staff Leave Statement

Department EGR

As of: June 30. 2006

Employee Id	*********	KENNETH HOLBERT			
Leave Serv Date	03/17/1989	State Serv Date	03/17/1989	TERI Serv Date	

Annual Leave

Previous Hours	214.14
Accrued Y-T-D	91.41
Taken Y-T-D	24.00
Hours Transferred Y-T-D	0.00
FMLA Annual	133.50
Current Balance	148.05
Rate	15.63

Sick Leave

Previous Hours	495.38
Accrued Y-T-D	56.28
Taken Y-T-D	13.00
Family Sick Leave Y-T-D	75.00
Hours Transferred Y-T-D	0.00
FMLA Sick	0.00
Current Balance	463.66
Rate	9.38

Leave Without Pay

Leave w/o Pay	0.00
Military Leave	0.00

Sick Leave:

- Based on calendar year January through December
- Beginning balance is ending balance on 12/31 of each year
- May accumulate up to 1350.00 hours (180 days)
- May use 675.00 hours (90 days) at retirement for service credit

Annual Leave:

- Based on calendar year January through December
- Beginning balance is ending balance on 12/31 of each year
- May accumulate up to 337.50 hours (45 days)
- Will be paid for hours not exceeding 337.50 at retirement or resignation

HOLBERT, KENNET

ET510

Monday, July 10, 2006

0500

Greenville Technical College

Staff Leave Statement

Department EGR

As of: October 31, 2005

Employee Id	*********	KENNETH HOLBERT			
Leave Serv Date	03/17/1989	**State Serv Date**	03/17/1989	**TERI Serv Date**	

Annual Leave

Previous Hours	262.40
Accrued Y-T-D	146.06
Taken Y-T-D	138.00
Hours Transferred Y-T-D	0.00
FMLA Annual	0.00
Current Balance	270.46
Rate	14.84

Sick Leave

Previous Hours	592.07
Accrued Y-T-D	93.80
Taken Y-T-D	117.50
Family Sick Leave Y-T-D	0.00
Hours Transferred Y-T-D	0.00
FMLA Sick	0.00
Current Balance	568.37
Rate	9.38

Leave Without Pay

Leave w/o Pay	0.00
Military Leave	0.00

Sick Leave:

- Based on calendar year January through December
- Beginning balance is ending balance on 12/31 of each year
- May accumulate up to 1350.00 hours (180 days)
- May use 675.00 hours (90 days) at retirement for service credit

Annual Leave:

- Based on calendar year January through December
- Beginning balance is ending balance on 12/31 of each year
- May accumulate up to 337.50 hours (45 days)
- Will be paid for hours not exceeding 337.50 at retirement or resignation

HOLBERT, KENNET

ET510

Friday, November 04, 2005

0501

213

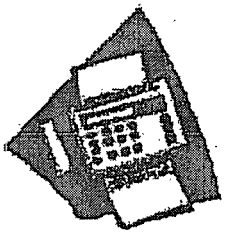
4

0502

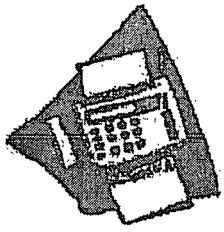
214

5

2.15



Fax



Subject: Prescription Medication variance request
Date: 7/15/2004

To: Customer Service
Phone Number: 1-888-260-9430
Fax Number: 803-737-0825

From: Ken Holbert Jr.
Phone Number: 864-269-2838
Fax Number:

Comments: Page 1 of 3

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Julius Earle, Jr, MD

PO Box 8761
Greenville, SC 29604
VoiceMail (864)380-5642
JEarleJ@pol.net

12 July 2004

RE: HOLBERT, Kenneth

To Whom It May Concern:

I have been seeing the above named individual in my practice for approximately 8 years. He is currently being prescribed a stimulant medication, [redacted] tablets, for the diagnosis of Attention Deficit Disorder (ADD). At no time has this medication been prescribed for weight control or dieting. He has taken this BRAND NAME medication for the last eight or more years for the diagnosis of ADD. He also suffers with Chron's Disease and is very sensitive to medications and their fillers. He recently was given a generic substitution for his [redacted]. This did not work nearly as well as the brand name from a clinical standpoint, nor was it tolerated as well (GI side-effects). It is my professional medical opinion that he requires the BRAND NAME [redacted] for optimal clinical efficacy. He works as a computer information network manager at the local technical college. This requires extended periods of time paying strict and close attention to detail. [redacted] works very well for him, he experiences no side-effects, and it has allowed him to function very well in his work environment.

If I can be of any further service to this patient please contact me through the address listed.

Respectfully,

Julius Earle, Jr, MD
Diplomat in Psychiatry (1989)
Diplomat in Child Psychiatry (1990)
American Board of Psychiatry and Neurology, Inc.

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Dear Customer Service,

My name is Kenneth Lee Holbert, Jr. I am currently a member of The Blue Cross Blue Shield State employees health program. I use Merk Medco for my prescriptions. My member # is [redacted].

I have taken [redacted] for ADHD for 8 years. I have always used brand and my physiological make up is now adjusted to it. I am hypersensitive to any changes in medicines or their make up. My job requires a great deal of concentration and the brand name medication has allowed me to perform a lot better than I would normally have. This medicine has also improved my life as a whole.

I am requesting a variance to allow me to continue taken the brand prescription of [redacted] without being charged the $110.00 price for not using the generic. My normal charge for the medication has been $40.00. I am asking that this variance be effective as of June, 2004 when I was first charged the $110.00 I am to get another refill tomorrow, and am asking that the variance be applied for that prescription as well.

Please see the attached letter from my physician.

Thanks,

Ken Holbert
104 Sun Blvd
Easley, SC 29642
(864) 269-2838

STATE OF SOUTH CAROLINA

State Budget and Control Board

EMPLOYEE INSURANCE PROGRAM

MARK SANFORD, CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

RICHARD ECKSTROM
COMPTROLLER GENERAL

1201 MAIN STREET, SUITE 300
COLUMBIA, SOUTH CAROLINA 29201
(803) 734-0678
FAX: (803) 737-0537

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

ROBERT W. HARRELL, JR.
CHAIRMAN, WAYS AND MEANS COMMITTEE

FRANK W. FUSCO
EXECUTIVE DIRECTOR

July 21, 2004

Ken Holbert
[redacted]

Re: [redacted]

Dear Mr. Holbert:

Thank you for your July 15, 2004 letter requesting that you be allowed to continue paying the $40.00 non-preferred brand co-payment for the prescription drug, [redacted]®.

The State Health Plan is a self-insured medical plan and all of the monthly premiums collected are placed in a trust account to pay enrollee claims. Unfortunately, a myriad of economic and market forces that include state budget shortfalls and double-digit cost increases, have put a strain on all components of the State Health Plan and it has been forced to increase all premiums and restructure co-payment formulas in order to continue providing quality care.

Beginning on January 1, 2004 the State Health Standard Plan's annual deductibles increased and the method used to calculate the satisfaction of these deductibles changed as well as the co-payment formulas for drugs. Under the new plan if a generic drug is available, and the subscriber purchases the brand name medication or if his doctor prescribes the brand name drug, the benefit will be limited to the cost of the generic medication and the subscriber will be responsible for the price difference. Moreover, the difference paid will not apply toward the co-payment maximum. Unfortunately, there are no provisions in the Plan that will allow us to deviate from the co-payment formula structure.

Thank you again for your letter and for the opportunity to respond to your request. If you have any additional questions or need further assistance, please contact our Customer Services department at (803) 734-0678 (Greater Columbia Area) or 888-260-9430 (toll-free outside the Columbia area).

Sincerely,

Karen Vicar
Subscriber Services Representative

0507

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Technology Assessment Project
For
Greenville Technical College

Date: May 17, 2006

Results from Solicitation:

By NBH Solutions LLC
67 Creek Bluff Way
Ormond Beach, FL 32174
Phone: 888.864.2630
Fax : 888-223-3614
www.nbhsolutions.com
Proposal Contact: Richard Middaugh

Solicitation Number GTC06-001

Date Printed 03/02/2006
Date Issued 03/02/ 2006
Procurement Officer Bill Tripp
Phone 864-250-8112
E-Mail Address: bill.tripp@gvltec.edu

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Introduction

Today technology is everywhere with an increasing impact on campus. Computer and information technology services have emerged from a backroom support organization to its place as a strategic contributor to higher education. Teaching and learning has been greatly affected. Work ha s changed as technology increasingly penetrates the campus and new ways of accomplishing old tasks emerge.

This produces several challenges for those of us in higher education. As technology extends it reach, so does scrutiny. Given that information technology has the largest budget on most campuses, students, faculty and administrators are paying attention to how much it costs, what services are provided and to whom, how fast the maintenance budget goes up, and how to keep up with the constant change required by technology.

As priorities compete, more administrators and others are questioning the value of technology and are challenged to understand what technology is needed and why. More than ever before, benefits need to be clearly stated. Technology initiatives need to further the mission of the college and deliver benefits related to institutional goals, both academic and administrative.

This assessment of technology for Greenville Technical College is intended to accomplish four important tasks:

- Determine barriers to the enhancement of information technology operations and services so that the college can anticipate brewing trouble;
- Figure out what is wrong so that we can begin development of a roadmap leading to improvement;
- Ask how well information technology is serving the college and determine how well the college could be doing;
- Identify the campus community's perception of information technology services and, if necessary, how the perception can be improved.

Assessment Results

The results of this assessment by NBH Solutions are presented in four major categories:

- • Institutional Planning
- • Policies and Procedures
- • Facilities and Resources
- • Products and Services

It is important to remember that we did not focus on quantitative measure such as the number of users supported, the number of help desk calls, or the number of PCs supported. Instead our focus was on effectiveness and efficiency, assessing the quality and quantity of technology resources, responsiveness by

the information technology department, and the policies and processes that promote effectiveness. Many findings are more subjective than objective.

Findings are based on interviews and observation with material facts provided during sessions afforded face validity.

Some of our findings may come as a surprise but many may confirm and explain what everyone already knew. This report does pinpoint areas that require attention if Greenville Tech wants to improve the effectiveness and efficiency of the college.

Within each of the areas in this assessment, we provide findings, examples and alternatives that might be considered, and, where appropriate, recommendations.

Institutional Planning

When examining planning related to information technology, we considered how, at the college wide level, Greenville Tech recognizes the need for management and technical linkages. In other words, is there evidence that the major information resource areas of the library, academic computing, administrative computing, networking, telephone services, and learning resource centers are treated as a cohesive whole when plans are developed and projects are embarked upon. We evaluated the efficacy of strategic and long-range planning, operational planning, disaster recovery planning, and project planning.

Finding #1 – Technology is not viewed as an asset.

Information technology should be viewed as a key asset with strategic value. Key members of the leadership have not worked with information technology and the college community to use technology for the overall enhancement of teaching, learning, and services. Expectations for information technology have not been identified; services are not universally available college-wide and off-campus.

Finding #2 – While attempts have been made at strategic technology planning, it is mostly driven by Information Resource Management and notusers.

Greenville Tech lacks a strategic, multi-year plan for the use of information technology. In the vacuum created by no college technology plan developed with users, resources areawarded and managed with little direction by the senior administration with regard to overall college priorities and needs. Most often, technology projects and many services are viewed as separate from each other and are not regularly leveraged to benefit the entire college when possible. Administrative priorities are lacking and results are apparent.

Non-technical language should be used to articulate goals and objectives that are meaningful to the broad base of campus people. Since the college is

dynamic and technology changes rapidly, the strategic plan should be updated on at least an annual basis.

For the college to use technology effectively, senior leadership should participate and decide which primary computing resources should be made readily available and set expectations for currency and performance.

The strategic plan for the use of information technology should address:

- • Initiatives to support the overall goals of Greenville Tech
- • The improvement and support of student learning and success through the use of technology
- • Growth and expansion of enrollment and programs
- • Cross-functional improvements in academic programs, administrative and operational
- improvements, and infrastructure.
- • Funding sources
- • Use of new technology

Finding #3 – User participation in operational planning for technology is absent.

The strategic plan should drive the development of a one-year operational plan and the technology budget. Technology objectives should be stated as outcomes that are observable, actual activities to achieve the objectives should be stated, and the planned budget should be allocated to the activities. Effectiveness needs to be annually evaluated so that results and expenditures are compared with what was planned.

Operational planning begins with the information technology staff matching user and college needs to technology solutions that are effective and make the most use of college resources and ends with the delivery of technology services. We consider two basic criteria when assessing operational planning and the delivery of technology services:

- • The extent to which technology services improves the quality of education and college
- operations and,
- • The degree to which technology initiatives lowers the cost of administering and
- delivering that education.

There is a sense among information technology staff that project level plans, when submitted, receive little consideration. These staff feel that they are not permitted to participate in college decisions about technology resources.

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Finding #4 – An institution support plan for technology is missing.
Usually the plan identifies the roles and responsibilities of technical, functional, and user groups with regard to technology and establishes training and support priorities. Support levels and expectations for users should be established in this plan as should replacement of servers, appliances, network devices, personal computers and other hardware. Environmental upgrades to power, air conditioning, floor space, and fire suppression needs should be planned.

Finding #5 – Greenville Tech should consider the development of a formal information technology incident response plan.
While an approach exists, it is not really a plan. For example, the current process delegates decisions to the respective vice president but does not really provide a planned process for response. This plan should how security incidents involving misuse of computing resources and security violations are to be managed in light of institutional policies and legal requirements.

Finding #6 – The college has no disaster recovery plan for its technology.
While a backup process is followed within the information technology department, no disaster recovery plan exists. Should a major disaster occur, it would take the college considerable time to return to operations and critical functions might be difficult to support during the down time.

A disaster recovery plan should be developed so that critical technology services could be restored as part of an effort to support the recovery of normal college activities. At a minimum, the disaster recovery plan should provide for payroll generation, the production of purchase orders, and the processing of accounts payable.

The disaster recovery plan should cover more than Datatel. Office-based systems such as the Hummingbird document imaging system should be covered by the plan. Decisions about how to support academic computing and college data and voice communications should be made within risk tolerance levels. A disaster recovery/business continuity plan should follow the backup strategy and include:

- • Document the current backup and restore processes
- • The key systems that are required if a disaster should occur
- • A plan for returning to operations
- • An interim plan for operations if there is a delay in returning to service
- • Primary roles and backup roles for key college and information technology staff during the disaster recovery process
- • Disaster recovery capability must be tested.

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Finding #7 – The technology project implementation process needs revision.

It appears that during the implementation of the Datatel software, the college did not take this opportunity to re-engineer process. For example, a lack of focus on the student's need for Datatel's web services and the consequent impact on enrollment services should have been a driving force behind software implementation. Opportunities to reduce administrative workload should have been identified during implementation and services could have been improved. Not doing so negatively impacted the college's enrollment services as waits to register continued long after implementation.

If the college is going to get a return on its investment; re-engineering is a required element of the introduction of new technology. Datatel is an administrative suite of related applications that relies on the logical flow of student, financial and human resources information. When implemented, college practices were not re-tooled to take full advantage of Datatel; instead, administrative silos were preserved. Left on their own, departments did the best they could without guidance as to how best use Datatel. Consequently, many office processes remain inefficient and constituents underserved.

Institutional Planning Recommendations

• Greenville Technical College should have a multi-year plan for information technology and telecommunications drawn from institutional objectives. This plan should be developed with the participation and collaboration of the college community so that the plan addresses current and future needs while incorporating instructional and operational initiatives.

- A plan describing how to handle security incidents needs to be written.
- An annual operational plan should be tied to expenditures and provide for evaluation of outcomes.
- A plan for institutional support and participation is needed.
- To determine what technology services should be considered in disaster planning, a risk
- assessment should be conducted with results used to direct the development of a disaster recovery plan.
- More rigorous project planning is required to ensure that technology projects meet user needs and expectations.

For an example of a project plan see Appendix A.

Policies and Procedures

When examining this area, we assessed the extent to which information technology is guided by institutional policy, the procedures that exist to support policy, and the service orientation of information technology services.

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Finding #8 – The College needs to improve the governance of technology.

Policies guide and direct the use and support of technology. Without policies and procedures, users and the information technology staff must re-establish these for each new initiative. At GTC, technology services are not guided by published policies and procedural standards understood by computing staff and user departments. Such standards and procedures need to be negotiated with users. If not, users feel that standards and rules are dictated without their involvement and absent an understanding of departmental needs. This creates a general perception among college staff that information technology decisions are made without user input and manifests as general dissatisfaction with technology services. An added consequence of a low level of user involvement is no shared understanding of how priorities for information technology are established. No user we interviewed knew of policies, procedures and priorities guiding the use of technology.

Staff described the information technology team as individually competent and appearing eager to serve but felt that end users were permitted little participation in technology decisions. For example, when needs that could be met by technology are shared with information technology, it appears that Information Resource Management decides the actual solution, often acquiring it without user input.

Finding #9 – Executive support is needed for technology needs.

Executive management support of the information technology department is needed.

Without a chief information officer, senior administration lacks the information necessary to determine appropriate technology directions and does not routinely participate in technology decisions. Technology decisions are often made on the basis of departmental preferences instead of being directed by priorities. Major technology decisions resulting in long term commitments and costly expenditures are made within user departments or by the information technology department.

Examples with major impact on the college include:

- • Significant barriers to student access to network services, including the inability to connect personal laptops and use wireless technology.
- • The outsourcing of telephone and network communications services for new student housing resulted in the forgoing of a revenue opportunity.

Finding #10 – There is a need for a Chief Information Officer.

The college needs a seasoned Chief Information Officer to aim technology solutions and services at enterprise needs.

A Chief Information Officer should;

- • Engage senior leadership in technology decisions
- • Facilitate an institution-wide planning process

- • Create a high-level and involved policy committee
- • Encourage participative decision-making processes
- • Guide the prioritization of processes within the college
- • Ensure resource allocation processes
- • Create user feedback capabilities
- • Represent the entire college in technology decisions

The Chief Information Officer should have a seat at the decision making table as a member of the senior leadership team and engage this team in major information technology decisions. The CIO should advocate for institutional good instead of prominence for the information technology department.

Policies and Procedures Recommendations

- A formal committee structure to govern technology at the college rather than division level in needed.
- The college requires a Chief Information Officer with broad experience that extends beyond Greenville Tech.
- Senior administration needs to select a Chief Information Officer on whom they rely.

Facilities and Resources

Our assessment of information technology facilities and department staff considered several factors: department management, user access, staff competency, staff training, staff attitude, and the degree to which the staff is matched to user service needs. Facilities were assessed by judging if campus wide computing centers and computing laboratories are appropriate for the academic and administrative programs. Staffing is evaluated by questioning how the professional information technology organization and staff facilitate effective use of technology resources. Access to information technology was evaluated by considering the extent that technology resources are conveniently accessible to the college constituencies consisting of students, faculty and staff. Availability was assessed by ascertaining if technology services are readily available both on and off campus. Finally, the use of financial resources was considered.

Finding #11 – Financial resources are not used wisely when selecting technology.

Technology efforts and purchases are not coordinated resulting in some departments being served at the expense of the college. This results in opportunistic rather than strategic buying. For example, with regard to academic computing, Engineering and Business are well served by resources and skilled technicians, while the Arts and Sciences struggle with aged technology. Many technology solutions are costly and require consideration of all available alternatives prior to making a major expenditure. It appears that technology recommendations and purchases are made with little regard to cost.

For example, the college is currently using the Checkpoint firewall for security. Information Resource Management has determined that the computer supporting this firewall should be replaced. Information Resource Management has recommended that a dual firewall configuration be purchased at the estimated cost of $125,000.00.

On the Checkpoint website there is a configuration utility that will allow a system administrator to size and price a firewall based on users and Internet connectivity demands. This site can be found at:
http://checkpoint.miranet.com/products/enterprise/page1.html.
Based on the number anticipated growth of students (20,000) and computers at Greenville Technical College, the cost of a new firewall should not exceed $5,000.00 versus the proposed $125,000.00.

Detailed information concerning the hardware recommendations from Checkpoint can be found in Appendix B of this document.

Another example is the SUN StorEdge L180 tape library used for backups. Having adequate storage for system backups is essential. The present tape library will hold approximately 180 backup tapes and has been targeted for replacement by Information Resource Management. The tape library has so much extra capacity that the system can store backups up to six months before an operator is required to change tapes.

If recovery of data from backup tapes are required, aged data are of little use. If the last three months of registration data is lost, the college is in big trouble. Having older data will help little. We are certain this tape library was impressive when purchased; however, it provides magnitudes of capacity in excess of what is required.

A case in point is the City College of San Francisco with more than 110,000 students has a tape library much smaller than the SUN StorEdge L180.
We estimated the original cost for the present tape library (with tapes, drives and backup computer) at $160,000.00.

In *The Information Technology Services Strategic Plan for Supporting the College's Growth 2006 - 2011* this tape library is targeted for replacement with a 300 tape capacity library and DVD-Recordable system at a cost in the range of $250,000.00. A better expenditure of college funds would be the HP MSL 6030 with the capacity for 30 tapes at a cost of about $28,000.00.

This same plan calls for an upgrade to the SUN Enterprise System at an estimated cost of $750,000.00 to $850,000.00. In addition, this plan proposes an upgrade in disk capacity that would cost $650,000.00 to $750,000.00.

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We are simply amazed by these proposals. Within the past year we designed a complete system replacement for the City College of San Francisco (110,000+ students), including enterprise servers for administrative systems, disk storage with mirroring, email, disk and backups and offsite storage of backup data at a total cost less than $400,000.00.

Also, we are concerned with the Voice-over-Internet-Protocol (VoIP) under consideration by Greenville Tech. The college now pays the local phone carrier monthly for each phone line. This Centrex service is very costly for large organizations with many phones. While an assessment is required to determine the exact cost savings associated with VoIP; our conservative estimate is that a cost savings of $3 million over the course of ten years is likely. NBH Solutions managed a deployment of a VoIP phone system for City College of San Francisco with a cost savings of 5 million dollars over a 10 year period compared to Centrex. Other examples of similar savings, including $2 million saved at Nevada's Clark County School District (CCSD) can be found in Appendix C.

Other curious examples of technology spending can be found:
• Greenville Tech is currently paying approximately $20,000.00 per year to host the WebCT application externally. The company providing the hosting ensures the servers are online by applying operating and application level patches and performs basic system administration. Our experience is that these services require approximately .35 FTE.
System administration is already performed by Information Resource Management and well as the technologists supporting business and engineering computing labs. By hosting the WebCT server(s) at Greenville Technical College this yearly cost can be recouped for other college initiatives.
• Some academic computing labs use an outsourced pay per print service by IKON. This service costs approximately $6,000.00 per month, which is partially offset by student payments for printing. Other less costly solutions are available including an inexpensive software program called PCounter found at the following website: http://www.andtechnologies.com/pcounter.html.

When investing in technology, money should be spent on solutions that last. Two pair patch cables do not support high speed network technologies as well as some power over Ethernet applications necessary for Voice-over-Internet Protocol (VoIP) phone technologies. Category 5e is the standard adopted in 2001 by the Electronic Industries Alliance as a cabling standard for high speed network connectivity and VoIP. The college uses thousands of patch cables to connect computers and printers to the network and in cabling closets. The installed patch cables do not meet the industry minimum standard of 4-pair Category 5e. A significant amount of cabling will need to be replaced to support newer Gigabit Ethernet speeds. This discovery surprised us because the cost of higher rated cables is not significantly more than the substandard ones used by the college; however, the cost to replace and terminate the cabling to support Gigabit data transfers at the college could be as high as a million dollars.

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Finding #12 – The opportunity to derive revenue from technology is overlooked.

There are revenue opportunities on campus. Institutions often gain revenue by providing technology to on-campus residents. An estimated 400 students are moving on-campus. A revenue opportunity will be missed if the plans continue to outsource the phones and network to a third party. Many colleges provide local and long distance telephone services, television and Internet connectivity to residents for a fee.

The outsourced pay per print service provided by IKON might be provided by the college. Instead of paying a vendor for this service, the college could provide this service and generate revenue. Information on an inexpensive software program called PCounter found at the following website: http://www.andtechnologies.com/pcounter.html.

Finding #13 – Technology decisions should be based on information.

The fact is there are no more technology projects. Instead, there are teaching projects, enrollment services projects, student success projects, financial aid projects and others that enhance communication, share information and create efficiencies using technology. The focus should not be the technology and this needs to be understood by every employee providing information technology services and support. Technology itself isn't important unless it helps the college succeed. Technology projects that do not support strategic goals have little value for the institution. The two fundamental tasks of information technology professional in higher education are:

- Deliver ubiquitous, commoditized services to support the infrastructure of computing, and;
- Work with academic and administrative leaders to develop and align specialized technology services with the institution's strategic goals aimed at academic and administrative transformation.

Like most colleges, Greenville Tech is staffed with mostly those concerned with technology mechanics. This staff sees their role as a provider of commodities, not solutions. To be competitive, GTC needs technology staff that possess significant functional knowledge of the academic and business purposes of the institution, have strong communication and management skills and understand the day-to-day challenges as well as the end users. Infrastructure services such as bandwidth, workstations, email, telecommunications, and other services should be delivered in a way that minimizes costs, takes advantages of economies of scale, and reduces complexity. Infrastructure delivery requires staff but should demand less if open standards solutions and commodity purchases.

With sound management, the number of staff supporting infrastructure services should be significantly less than the number of information technology staff focusing on the delivery of services from the point of view of the end users. This

part of the staff should work in partnership with users to ensure the best use of technology solutions and resources, work with the academic leadership to transform teaching and learning, and act as intermediaries between the academic, business and technology worlds.

Finding #14 – Many technology decisions are made independently.
Most technology decisions are made independent of one another without a comprehensive strategy for the college. Access to services is often denied to constituents based on rationale that does not consider user needs. Security was often cited as the reason for restricting access and services both on and off campus. It is a fact that access and security are at odds with each other. While the most secure system is one with no access, denying access does not promote use of technology services. Security should be used to protect information and systems from harm while providing the services needed by the college and its constituents.

Finding #15 – Students, faculty and staff lack wireless connectivity.
To stay competitive with other colleges and universities Greenville Tech needs to offer the same level of services as institutions in the South Carolina area. Many institutions not only offer wireless but a laptop to freshman. In fact, it is difficult to find a medium to large size higher education institution that does not have wireless access. The main reason cited by Information Resource Management for not having wireless connectivity was security. Security is always an important consideration and should be balanced with all new technology initiatives. However, many higher education institutions have found a balance between wireless and security.

In Appendix D of this document there is an example of how Duke University located in Durham, NC handles wireless security for their students. The most optional solution to wired and wireless security is the 802.1x User Authentication Protocol discussed in the next section of this document. In addition, the table below contains a list of colleges and universities in the South Carolina area that have a wireless and or laptop program.

In a report by Forbes Magazine, different college campuses were rated on connectivity provided to students, faculty and staff (www.forbes.com/connected). The article accounted for wired and wireless access which contributed to the institutions overall rating.

Central Carolina Technical College (CCTC) located in Sumter, South Carolina has found an innovative technology to provide wireless to students, faculty and staff on campus. The college created 'College on the Move' a 5-star rated Palm VII application that wirelessly connects to the internet to retrieve dynamic information from college servers. From any Palm device with wireless access students are able to log into services at (CCTC) to access account information, register for classes, apply for admission, browse course sections and catalogs,

check degree and program information, access news and events calendars, and more. Information on the Central Carolina Technology College wireless Palm application can be found in Appendix E of this document.

If Greenville Tech College is to stay competitive it needs to move quickly to adopt technology that is readily available. Greenville Tech College has all of the technology in place to offer restricted wireless access to student, faculty and staff. By using VLAN (Virtual LAN, a network of computers that behave as if they are connected to the same wire even though they may actually be physically located on different segments of a LAN) technology a separate network can be created that offers less access to sensitive administrative computing systems and more access to general Internet technologies. All of the network equipment used at Greenville Tech College has the feature to support VLAN technology.

Finding #16 – The current use of network security inhibits the senior leadership team's desire to deliver access to technology.

Greenville Tech College has not implemented universal access using wired and wireless technology because of security concerns. Securing any kind of network involves allowing authorized parties to access traffic and networked resources (e.g., servers, hosts) while blocking outsiders. The essential component to securing a network is to do it by user and denying access or granting access.

Fortunately, there is a standard that is built into almost every intelligent network device (including the ones used by Greenville Tech College) that will control user access. The standard is LAN Port Access Control framework as defined by the IEEE (define) 802.1X standard was ratified in 1998 and built in to many network devices and software since Microsoft Windows 2000 & XP.

The user access control is the basic mechanism to allow access to network services and when it is coupled with universal user authentication, network users can be put into different security groups based on their user login name and password. For instance, students at Greenville Tech College may only have access to the Internet when using 802.1x and user authentication or faculty and staff may have access to Datatel Colleague and the Internet. This type of user authentication can be used for both wired and wireless network access and can have any combinations of access for different groups of users.

Single sign-on user authentication allows a single action to provoke user authentication and authorization, eliminating the requirement of multiple passwords. Single sign-on authentication reduces human error and improves security by establishing predefined access roles for groups of users.

Single Sign-On User Authentication

The traditional way of giving a student access to campus resources is to create a user and password for student email access, create a different student user and password account for wireless access and create yet another separate user and

password account for online course management access. An improved way to grant access to various systems is to create groups consisting of users with identical access privileges and automatically add users to the appropriate group when a student, staff or faculty complete a predefined event. All users and groups would be stored in a central authentication repository for single sign on authentication. For example, a distance education account on the WebCT system can be created when students successfully complete the registration process (or other predefined event.) With single sign on technology the same WebCT account can be used to access student email, Datatel Web Advisor or wireless network access.

With single sign-on user authentication, users can connect to different systems by using one set of credentials, eliminating the need for multiple user IDs and passwords. User authentication contributes to a more secure environment while increasing access to network resources.

Northern Virginia Community College has successfully implemented user identity management using the standard 802.1x protocol built into Windows XP. This allows student, faculty and staff to sign into the network with a single user ID and receive access to the approved computer systems and services.

Leftbridge Community College has taken an innovated approach to a single sign-on system. The table below taken from the Leftbridge single sign-on manual highlights what services can be accessed with a single sign-on. As you can see Leftbridge has used single sign-on technology to provide access seamlessly to services under three unique technologies: Windows Domain, the LLC Account or Portal and WebAdvisor/Datatel. When a high level of integration exists between uniquely separate technologies they appear to operated as one service to the user.

Leveraging single sign-on technology students, faculty and staff can access computers in a lab, 1 Gigabyte of personal storage, lab printing, email, WebCT or Datatel WebAdvisor.

Single sign-on technology in itself will not help to empower users and fix technology access. Only through the integration of different technologies such as WebCT, wireless access and WebAdvisor will single sign-on enable users to access a myriad of technology services and make them all function as one.

Facilities and Resources Recommendations

- The Chief Information Officer should view requests for technology purchases with a high level of scrutiny to ensure the best use of funding.
- The college should look to identify more opportunities to derive revenue from technology.
- User needs should drive technology decisions.

- Greenville Technical College should move quickly to adopt a wireless solution so that the college does not continue to fall behind other peer institutions.
- The college needs a network security plan that provides instead of restricts access.
- Greenville Tech College should implement single sign-on technology to support wired and wireless access for students, faculty and staff.

Products and Services

The degree to which computing software and hardware are appropriate in quality and depth to support the mission of the college through its academic offerings and institutional operations and management was evaluated.

Finding #17 – Technologically speaking, the college is challenged to meet student expectations.

Technology support of coursework is not likely to meet student expectations and may have an impact on enrollment both now and in the future. While certain areas of the college use instructional technology extensively, many do not. When examining the college as a whole, commonly found services such as online syllabi for all courses, academic policies, web-based discussion groups for students, student web pages, student portfolios, and electronic collaboration between students and faculty are not present.

Access to information resources is not uniform throughout the college and most are not available off campus. General and specific student information about programs, careers and transcripts cannot be handled at a distance nor can all personal student information be updated online by the students.

Access to network services is place bound and not generally available across campus and from off-campus. Laptop use and wireless access are not readily available. Technology support for student computers is non-existent.

Educause and the American Association of Collegiate Registrars and Admissions Officers (AACROA) jointly developed the *Student Guide to Evaluating Information Technology On Campus* (shown in Appendix F.) This guide advises students on what technology services should be considered when selecting an institution to attend. Many colleges and universities have prepared their own version of this guide that responds to each of the issues identified.

Some of the questions suggested by Educause and AACROA include:

- Is the Internet easy to connect to around the campus?
- What about file sharing?
- Are classroom technology enhanced?
- Can students work with multimedia?
- Does the library provide services through the web?

- What public access to computing is available to students: labs, cyber cafés, residence halls and wireless access?
- Is there electronic space for student web pages?
- Are online discussion forms available?
- What kind of technical support can I support for my own computer/laptop?
- How much of the campus has wireless?

In our opinion, failure to provide competitive services will negatively impact enrollment.

Finding #18 – Technology solutions are not well integrated.
NBH Solutions believes that the use of technology can serve the college well in its quest for increased enrollment. Simple strategies using technology can pay big dividends. For example, until this semester, students had to wait as long as seven hours to complete the application and registration process.

By leveraging the existing Datatel Colleague software, the college became much more responsive to students. By integrating the delivery of services and courseware using the web, Greenville Tech could improve the ability of enrollment services to reach out to those who cannot come to campus and allow these students to take courses at distance. The planned Online College at Greenville Tech has the potential to increase enrollment by reaching a new distance education market. For distance education to be successful, more than courseware and instruction must be provided. Academic and student support services must be available to the web.

Once enrollment, academic, and student support services are seamless and delivered via the Intranet, on campus students will have the same capabilities. Seamless integration of other information services is difficult because of the use of outsourcing. Outsourcing provides an excellent vehicle for reducing cost and gaining expertise for independent technology applications. Greenville Tech has outsourced services that should not be independent. The main college website is outsourced to a company that provides a space on a server to upload web pages. This company provides space on a server shared with other customers; therefore, it is not possible to gain administrative access and install advanced applications such as online chat and authoring software. This prevents departments from changing their own content and inhibits advanced application integration. The outsourcing of the website prevents integration from other data sources resident on campus based servers.

Another example is the course management system providing virtual classrooms for students taking distance education. While this might work at present, as the Online College and distance education grows, integration with Datatel and other applications is going to be desired via a portal. Having the web server, WebCT server, and other applications off campus introduces significant issues when it comes to integration and security.

We found a similar situation with the IKON pay for print solutions selected by Information Resource Management for the academic labs. This solution is not configured to utilize the existing student ID card; therefore, students that use this service are required to purchase and carry a separate card. Technologies chosen by the college should integrate with existing technologies whenever possible.

Training and user support for Datatel does not promote the development of user proficiency and the continued expansion of the user base. With the exception of what has been developed within individual departments, training and user manuals are lacking management and delivery.

Training is required to increase user proficiency with Datatel and cause Datatel to function as single integrated system across college divisions and departments.

Finding #19 – Technology applications are selected without a full understanding of user needs and processes.

Before choosing hardware and software, a needs assessment and an analysis of processes should be performed. Once this knowledge base is developed, the college should first ask if any technology already resident on campus can be leveraged to meet the identified needs. If not, new technology must be acquired. User participation is critical to ensure that any technology solution solves the problem.

The pay for print solution was not acquired using the above approach. Information Resource Management selected a pay per print solution for academic labs. While this solution worked well in certain labs, it doesn't work in all labs because of network configuration issues. This indicates that a thorough needs assessment was not performed, nor was communications considered.

Hummingbird document imaging was selected by Information Resource Management to speed up document handling in student services. One application of imaging is the Graduation Application. While the imaging system is capable of automating the storage of graduate applications, a thorough needs assessment should have considered whether or not a paper application should even exist. It is likely that paper could have been done away with by developing a web form for graduation applications. This approach would have sped up the processing and still permitted the storing of historical record.

We suspect that many more technology decisions have been made without full consideration of the issues and needs. When decisions are made in this manner, technology solutions are often not a good investment. Decisions, like the Hummingbird situation described above, sometimes do not meet the need and actually increase the cost of services.

Real solutions cannot be purchased. Commodities are purchased. Solutions require analysis, planning and execution by users and technologists.

Finding #20 – For the most part Colleague is being used within administrative silos.

Only the basic functionality with Datatel Colleague is being utilized. To automate business processes to the maximum extent the flow of student, finance and personnel data must be understood. In addition, users must be adequately trained. Within departments it seems that users are proficient in rudimentary applications but processes that span departments or that reach out to touch more casual users such as faculty have not been fully enabled.

For example, while parts of WebAdvisor have been successfully deployed there are substantial improvements that could be made in the areas of enrollment services, advising, communications management, distance learning, curriculum planning and management information reporting. The two major barriers to continued expansion in the use of Datatel are a lack of understanding of the Datatel processes and the preservation of administrative silos. Streamlining is not possible if each office works independently. Datatel's software expects a logical flow in every process and does not respect organizational structures. The college could benefit from an analysis and streamlining of its processes to achieve a logical sequence of steps that are supportable within Datatel.

Products and Services Recommendations

- Greenville Tech should provide integrated solutions for distance education, web hosting, and enrollment, academic, and student support services via the web.
- A comprehensive technology training plan needs to be developed to cover all deployed administrative and academic technology on campus.
- Greenville Tech needs to develop a plan and budget to meet student expectations and needs regarding technology.
- Greenville Tech needs to either internally support many of the technologies that are currently outsourced or find a higher level of integration with core services so they seem to operate as one seamless system. This will improve the overall technology experience at Greenville Technical College for students, faculty and staff.
- The college should cease attempts at buying solutions and instead focus on how to solve problems with technology.
- Serious consideration should be given to process re-engineering to support the continued development of the use of Datatel.

Conclusion

Greenville Technical College has the potential improve on the dividend received from information technology. By supporting the technology infrastructure, strategically thinking, putting the right people in the proper roles, and focusing

funding on strategic objectives, the manner in which technology serves college constituents can be reinvented in a relatively short time.

Vision for Title III

Greenville Technical College Opportunities for Technology Improvement Using Title III

Using the information provided by the college and the results of the Technology Assessment, several opportunities to strengthen student success through technology and services enhancement can be identified. Perhaps we should begin by creating a scenario to illustrate how students and faculty find use integrated technology at Greenville Tech.

Imagine Jean, a high school student, sitting with a high school guidance counselor, together exploring Greenville Tech offerings via the web. With minimal assistance from her counselor, Jean uses the capabilities on the college's web site to search through academic program offerings based on her interests and needs. Jean hasn't decided if residence hall living is for her but decides to take a virtual tour of the student residential facilities and services. After discovering an online vignette of student with similar needs, Jean thinks campus life might appeal to her but still needs to know more about the Greenville-Spartanburg area. Jean finds information on local housing costs, shopping, and community activities and part-time employment information through a link on the college site that connects her to information readily available on the web. By now, Jean has found that Greenville Tech offers a academic programs in areas she is interested in, has decided that Greenville is a city worth checking out a bit more, and thinks dormitory living might be for her.

Jean is intrigued because the web site seems to be so student focused and decides to apply on line. A few minutes later, Jean finds a conditional letter of acceptance in her hotmail account. This letter gives her a Greenville Tech email address and asks that she checks her new account. When Jean takes a look, she finds detailed instructions on what she needs to submit to finalize her application and a person to call if she needs help. Jean doesn't realize that the college is already tracking her to be sure she follows through- if Jean doesn't submit the information required for admission within a week, Jean will receive personal phone call offering help.

Luckily for Jean, she doesn't need help with the rest of the application process and learns through her campus email that she has been formally accepted. The acceptance message invites Jean to participate in an online orientation that is offered via the web on demand.

The responsive of the college has impressed her and Jean quickly accesses the orientation. At the beginning of online orientation, Jean is asked a few questions about her interests and needs. She indicates that she needs help paying for college, that she remains interested in residence life, and that she enjoys

thespian activities. Orientation provides a set of common information to all students but allows a student to explore information areas at will, keeping track of what student have viewed and reminding Jean of what she still needs to complete. Included in Jean's customized orientation contains an overview of student life, information on financial aid, a electronic copy of the campus publication Spotlight, a free ticket that she can print for a college play, and an invitation to attend the next campus meeting of Critic's Choice. Jean completes the orientation by making an electronic appointment for placement testing and making an appointment to see an advisor.

Two days before her advising appointment, Jean receives an email reminding her of the appointment. She is encouraged to apply for financial aid online and told she doesn't have to wait to do this. Jean decides to apply for financial aid and does so via the FASFA.ed.gov site. The college informs Jean of the need to complete a Greenville Tech Aid Application and she does so online. The required supporting documents are faxed by Jean to a fax number specifically established for her and the facsimiles are loaded into the document imaging system used by the Financial Aid Office.

After advising, Jena knows what she wants to take and visits the college's online registration in WedAdvisor while at home. Among her selections, are courses on English, mathematics and theater. Jean finalizes registration and pays the amount owed by credit card.

A few days pass and Jean checks her campus email. She finds a message from her theater professor welcoming her to the class linking her to the WebCT course website so she can preview the course syllabus and find textbook information. Since Jean is very interested in theater, she appreciates the information and orders her books from Amazon.com.

As the start of classes approaches, WebCT has equipped Jean with her course syllabi for all her classes, even though she is not enrolled in distance education. She has moves into her dorm room, textbooks in hand. On her first day, Jean learns her English course assignments will be submitted electronically and she is reminded about plagiarism rules when told that her electronic papers will be submitted to turnitin.com to verify the originality of her work.

As she takes other courses, information technology continues to enhance Jean's learning. Greenville Tech portal permits the import of course meeting times into the calendar she keeps on her laptop. Her music classes use itunes capability to provide access to clips she must be familiar with. Podcasts from the NY Times on theater offerings are used by Jean and her roommate to find play to attend during semester break.

Second semester and Jean hits an barrier. Even though she is working hard, she isn't doing well in college algebra. Her instructor has noticed her struggle and

sent her an electronic invitation to private chat session to discuss her success. After a few minutes chatting, Jena's professor suggests that she take advantage of the college algebra help offered at Enablearning.com. Jean previews this service and learns she has to pay for it but success is important to her. Jean finds other Greenville students getting help with math via Enablearning and develops an electronic workgroup using the site's chat capabilities. Her professor is interested in helping her succeed so he monitors her performance on the Enablearning site to identify specific concepts she is having difficulty with. With a lot of hard work and the support of her professor, Jean is happy when she is able to earn a B.

Semesters pass and Jean does well. She is mastering her coursework aided by information technology. It is now time to transfer to the University of South Carolina, which Jean does on the web. As Jean gets closer to meeting degree requirements, the college web portal lets her know that given her major and credits earned, it might be time for her to electronically make an application. She accesses the online degree audit to review outstanding courses, decides she can complete her studies at the college within the next two semesters and electronically submits her degree application. Student records is notified of her application, runs the graduation check down process and lets Jean know that her application has been processed.

Jean proudly graduates and is surprised to learn that her email account at the college isgoing to remain active. The fact that Jean has graduated is shared with the Raiser's Edge system used by the Foundation. A few months later, Jean receives an email inviting her to an alumni function and gets a personal orientation as to the goals and activities of the Foundation. As a university student, Jean cannot afford to give very much but responds to an email solicitation she receives a year later by contributing ten dollars towards a theater scholarship fund.

This might seem like fantasy but all of the information technology required in the above scenario is available- and much of it already exists on campus. Title III might support an application from Greenville that will deliver the technology described in the scenario in support of student success. Key changes in information technology would need to be made at the college to make this a reality. It is not possible to purchase the technology on a turn-key basis. It will take an understanding of what the college wants to accomplish within the student, academic and technology faculty and staff to guide the selection of technology components that can be integrated to deliver the desired results. The required changes correspond to the findings and recommendations in the Technology Assessment and include:

1. Creating an over-arching governance structure for information technology.
2. Devising an enterprise-wide approach to student success.

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3. A keen understanding of the processes by information technology staff.
4. Re-engineering of the business and student services processes to achieve the information flow required.
5. Integration of existing technology.
6. Buying or building the technology components to open campus resources via wireless and web technology.
7. Campus wide commitment to a technology toolset.
8. Project planning and management from an outcomes perspective.
9. Strategic buying

The information technology components needed in the scenario include:

- Servers to host the software
- Portal software
- Job management software
- Storage for email and student data

Given certain choices and the technology present on campus, most of the new technology required to deliver the results described in the scenario would cost less than $500,000. Integration services would be in addition, as it depends on the outcomes desired and the actual components purchased.

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Ken Holbert

From: Greg Cann [Greg.Cann@gvltec.edu]
Sent: Monday, February 26, 2007 3:53 PM
To: Ken Holbert
Subject: RE: employee handbook request 3rd attempt
Attachments: Handbook080606.doc

Gregory D. Cann SPHR
Human Resources
Greenville Technical College
P. O. Box 5616
Greenville SC 29606-5616
Phone (864) 250-8191
Fax (864) 250-8630
greg.cann@gvltec.edu
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From: Ken Holbert [mailto:[redacted]]
Sent: Monday, February 26, 2007 1:39 PM
To: Greg Cann
Subject: employee handbook request 3rd attempt
Importance: High

Good Afternoon Mr. Cann,

I have asked you for an employee handbook which you had stated that you were e-mailing me. I have not received it. I stopped by Greenville Tech to pick one up, and they told me that that did not have any to give out. I never went through orientation so I never got one. You told me this morning that someone brought you a hard copy.

Why can't I get a copy?

Ken Holbert

This electronic mail message is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. This mail message has been scanned for virus and malware and is free of such to the best of this sending sites ability and knowledge.

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en Holbert

om: Greg Cann [Greg.Cann@gvltec.edu]
ent: Friday, December 15, 2006 9:44 AM
o: Ken Holbert
c: Penny Moore
ubject: RE: Ken Holbert / Endoscopy / Excuse

Ken,

anks for your email and picture. We have not referred you to another physician at this point, so we have not hired one for you. You will need to have your current physician, I can't remember his name, certify your current ndition as a "serious health condition" using the Department of Labor Form to do so. We will need to get that form k to know how to proceed.

is request is separate from your worker's comp claim.....Greenville Tech has no responsibility for the approval of worker's comp piece.....the State Accident Fund has sole responsibility for that side.

is may be confusing, so please feel free to call me if you have any questions.

anks,

egory D. Cann SPHR
man Resources
eenville Technical College
O. Box 5616
eenville SC 29606-5616
one (864) 250-8191
x (864) 250-8630
g.cann@gvltec.edu

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om: Ken Holbert [mailto:[redacted]]
nt: Friday, December 15, 2006 6:32 AM
: Greg Cann; Lydia Lomax; Penny Moore
bject: RE: Ken Holbert / Endoscopy / Excuse

od Morning Mr. Cann,

ad an Endoscopy on Tuesday of this week. The doctor scrapped my tongue and it is being tested in the lab to see what it is. At s point, they do not know if it is malignant, or contagious. They do not think it is thrush.

e timeline for this problem with my tongue is directly associated with the strep throat I got while in the hospital. I was on tibiotics for 18 days and during the time on antibiotics this condition with my tongue appeared. I am attaching a picture in pes that the doctor you have hired for me can help identify what this could be. I also applied for 180 days FMLA extension I ought. If this does not count, then I will come back to work. However, I do not want to be responsible for other co-workers a tongue like mine over the Christmas holidays.

anks,

en Holbert

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From: Greg Cann [mailto:Greg.Cann@gvltec.edu]
Sent: Thursday, December 14, 2006 11:15 AM
To: Ken Holbert; Lydia Lomax; Penny Moore
Subject: RE: Ken Holbert / Endoscopy / Excuse

Hi Ken,

I hope that you are feeling better. We will need for this doctor to complete an official certification since this is a different physician that is now treating you. Penny can send a copy to you.

Also, please be aware that we have sent Dr. Nelson a letter along with your position description requesting detailed information from him that would support his continued recommendation for your absences from work. Our request was sent to his office on November 28th. We have not yet received any communication from him at this point. Please be aware that we will need information from both physicians to consider your request for additional time away from work. This information will need to be submitted to our offices by 1/3/07 since this will be our first day back at work after the holidays.

Please feel free to contact me if you have any questions.

Thanks,

Gregory D. Cann SPHR
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Fax (864) 250-8630
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From: Ken Holbert [mailto[redacted]
Sent: Thursday, December 14, 2006 7:42 AM
To: Greg Cann; Lydia Lomax; Penny Moore
Subject: Ken Holbert / Endoscopy / Excuse

Good Morning Mr. Can, Mrs. Lomax, and Mrs. Moore,

I had an Endoscopy done on Tuesday 12-12-06. The doctor scraped the growth on my tongue and I am now awaiting the lab results. They do not know what it is at this time. This growth occurred while on antibiotics because of the strep throat I got while in the hospital. The doctor is not sure if it is contagious and I am attaching a work excuse for this in PDF format.

Thanks,

Ken Holbert

244

en Holbert

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ent: Friday, December 15, 2006 6:32 AM
o: 'Greg Cann'; 'Lydia Lomax'; 'Penny Moore'
ubject: RE: Ken Holbert / Endoscopy / Excuse
ttachments: KHolbert_Tounge-2006-12-15.jpg

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regory D. Cann SPHR
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reenville Technical College
. O. Box 5616
ville SC 29606-5616
e (864) 250-8191
ax (864) 250-8630
reg.cann@gvltec.edu

245

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\
Thanks,

Ken Holbert

246

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Ken Holbert

From: Penny Moore [Penny.Moore@gvltec.edu]
Sent: Friday, December 15, 2006 10:08 AM
To: Ken Holbert
Cc: Greg Cann
Subject: Emailing: wh380.pdf
Attachments: wh380.pdf

Hi Ken,

I thought this was the best way to get the medical certification form sent to you. If for some reason it does not print out correctly, you can go to www.dol.gov under the FMLA section to find it.

Thanks,
Penny

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Ken Holbert

From: Ken Holbert [redacted]
Sent: Friday, December 22, 2006 10:33 AM
To: 'Greg Cann'
Cc: 'Penny Moore'
Subject: RE: Ken Holbert / Endoscopy / Excuse

Good Morning,

I have just checked my e-mail. I have gone from 169lbs to 153 lbs and have been under a lot of stress which has exacerbated a crohn's flare up. I will be seeing Dr. Dave's on January 10, 2007. If the foprm needs to be filled out before then, let me know. I will come see you upon returning to work on Jan, 3 2007.

Merry Christmas,

Ken Holbert

From: Greg Cann [mailto:Greg.Cann@gvltec.edu]
Sent: Friday, December 15, 2006 9:44 AM
To: Ken Holbert
Cc: Penny Moore
Subject: RE: Ken Holbert / Endoscopy / Excuse

Hi Ken,

Thanks for your email and picture. We have not referred you to another physician at this point, so we have not hired anyone for you. You will need to have your current physician, I can't remember his name, certify your current condition as a "serious health condition" using the Department of Labor Form to do so. We will need to get that form back to know how to proceed.

This request is separate from your worker's comp claim.....Greenville Tech has no responsibility for the approval of the worker's comp piece.....the State Accident Fund has sole responsibility for that side.

This may be confusing, so please feel free to call me if you have any questions.

Thanks,

Gregory D. Cann SPHR
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P. O. Box 5616
Greenville SC 29606-5616
Phone (864) 250-8191
Fax (864) 250-8630
greg.cann@gvltec.edu
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From: Ken Holbert [mailto:[redacted]

252

t. ,ay, December 15, 2006 6:32 AM
Greg Cann; Lydia Lomax; Penny Moore
ject: RE: Ken Holbert / Endoscopy / Excuse

d Morning Mr. Cann,

d an Endoscopy on Tuesday of this week. The doctor scrapped my tongue and it is being tested in the lab to see what it is. At point, they do not know if it is malignant, or contagious. They do not think it is thrush.

timeline for this problem with my tongue is directly associated with the strep throat I got while in the hospital. I was on biotics for 18 days and during the time on antibiotics this condition with my tongue appeared. I am attaching a picture in es that the doctor you have hired for me can help identify what this could be. I also applied for 180 days FMLA extension I ight. If this does not count, then I will come back to work. However, I do not want to be responsible for other co-workers ing a tongue like mine over the Christmas holidays.

nks,

Holbert

---

m: Greg Cann [mailto:Greg.Cann@gvltec.edu]
t: Thursday, December 14, 2006 11:15 AM
Ken Holbert; Lydia Lomax; Penny Moore
bject: RE: Ken Holbert / Endoscopy / Excuse

Ken,

ope that you are feeling better. We will need for this doctor to complete an official certification since this is a ferent physician that is now treating you. Penny can send a copy to you.

so, please be aware that we have sent Dr. Nelson a letter along with your position description requesting detailed ormation from him that would support his continued recommendation for your absences from work. Our request s sent to his office on November 28th. We have not yet received any communication from him at this point. Please aware that we will need information from both physicians to consider your request for additional time away from rk. This information will need to be submitted to our offices by 1/3/07 since this will be our first day back at work er the holidays.

ease feel free to contact me if you have any questions.

anks,

egory D. Cann SPHR
man Resources
eenville Technical College
O. Box 5616
eenville SC 29606-5616
one (864) 250-8191
x (864) 250-8630
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---

om: Ken Holbert [mailto[redacted]
nt: Thursday, December 14, 2006 7:42 AM

253

To: Greg Cann; Lydia Lomax; Penny Moore
Subject: Ken Holbert / Endoscopy / Excuse

Good Morning Mr. Can, Mrs. Lomax, and Mrs. Moore,

I had an Endoscopy done on Tuesday 12-12-06. The doctor scraped the growth on my tongue and I am now awaiting the lab results. They do not know what it is at this time. This growth occurred while on antibiotics because of the strep throat I got while in the hospital. The doctor is not sure if it is contagious and I am attaching a work excuse for this in PDF format.

Thanks,

Ken Holbert

254

:n Holbert

om: Penny Moore [Penny.Moore@gvltec.edu]
:nt: Wednesday, January 03, 2007 11:53 AM
): Ken Holbert; Greg Cann
ıbject: RE: Ken Holbert / Endoscopy / Excuse

:n you were in our office this morning, I forgot to tell you that since you are in a LWOP status you will need to pay your tion of insurances etc. to cover the month of January. Please send to Cheryl Black by January 10th, a check written to : in the amount of $331.02.

ɜ Cross	294.58
ıtal	21.34
)	3.76
r. Life	11.34

ınks,
ıny

ım: Ken Holbert [mailto:[redacted]
nt: Friday, December 22, 2006 10:33 AM
: Greg Cann
: Penny Moore
bject: RE: Ken Holbert / Endoscopy / Excuse

od Morning,

ave just checked my e-mail. I have gone from 169lbs to 153 lbs and have been under a lot of stress which has exacerbated a hn's flare up. I will be seeing Dr. Dave's on January 10, 2007. If the foprm needs to be filled out before then, let me know. I l come see you upon returning to work on Jan, 3 2007.

erry Christmas,

n Holbert

---

om: Greg Cann [mailto:Greg.Cann@gvltec.edu]
:nt: Friday, December 15, 2006 9:44 AM
): Ken Holbert
:: Penny Moore
ıbject: RE: Ken Holbert / Endoscopy / Excuse

i Ken,

ks for your email and picture. We have not referred you to another physician at this point, so we have not hired yone for you. You will need to have your current physician, I can't remember his name, certify your current ndition as a "serious health condition" using the Department of Labor Form to do so. We will need to get that form ıck to know how to proceed.

his request is separate from your worker's comp claim.....Greenville Tech has no responsibility for the approval of the worker's comp piece.....the State Accident Fund has sole responsibility for that side.

This may be confusing, so please feel free to call me if you have any questions.

Thanks,

Gregory D. Cann SPHR
Human Resources
Greenville Technical College
P. O. Box 5616
Greenville SC 29606-5616
Phone (864) 250-8191
Fax (864) 250-8630
greg.cann@gvltec.edu
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Thanks,

Ken Holbert

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Sent: Thursday, December 14, 2006 11:15 AM
To: Ken Holbert; Lydia Lomax; Penny Moore
Subject: RE: Ken Holbert / Endoscopy / Excuse

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Also, please be aware that we have sent Dr. Nelson a letter along with your position description requesting detailed information from him that would support his continued recommendation for your absences from work. Our request was sent to his office on November 28th. We have not yet received any communication from him at this point. Plea be aware that we will need information from both physicians to consider your request for additional time away from

256

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nks,

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anks,

n Holbert

ALJ Form #102

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

RECV'D BID CONTROL
FEB15 '08 FR 10:12AM

Kenneth Lee Holbert, Jr.,

Appellant,

vs.

South Carolina Budget and Control Board,
State Employee Grievance Committee,

Respondent.

NOTICE OF ASSIGNMENT
(Appeal)

DOCKET NO. 08-ALJ-30-0061-AP

NOTICE IS GIVEN that a notice of appeal seeking review of agency action was filed on February 4, 2008. In accordance with S.C. Code Ann. § 1-23-570 (Supp. 2007), the **Honorable Paige J. Gossett,** Administrative Law Judge, has been assigned to preside in this appeal. The Administrative Law Judge may be contacted by mail at 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29201, and by telephone at (803) 734-0550.

Rules of Procedure governing matters before the Court may be obtained from the Clerk of Court or on the Court's website, **www.scalc.net**.

The parties are directed to the relevant provisions of the Rules of Procedure for deadlines for perfecting the appeal and briefing the issues on appeal.

This the twelfth day of February, 2008.

Marvin F. Kittrell
Chief Administrative Law Judge

RECEIVED
FEB 14 2008
OFFICE OF HUMAN RESOURCES

By: Jana E. Shealy

Jana E. Shealy, Clerk
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, South Carolina 29201

FILED
FEB 19 2008
0544
SC ADMIN LAW COURT

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Kenneth Lee Holbert, Jr., Appellant, vs. South Carolina State Board for Technical and Comprehensive Education, Respondent.	Docket No. 08-ALJ-30-0061-AP **ORDER AMENDING CAPTION**

In this employee grievance appeal, the Petitioner, Kenneth Lee Holbert, Jr., challenges the decision of the Employee Grievance Committee denying his grievance. Because Holbert's employer is the proper Respondent in this appeal, see S.C. Code Ann. § 8-17-340(F), the caption is this matter is hereby amended as shown above.

IT IS SO ORDERED.

Paige J. Gossett

PAIGE J. GOSSETT
Administrative Law Judge

March 6, 2008
Columbia, South Carolina

FILED
MAR 06 2008
SC ADMIN. LAW COURT

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).
This 6 day of March 2008
By: Olivia Jones
Staff Counsel

RECEIVED
MAR 10 2008
OFFICE OF HUMAN RESOURCES

THE STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

The Honorable Paige J. Gossett, Administrative Law Judge

Case No. 2008-ALJ-30-0061-AP

Kenneth Lee Holbert, Jr.,

Appellant,

vs.

South Carolina State Board for Technical and Comprehensive Education,

Respondent.

CERTIFICATE OF SERVICE

I, Derrick K. McFarland, Assistant General Counsel of the South Carolina Budget and Control Board, Office of General Counsel, do hereby certify that I have this day served a copy of the attached Record on Appeal on the parties listed below by causing same to be deposited in the United States mail, postage pre-paid, and addressed as follows:

Kenneth Lee Holbert, Jr.
104 Sun Boulevard
Easley, SC 29642

Mary J. Broadwater
General Counsel
S.C. Technical College System
111 Executive Center Drive, Enoree Bldg.
Columbia, South Carolina 29210

Derrick K. McFarland

Columbia, South Carolina
March 13, 2008

THE STATE OF SOUTH CAROLINA

ADMINISTRATIVE LAW COURT

The Honorable Paige J. Gossett, Administrative Law Judge

Case No. 2008-ALJ-30-0061-AP

Kenneth Lee Holbert, Jr.,

Appellant,

vs.

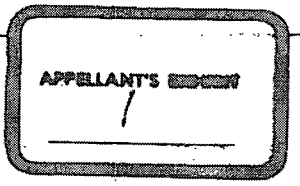
South Carolina State Board for Technical and Comprehensive Education,

Respondent.

SUPPLEMENT TO RECORD ON APPEAL

Kenneth Lee Holbert, Jr.
[redacted]

Mary J. Broadwater
General Counsel
S.C. Technical College System
111 Executive Center Drive, Enoree Bldg.
Columbia, South Carolina 29210



Gcann_Sue-Dr1-11-07_1142am.wav

MR. HOLBERT: Write a letter stating that I could return back to work.

ORIGINAL

MR. CANN: That's right.

MR. HOLBERT: And he wrote a letter stating that and that was satisfactory to you.

MR. CANN: Yeah. And that -- that will be this time, too.

MR. HOLBERT: Okay. Well -- well, I'll get that.

MR. CANN: But I'm going to tell you, Ken, now, you just told me while ago that you are -- you can't -- you can't type, your arms go numb. I'm telling you that when you come back to work, you've got to perform this job. I mean, that -- that's what it boils down to and you've got to talk to your doctor about that. Because if you come in here and -- and -- and it's detrimental to your health, that's going to be between you and your doctor.

MR. HOLBERT: I understand. Well, that --

MR. CANN: You see what I mean on that. You make sure your doctor understands your job duties and, because I'm going to tell you, I'm going to go after him and find out his signature. He's going to be in court with me if he's released you to return to a job that you can't perform. Do you see what I mean?

MR. HOLBERT: But you're -- you're tone just changed a

second ago.

MR. HOLBERT: I just want to make sure ...

GCANN-2007-01-11-147pm-71min.wav

MR. HOLBERT: Hello.

MR. CANN: Hey, Ken.

MR. HOLBERT: Hey, Mr. Cann.

MR. CANN: Hey, it's Greg. How are you?

MR. HOLBERT: Oh, I was typing and my arms went numb so then I got -- but I'm all right.

MR. CANN: Okay.

MR. HOLBERT: I just got a little -- just a little depression.

MR. CANN: Okay. I know. I know. Well, I -- I've got Lydia here and Lydia -- the reason -- Lydia's the expert on this disability stuff so that's the reason I wanted to have --

MR. HOLBERT: Yeah. I had called them. I sent you an email.

MR. CANN: Okay.

MR. HOLBERT: I'd -- I found them on the website.

MR. CANN: Oh, did you?

MR. HOLBERT: And I called them and they explained everything to me.

MR. CANN: Okay. It -- they'd -- it'd be retroactive is what Lydia says.

MR. HOLBERT: Yeah. They said that -- that all

employees will -- in the paragraph that earned more than 30 hours a week get basic.

MR. CANN: Yes. Is that right?

MR. HOLBERT: So -- and then I pay for supplemental.

MS. LOMAX: That is correct. But that also means you must have a health insurance in order to qualify for the state law termed disability.

MR. HOLBERT: Right. Right. And Mr. Cann had made a point about maybe trying to change some policy where --

MR. CANN: We're going to try to get --

MR. HOLBERT: -- I'm a guinea pig I guess.

MR. CANN: You -- you have illustrated a good fact because, see, if we had caught it, you're right. You wouldn't have gone without pay in -- when it stopped in November.

MR. HOLBERT: Right.

MR. CANN: Right. So that's kind of what we want to

-- we've got to improve upon that.

MR. HOLBERT: And thank you, Ms. Lomax. I told Angela that you were putting it in the mail today so we'll receive -- because that lady I talked to said get those forms in.

MS. LOMAX: Yeah. I just sent -- they went out today.

MR. HOLBERT: Okay. Thank you.

MR. LOMAX: I'm working on the things that I have to do because I have to send in -- they've got a little list. I've got to send in your application, your employment application, your resume, your job description, your W-4, and then there is some information that Penny has to fill out as far as the last time you were actively at work and it's just -- Cheryl does a part.

Everybody has a part. So we're doing what we need to do and we're going to get that out hopefully today. Now, the information that I'm going to send out today straight to the standard, they're going to make a file for you.

MR. HOLBERT: Okay.

MS. LOMAX: When you get your app in, then it will go into that same file and then they can begin process.

MR. HOLBERT: Okay.

MS. LOMAX: But they will not process until you get your initial application in.

MR. HOLBERT: Right. And that's what you're mailing today or --

MS. LOMAX: Yes. And what I'm mailing today is some work that you will fill out, the paperwork that you will fill out and there's some paperwork that you would take to your physician.

MR. HOLBERT: Yes, ma'am.

MS. LOMAX: And if you need more than the number of

copies that are in there as far as the authorization for them to look into your medical records, there is a form in there that you will need to sign allowing them to look into all of your medical records.

MR. HOLBERT: Oh, I don't care. I don't --

MS. LOMAX: And if there are more --

MR. LOMAX: -- I don't have anything to hide.

MS. LOMAX: -- signatures, that you need to make copies of that physician statement.

MR. HOLBERT: Yes, ma'am.

MS. LOMAX: I think it may be no more than about two, but if you have more than two doctors, you can make some copies and give them to the appropriate doctors.

MR. HOLBERT: Right. Yeah. Because it kind of got -- it gets confusing with neurosurgeons because you have to go back to the family doctor and then go back to the neurosurgeon. I don't know.

MR. CANN: Yeah, and, see, Ken, on this part of it now, the more that you can -- you know, it's good that you've got several doctors because you can go to those and have all those to substantiate that --

MR. HOLBERT: Right.

MR. CANN: -- in what -- in what Lydia's going to send to you.

MR. HOLBERT: Okay. That's fine.

MR. CANN: Yes.

MR. HOLBERT: I'll do that because that -- yeah.

MR. CANN: And this -- and this --

MR. HOLBERT: Because you realized my -- my -- you, Mr. Cann, I'm sorry about this, but you stepped in -- when you came in as HR Director, you came in to me which I seemed to fall in -- I told the lady at the insurance that I called just a minute ago that if there's a hole I can fall in, I usually fall in it.

MR. CANN: Oh, well, that's okay.

MR. HOLBERT: And I've become a complicated issue with you and I'm sorry for that.

MR. CANN: Oh, no. No problem. That's what we're here for. Now -- so -- and your benefit is ret -- that's what I just wanted to make sure with Lydia because, see, they'll actually go back and pick you up once they approve that to whatever date that is.

MR. HOLBERT: Right.

MS. LOMAX: And how that works is as long as you're in a pay status, they won't pay you. So when you came out of a pay status, then the benefits will commence at that point.

MR. HOLBERT: Right. Right.

MS. LOMAX: But they will start counting the time for your 90 days based on your last day that you were physically at work.

MS. HOLBERT: Yes. She told me like I told her July 12th, so she said you would have been eligible as of October the 12th, and I said, well, I didn't go off of pay until November, I think, and she said, oh, well, --

MS. LOMAX: It'll be November the 1st.

MR. HOLBERT: Right. Right.

MR. CANN: Yeah. Probably December 1st. He was paid --

MR. HOLBERT: And, hopefully, you know --

MS. LOMAX: Were you paid through November?

MR. CANN: Yeah.

MR. HOLBERT: Oh, I was paid -- I don't -- there may have been a day or two I wasn't in November.

MR. CANN: Yeah. What you --

MR. HOLBERT: I was short a day or two. My check was a little bit short in November.

MR. CANN: Whatever they do, they'll -- they'll pick it up. They'll pick it up on that.

MR. HOLBERT: But if -- but if nobody else has to, I mean, if you'd put procedures in where this -- this doesn't happen, I mean, I don't know how many people you have that have to have surgery like mine, but if I can help somebody, that's great.

MR. CANN: Yeah.

MR. LOMAX: I think we -- we -- we're working on

resolving that issue and I suggested to Greg that when Penny sends out FMLA letters, that we also include a paragraph about the supplemental long term disability, to go on and apply for that long term disability and we just keep it and if you're not out the 90 days, then, they won't process it.

MR. HOLBERT: Right.

MS. LOMAX: I think that may be what we're going to try to see.

MR. HOLBERT: That's -- that's what that lady had recommended to me, but I'm -- I was -- you know, that's not my job in HR, but she said norm -- a lot of HR, she didn't say all of them, but a lot of them, if -- if they're going to know they're going to be out an extended period, they go ahead and -- and fill that form out. And that way, if they're not out that long, --

MR. CANN: Yeah.

MR. HOLBERT: -- they go ahead and just --

MR. CANN: Ferret it out.

MR. HOLBERT: -- yeah, just sort of cancel it.

MR. CANN: And one thing, too, Lydia'll tell you about this, too, but we're going to owe you some, too, for your life insurance that -- that you didn't -- that you came out of your check.

MR. HOLBERT: Yes, sir.

MR. CANN: Because I guess -- so tell him about

that.

MS. LOMAX: The optional life insurance have a clause that if you become unable to work and you're out for an extended period of time, then, you get a premium waiver. So since I wasn't aware that you had been out, --

MR. HOLBERT: Yes, ma'am.

MS. LOMAX: -- I wasn't -- I had and completed the paperwork to submit to the state to put you on a premium waiver so we will have to refund your premiums that you are paying from the last day from June or July through --

MR. HOLBERT: November.

MS. LOMAX: -- through November. We owe you all the premiums that we took out. I think it's like $11.54 a month.

MR. HOLBERT: Oh, that's fine. You can --

MS. LOMAX: Yeah. We took that out not knowing and I --

MR. HOLBERT: No, no, no. That's all right. That's fine.

MS. LOMAX: Just --

MR. HOLBERT: I'm just -- you don't know how thankful I am just to hear the good news you're telling me now. So --

MS. LOMAX: And that's a part of that policy.

MR. CANN: Yeah. Okay.

MS. LOMAX: So --

MR. CANN: So, now, Ken, what we need to talk -- we need to know about -- since we've got all this cooking now, we have asked for a return to work --

MR. HOLBERT: Yes, sir.

MR. CANN: Now, of course, if you return, I mean, if you return to work, your disability won't be there. I mean, they won't -- they won't --

MR. HOLBERT: Right. There's a 30-day, if I have to go back, but he wanted to keep me out until after the MRI because -- and I -- this is -- Mr. Cann, please, when I had the cervical MRI done, I asked my family doctor four or five times to do the thorax.

MR. CANN: Yeah. Yeah.

MR. HOLBERT: And they didn't.

MR. CANN: Yeah.

MR. HOLBERT: And they wouldn't.

MR. CANN: Okay.

MR. HOLBERT: And -- and it was today that -- that he said we'll do the thorax because this is -- I laid down on a heating pad yesterday and my arms went numb.

MR. CANN: Oh, my goodness.

MR. HOLBERT: And I started hurting so I took a picture -- I took a rod and just went down my back to figure out which bone was hurting and took a picture -- I had my wife draw a circle around it and took a picture and showed the doctor.

MR. CANN: Oh, my goodness.
MR. HOLBERT: That's why he -- and he ordered the thorax.
MR. CANN: Okay. Who is that? Nelson?
MR. HOLBERT: Dr. Nelson.
MR. CANN: Dr. Nelson. All right.
MR. HOLBERT: So when I talked to Cathy a few minutes ago at Dr. Nelson's because he had mentioned being out or going back to work --
MR. CANN: Yeah. Yeah.
MR. HOLBERT: So --
MR. CANN: Well, where we are now, we -- we've got to talk about, you know, like I said, the -- unfortunately, the extended disability that you have been under is over, you know, like I said, we had talked about this.
MR. HOLBERT: Right. I understand.
MR. CANN: And -- and we have got to make the decision so it sounds like you're not going to be able to return --
MR. HOLBERT: Well, I'll fight for whatever I can do. I mean, --
MR. CANN: Well, I mean --
MR. HOLBERT: I'd like to --
MR. CANN: -- you've -- you've got to listen to your doctor there, too, because, you know, I mean, you -- your health

is paramount.

MR. HOLBERT: Yes. But --

MR. CANN: That's paramount.

MR. HOLBERT: But emotional and stress helps with your health.

MR. CANN: Yes.

MR. HOLBERT: And you just gave me an emotional lift that I -- probably helps me heal.

MR. CANN: Well, that's good. That's good.

MR. HOLBERT: And I don't want to lose a job because I can't come back to work because the doc -- you know --

MR. CANN: Yeah. Yeah. That -- well, where we are with that and where we need to go, we have -- we've got to make a decision today on that. That's -- that's the only thing about it.

MR. HOLBERT: Well, I'm -- I asked them to -- if they would try to expedite an MRI --

MR. CANN: Okay.

MR. HOLBERT: -- for me.

MR. CANN: Okay.

MR. HOLBERT: I haven't gotten a call of when that is. They put me back on physical therapy as I'd mentioned to you and I -- I go tomorrow and I thought I could work, you know, a lunch or something and just run to physical therapy.

MR. CANN: Now, see, Ken, what you're telling me

when you're typing and your arms go numb, I mean, --

MR. HOLBERT: Yeah. That's what -- when I drive, my arms -- I have to either drive with one hand and hold the other and shake it or --

MR. CANN: Yeah. Yeah.

MR. HOLBERT: It's --

MR. CANN: See, it's -- I mean, realistically, you've got to decide, are you going to be able to work at this point. I mean, we -- we are at that juncture now.

MR. HOLBERT: Well, I did read an article when -- when they told me that my cervical MRI came back normal --

MR. CANN: Yes.

MR. HOLBERT: -- there is -- there was an article about the factors that people have in recovery, you know, after an L5 surgery and -- and stress is one of the factors that can cause the -- the symptoms that I have now.

MR. CANN: Yeah. Exactly.

MR. HOLBERT: Money has been the biggest stress for us. And that being lifted off, if my thoratic (ph), because the doctor made mention that sometimes people have these shoulder issues after the surgery. I don't know why. I wish it would have happened earlier.

MR. CANN: Yeah.

MR. HOLBERT: And you understand there's been extenuating circumstances in my life.

MR. CANN: Yeah. Yeah.

MR. HOLBERT: In my personal life. But --

MR. CANN: Those are stressful, too, I bet.

MR. HOLBERT: I can't even begin.

MR. CANN: I bet.

MR. HOLBERT: And between me and you, I mean, I -- I don't know. If one child's saved out of this, it's worth it. But --

MR. CANN: Oh, yeah. Yeah, exactly. Well, what we'll do -- now, let me -- now, let me just tell you about what's going to happen with this. Like I said, with -- I mean, today is the day unfortunately, we --

MR. HOLBERT: Well, I mean, I can get a limited work, whatever. If Sid doesn't want to work with me, I mean, --

MR. CANN: Yeah. Yeah. (Inaudible) to understand what your job is and that's what we're --

MR. HOLBERT: Right.

MR. CANN: -- we've got to understand that clearly before you can return to work.

MR. HOLBERT: Right.

MR. CANN: I mean, you've got a little bit of time to get that together and -- but what -- what happens on it, and like you said before, you know, if you come back to work, you're going to be accruing sick leave and annual leave. I mean, you -- at the normal rate, whatever it was.

MR. HOLBERT: Right. I understand.

MR. CANN: Now, you're not eligible for FMLA so what that means to you is that, like you said, if you have to have surgery, they are under no obligation at that point to hold your job for you.

MR. HOLBERT: Right. I understand that.

MR. CANN: So -- so even if you come back to work, you know, if that happens in the next weeks, you know, Sid and them can say, Greg, I need to fill the job and you would have a break in service at that point.

MR. HOLBERT: Uh-huh.

MR. CANN: So -- so you've got to think about all the status because it's just an unfortunate circumstance that all of the time is exhausted at this point in time.

MR. HOLBERT: Are there -- I understand that. Are there appeals to that?

MR. CANN: As far as what?

MR. HOLBERT: Well, let's say that the year prior to that I didn't work enough hours to qualify but I was given FMLA in 2006 anyway. I mean, 2000 -- yeah, in 2006.

MR. CANN: Uh-huh. Tell me -- okay.

MR. HOLBERT: Then would I have -- then -- I mean, are there -- what I'm trying to say is, oh, goodness.

MR. CANN: I think I know what you're trying to say. Are you trying to say will you get FMLA back?

MR. HOLBERT: No, no, no. I'm --
MR. CANN: When you --
MR. HOLBERT: I'm just grasping at straws trying to -- I want to come back to work. I don't want to be out of work.
MR. CANN: Yeah. Okay.
MR. HOLBERT: And anything I can do to keep a job, not necessarily -- as I told you before and maybe I'm too honest about it, but I did what I was hired to do in the ET division.
MR. CANN: Yeah. Yeah.
MR. HOLBERT: They're running. The network's running.
MR. CANN: Yeah. Okay.
MR. HOLBERT: To me, that job -- I was looking at moving to foundation which is a, you know, I was told I would have to take my job -- what is it -- the -- the slot with me, but foundation is paid -- well, I don't know if that -- how you would handle it, but Fred Payne's job was reimbursed, according to Ms. Clarkson telling me, it was reimbursed by so he was a state employee was reimbursed by Greenville Tech to foundation.
MR. CANN: Okay.
MR. HOLBERT: And when I met with Ms. Lassiter and I don't -- nothing had come out since then, but I would fit between Fred Payne and that man that starts with an L. I can't think of his name.
MR. CANN: I don't know who that is. Well, see, the

only thing -- see, we don't have any openings in that --

MR. HOLBERT: Right. Right. I understand that.

MR. CANN: It was. I mean --

MR. HOLBERT: That was when we had met with Dr. Barton last year, but --

MR. CANN: I mean, there may be something coming down the pipe, but, right now, there's no openings in that -- in that --

MR. HOLBERT: Yeah.

MR. CANN: -- area.

MR. HOLBERT: I wanted to ask you. There were a couple of questions when I was -- I'd also -- the -- the local -- see, I haven't even filed a -- Sid said I couldn't file a travel voucher. So I haven't filed a travel voucher since 2002.

MR. CANN: Okay.

MR. HOLBERT: And I've had to make local trips because going to computer places and stuff to buy parts.

MR. CANN: Uh-huh.

MR. HOLBERT: How was that handled through -- as a Human Resources factor?

MR. CANN: What -- I don't know. Tell me --

MR. HOLBERT: I had a number of questions about -- about my job and the finances and things -- I mean, how the financial situation before -- from 2000 to 2002, any time I made a local trip on behalf of the school in my car --

MR. CANN: Uh-huh.

MR. HOLBERT: -- I would file a travel voucher.

MR. CANN: Okay.

MR. HOLBERT: But Sid said local travel, I wasn't entitled to be reimbursed or something like that, so, since 2002, I had a couple of thousand miles of travel probably that I never filed a voucher for.

MR. CANN: Yeah. See, I don't know about them. I mean, Ken, you -- you can -- you can file it. I mean, you can file it for, I mean, like when we go between -- meeting between campuses, we can file it.

MS. LOMAX: You've got a mile -- well, we got mileage between campus.

MR. HOLBERT: Yeah.

MS. LOMAX: Now, if I was going out to -- I have run out to Sam's to get things for a benefit fair, I do not --

MR. CANN: We don't do --

MS. LOMAX: -- take the mileage for that.

MR. CANN: Yeah. Yeah.

MS. LOMAX: The only mileage that I do request reimbursement is when I'm traveling to Columbia for the college.

MR. HOLBERT: Okay.

MS. LOMAX: Or if I'm going to -- from the Greer Campus to the Barton campus or to the Frazier campus, I file for that. But when I run out to Wilson's Five and Ten to get

something for a bulletin board --

MR. HOLBERT: Oh, yeah.

MS. LOMAX: -- I do not file for that.

MR. HOLBERT: Well, like if I were to go to Comp USA, which is like five miles there and five miles back, that's a ten mile trip, I wouldn't file for that?

MS. LOMAX: No.

MR. HOLBERT: Okay. Then that's fine. But I did make some longer -- longer ones, but --

MR. CANN: But you didn't --

MR. HOLBERT: They were all local.

MR. CANN: So are you -- are you saying you -- you want that money now or --

MR. HOLBERT: No, no, no. I was just -- since you're now trying to do things right, so to speak, --

MR. CANN: Yeah.

MR. HOLBERT: -- and when I worked at the Department of Revenue, any mileage over ten miles was reimbursable. I didn't know if you had a policy in place of -- of number of miles minimum.

MR. CANN: Yes. See, we don't -- we don't handle that in Human Resources. It's really the business office and finance that does all that.

MR. HOLBERT: Okay. I understand.

MR. CANN: But --

MS. LOMAX: The only mileage I know about is just from campus to campus.

MR. CANN: But if they -- but if they -- see, the only thing about it, going back, I mean, I don't know why Sid told you not to file it, but it's going to be hard to know, I mean, I don't know if we can address that at this point.

MR. HOLBERT: I understand. That's fine.

MR. CANN: I wish I'd been here four or five years ago.

MR. HOLBERT: Well, yeah -- well, Ms. Clarkson still had a few years left to retire.

MR. CANN: Yeah. Some days, it's, you know, some days, I wish I was back here then. Some days, I wish I wasn't here at all. So --

MS. LOMAX: Like now?

MR. CANN: So --

MS. LOMAX: You inherited a lot of stuff.

MR. CANN: Yeah. It's a lot of stuff. But -- but, let's see --

MR. HOLBERT: So we'll see -- I still haven't heard from Mr. Saffron and I cannot talk with Ms. Green and I know that Ms. Lomax mentioned that Ms. Green has to file within a 30-day period, a report. And the only thing Ms. Green as far as workers' comp is concerned -- the only thing Ms. Green needs from me because she -- she agreed based on what I told her as

long as the records substantiate it, it was -- was authorization for the records.

MS. CANN: Yeah. It looks like Saffron will be communicating with you. I don't understand that. That's -- that's unfortunate.

MR. HOLBERT: But what I wanted to ask Ms. Lomax and I don't think i got a chance, but -- and I wasn't trying to think like a -- catch a thief kind of thing, but if you can't get -- if you're out for workers' compensation reasons --

MR. CANN: Yeah.

MR. HOLBERT: -- and you can't get a job when you -- to come back to at the college --

MR. CANN: Yes.

MR. HOLBERT: -- there's no job at all, you know, your job's gone, then, that would open the way for someone that's vengeful or didn't like an employee to put them in a situation where they would hurt themselves and be out and let them go as soon as they got back.

MR. CANN: Well, I mean, where the FMLA takes care of that, though, for the -- for the job protection time, but, I mean, you know, --

MR. HOLBERT: Then someone told me that that -- there is protection for that as well. That's what I was wondering about.

MR. CANN: Well, I mean, what they're saying is they

can't fire a person for filing a workers' comp claim. Nobody would ever do that. I mean, nobody's going to terminate a person for filing a workers' comp claim.

MR. HOLBERT: Right.

MR. CANN: Workers' comp -- everybody thinks workers' comp is, oh, I don't want to file workers' comp, that's a negative benefit or, you know, I just don't want to do that, it paints me in a bad picture. Workers' comp is a benefit for people and, I mean, it's there, you know, if a person has a job (inaudible)

MR. HOLBERT: Right. I wouldn't have filed it had I not realized that -- that -- that that's how I injured my back.

MR. CANN: Yeah. Yeah. But, see, what I'm saying a lot of people think it's a negative thing. It's not. It's out there for our -- for our (inaudible) employees' benefit. I mean, that's -- that's a good thing. But --

MR. HOLBERT: But what we're talking about is I either come back to work tomorrow or I don't have a job.

MR. CANN: Well, that's where we are. That's where we are.

MR. HOLBERT: Okay.

MR. CANN: Because, see -- see, the college needs to fill that position. You and I talked about that earlier this week.

MR. HOLBERT: Well --

MR. CANN: They've already made the decision that they need to fill the position with you or --

MR. HOLBERT: Okay.

MR. CANN: -- with somebody else if you're not able to return to the work.

MR. HOLBERT: That's fine.

MR. CANN: I mean, that's-- that where we are.

MR. HOLBERT: But that's decided by the person that needs the position filled.

MR. CANN: Well, it's not only decided by that, but it's decided by the college policy, too.

MR. HOLBERT: I understand.

MR. CANN: Yeah. See, that -- see, I mean, that's what in the rule -- I mean, and like I said, 180 days is generous.

MR. HOLBERT: No. I understand that. It's just --

MR. CANN: The company where I came from when a person exhausted twelve weeks --

MR. HOLBERT: Uh-huh.

MR. CANN: -- that was it. That was it. And, you know, if they can return to work, they were returned to work. But a company can't be held --

MR. HOLBERT: No. My appeal is that -- and I did not want to go there --

MR. CANN: Yeah.

MR. HOLBERT: -- that the -- but the twelve weeks I had to take off in January and February, I should not have had to take off. And you and I have discussed that.

MR. CANN: Yeah. Yeah.

MR. HOLBERT: And I was already -- I mean, I'm a marked man coming back, but, normally, it takes two years to get rid of you anyway.

MR. CANN: What do you mean by that?

MR. HOLBERT: Like a -- they just build a case of infractions and, normally, it -- a state employee, it'll take about two years of infractions to --

MR. CANN: Well, that --

MR. HOLBERT: -- get you fired.

MR. CANN: -- we're all employee at will.

MR. HOLBERT: Well, I understand that.

MR. CANN: Everybody -- every -- everybody that works in the state of South Carolina, not just for the state of South Carolina, but in South Carolina, we're all employee at will. We --

MR. HOLBERT: Right. But if you look at the Human Resources guidelines, you know, the infractions, the employment at will means -- I know what that means, but --

MR. CANN: Yeah.

MR. HOLBERT: -- the guidelines say something is a verbal reprimand and something's a written reprimand and things

like that.

MR. CANN: Oh, yeah. But, see, we don't have to follow that.

MR. HOLBERT: Okay.

MR. CANN: If a person slugs a person here and fights at work, we're not going to give them a verbal counseling. We're going to --

MR. HOLBERT: Well, no, but that's -- that's even addressed. That's an immediate dismissal.

MR. CANN: Yeah. Exactly. So, I mean, but we're not even talking about any of that with you and none of -- none of this stuff --

MR. HOLBERT: Well --

MR. CANN: -- has anything to do with your work performance or anything. It's just simply that we need to -- we need somebody in that job and we've got to move forward with a -- with a decision and they made the decision. They want to fill the job --

MR. HOLBERT: Uh-huh.

MR. CANN: -- with you or with somebody else. I mean, that's where we are. Because the job does need to be filled at the college.

MR. HOLBERT: Well, I understand.

MR. CANN: And that's -- that's kind of where we are with this point and it you -- you know, and, yes, if you can't

return to work, that does mean that we would --

MR. HOLBERT: Well, I mean --

MR. CANN: -- have to bring --

MR. HOLBERT: -- written up that I could VPN at a point, but I wasn't allowed to, you know, because that's not college policy anymore.

MR. CANN: Yeah. Well, it never really --

MR. HOLBERT: But it was up to the departments because IRM was able to VPN.

MR. CANN: Well, now, IRM is able to VPN because they have -- tonight have to do that overnight when they are, you know, that's part of their job is to maintain --

MR. HOLBERT: Aw, now, okay. I do what IRM does.

MR. CANN: Okay. But you don't let me finish.

MR. HOLBERT: No. I'm sorry.

MR. CANN: Talking to you about that.

MR. HOLBERT: Go ahead.

MR. CANN: If a person's on a leave of absence, if a person has requested a leave of absence, they're on a leave of absence.

MR. HOLBERT: Okay.

MR. CANN: That's what that means. That doesn't mean that just because you can VPN, it doesn't mean that you are -- I mean, if you're on a leave of absence, you're on a leave of absence.

MR. HOLBERT: Okay.

MR. CANN: That's sim -- it plain and simple. You can only be on employment status at a time.

MR. HOLBERT: All right.

MR. CANN: You're either working or you're on a leave of absence. And -- and -- so that's what that is. Where I'm saying that your job may require you to do that when you're well, that doesn't necessarily mean that when you're not well or when I'm not well, see, I can't VPN, but -- but even if I could, if I'm out for surgery, I'm not going to be VPNing in because I'm out there trying to recuperate. And that's the goal of the leaves.

MR. HOLBERT: Right. And I was told that I would be able to -- that's -- that's frustrating is --

MR. CANN: See, I have a strong feeling about that because --

MR. HOLBERT: Someone mentioned, Ken, you can do this because so and so did it and in a -- in a certain area.

MR. CANN: Who -- I don't know -- see, I don't know anything about it.

MR. HOLBERT: And that person was able to -- to do that, to VPN.

MR. CANN: Yeah. See --

MR. HOLBERT: And I wasn't. And, to me, that -- and I'm not splitting hairs, but, to me, that just doesn't seem

fair.

MR. CANN: Yeah. Well, and it's not fair. It's not fair. And that's why I'm saying it's going to be one for everybody. If I'm -- if --

MR. HOLBERT: If around that same time frame, that person was able to.

MR. CANN: Yeah. But, see, if I'm out on leave, even if I, you know, I can sign in and do whatever I want to, you know, but I'm -- the college is not going to sanction me working while I'm on a leave. Because --

MR. HOLBERT: No. But when I was recovering, and needing the time after surgery --

MR. CANN: Uh-huh.

MR. HOLBERT: -- is when he wrote that I could VPN.

MR. CANN: But, see, he had put you -- he had put you out of work.

MR. HOLBERT: No, no, no. I -- I sent that letter to you.

MR. CANN: Okay. Well, tell me again. I -- tell me what --

MR. HOLBERT: Unable, you know, I was able to VPN to the school and to -- and do work, which I'm -- that's my job anyway is to maintain the servers and I do that from home. So he at one point wrote a statement I'm allowed to VPN, you know, to maintain the servers. He had a copy of my job description.

MR. CANN: Who? Your doctor?
MR. HOLBERT: Yes. And --
MR. CANN: Let me -- let me --
MR. HOLBERT: You got that, but you denied me that ability.
MR. CANN: Your doctor doesn't set policy at this school.
MR. HOLBERT: No. I know he doesn't set the policy. He's just --
MR. CANN: That's what we do with employment.
MS. LOMAX: (Inaudible)
MR. HOLBERT: But someone else was allowed during their recovery to VPN. I was not.
MR. CANN: Yeah, I don't know -- I don't know anything about that. I wish I --
MR. HOLBERT: Well, that was on your watch or right before your watch.
MR. CANN: Yeah. See, I don't know. I don't know.
MS. LOMAX: We don't even know what you're referencing.
MR. CANN: Well, see, the thing about it is --
MR. HOLBERT: Well, I was -- I'm referencing somebody that's -- someone in HR told me and that's why I won't mention their name.
MR. CANN: Oh, okay. Well, the -- the reason I say,

I can have -- my job here, let me just say what'll happen, the reason I'm so strongly opposed to that.

I can be out on a leave and I'm emailing and VPNing, say, if it were allowed, and then I see an email that makes me have a heart attack or a stroke because it's frustrating or it's shocking, whatever, the email that I read, we're not going to run that liability here of a person being able to -- somebody's surviving spouse or family member saying that Greg had a heart attack because he read the email.

It's just -- it's just not allowed. And, again, if your doctor's put you out on leave, then that's what that means. That's a leave of absence. And that leave of absence means a leave of absence from --

MR. HOLBERT: Right. And the doctor felt that I was well enough at the time going through therapy and I'm looking at the time I sent you that document.

MR. CANN: See, we don't have a telecommuting policy here. We -- I mean, we don't -- we don't -- there's no telecommuting arrangement for people. And -- and -- and I'm going to tell you, if you're out on a leave, I'm not letting anybody work from home when they're on a leave. If I find it out, I'm going to fire the supervisor. Because we -- we can't have it. I mean, because not all jobs can do it. It's not fair to a custodial worker or a grounds worker, they can't work from home.

MR. HOLBERT: But you're not going to fire yourself.

MR. CANN: Well, I'm not -- I'm not -- yeah. If I'm the one that does it, yeah, I would. Yeah, I would. I don't know what you mean by that, but I haven't had anybody out on leave that I've let work.

MR. HOLBERT: Right. That was -- must have been during the transition days.

MR. CANN: If you're inferring --

MR. HOLBERT: I'm not inferring anything. Please don't take that --

MR. CANN: Yeah. Well, if -- if that's what you're trying to say, I didn't authorize anybody on leave to work.

MR. HOLBERT: No. I never said -- that didn't come out of my mouth. Please don't get upset about that.

MR. CANN: Yeah. But I just wanted to make sure you're clear on that because I can tell you. I'm going to do the same thing for everybody, The C in my name stands for consistency. And that's probably why they got a good person -- hopefully, they got a good person in this role because I don't care if Ben Dilley says something or if Nancy Welch, or anybody, if it's wrong, I'm going to voice my opinion about it.

MR. HOLBERT: Right. I understand.

MR. CANN: Because I -- I can tell you that. I'm going to make sure that -- but, see, when a doctor puts a person out on a leave, that is a leave. And, now, I understand what

you're saying about your FMLA leave back in January, and I wish I could address that. But, see, I wasn't here then, but the fact of the matter is that you did take the leave, and, see, that's where -- but -- but I got to looking at that and --

MR. HOLBERT: No. I was forced to -- that was the only option that I had other than walking out and quitting.

MR. CANN: You were forced to take the leave?

MR. HOLBERT: I felt at the time when I was told I was in his gunsights to be fired and the school district had everything to do with it, yes. I felt like I was forced to do that. And I don't want to -- I want to be able to sit down with you and try to amicably work out all of these issues without bringing anybody in and -- and causing any controversy. I'm just trying to not get fired because I was hurt at work.

MR. CANN: Well, you're not getting fired because you were hurt at work.

MR. HOLBERT: Well, I'm losing my job because of it, if I don't come in tomorrow.

MR. CANN: Not -- not because you got hurt at work. No. I don't want you to think that.

MR. HOLBERT: Well, I do because I got hurt at work and it required surgery.

MR. CANN: Well, if I have to put it in writing to you why that we're backfilling your job --

MR. HOLBERT: No. I understand that.

MR. CANN: But you're --

MR. HOLBERT: I understand hat.

MR. CANN: The reason that we --

MR. HOLBERT: And you're backfilling my job by a person that said I was in his gunsights.

MR. CANN: No. He's not taking your job.

MR. HOLBERT: I know he's not taking it. But he would love to fill it. I was off -- I mean, I know that. I'm not -- I'm not a -- one of these people that believes in these types of -- what do you call them -- I'm not parancid. I'm a realist.

MR. CANN: Yeah. Well, I mean, you have to understand and you're -- I mean, you have to understand, too, if you -- if you ran a business, you think about you if you are the supervisor and you had a person that was out and you needed somebody in that job, you would have to fill the job.

MR. HOLBERT: Uh-huh.

MR. CANN: I mean, that's -- that's just what business is. Everybody thinks this is not a business. This is a business here.

MR. HOLBERT: No. I know it is. And I've given more than those hours. I've -- I've -- when I first started there, I said I don't care if I work a million hours overtime, if I'm ever sick, you know, and I run out of leave, just we'll work it out that way and I was always fine up till recent years

when I was sick. People tend to forget.

But I probably had and I was given comp time at -- at 2000 when I was hired. But I was working 70-80 hours a week so I gave my time to Greenville Tech. I have given a fair share to Greenville Tech and I'm not trying to take from them anything. I'm not trying to cheat --

MR. CANN: I know that. I understand that. I understand.

MR. HOLBERT: -- and, to me, in my mind, it -- I've built the network solid enough for two part-time technicians to run it.

MR. CANN: That's good.

MR. HOLBERT: With one person, one person, Nora Greenway to -- she can -- she's able to do the, you know, do the backups and everything else. So -- and that's the way it was being designed to do. We -- we -- they had hired an IT consultant to come in and -- and look at that.

MR. CANN: Yeah. Yeah.

MR. HOLBERT: So by losing me, you would lose -- and I'm not saying I'm right for that position anymore, I'm just saying I'm not -- I don't think it's right for me to lose a position at Greenville Tech.

MR. CANN: Yeah.

MR. HOLBERT: That's all.

MR. CANN: And I mean -- and if not, I mean, it's

unfortunate. I mean, it really is, but --

MR. HOLBERT: So I'll come in tomorrow. I'll go get a note to come in.

MR. CANN: Okay. Well, you've got to get more than a note. You've got to get a release.

MR. HOLBERT: Like getting from (inaudible) I just got a note.

MR. CANN: The doctor has got to certify that you are fit to return to work.

MR. HOLBERT: All right. Well, you remember the other day when we met with Ms. Moore?

MR. CANN: Yeah.

MR. HOLBERT: And, you know, even though Dr. Dave said Ken Holbert is to be out until December the 20th where he can return back to work, you had me have him write a letter stating that I could return back to work.

MR. CANN: That's right.

MR. HOLBERT: And he wrote a letter stating that and that was satisfactory to you.

MR. CANN: Yeah. I mean, that will be this time, too.

MR. HOLBERT: Okay. Well, I'll get that.

MR. CANN: But I'm going to tell you, Ken, now, you just told me while ago that you are -- you can't -- you can't type because your arms go numb. I'm telling you that when you

come back to work, you've got to perform this job. I mean, that's -- that's what it boils down to and you've got to talk to your doctor about that. Because if you come in here and -- and it's detrimental to your health, that's going to be between you and your doctor.

MR. HOLBERT: I understand. Well, that --

MR. CANN: You see what I mean on that. You make sure your doctor understands your job duties because I'm going to tell you, I'm going to go after him and find out his signature, he's going to be in court with me if he's released you to return to a job that you can't perform. Do you see what I mean?

MR. HOLBERT: But your -- your tone just changed just a second ago.

MR. CANN: I just want to make sure that you understand you --

MR. HOLBERT: But my tone has not changed, I don't think.

MR. CANN: Your tone has changed many times, but let me tell you what, your doctor -- it's not simply just saying that you can get a note to return to work. You just told me while ago that your arms were going numb.

MR. HOLBERT: They do. But I'll -- I'll force my way through it. I don't -- I don't quit.

MR. CANN: Well, I mean, that's up -- that's between

you and your doctor. That's between you and your doctor. We're happy to have you back.

MR. HOLBERT: Well, I know -- I don't necessarily agree with that statement right now, but -- but maybe I will over time.

MR. CANN: No. I tell you what I don't agree with. I think where you're getting my frustration up, you keep referencing things that happened back --

MR. HOLBERT: Right. I look for a balance of fairness and if I --

MR. CANN:

MR. HOLBERT: -- if I pay my dues early, and only asking a short ability because if you had the ability to verbally give me four days, and you realize that the stress that I've been under financially may have contributed to my absence, and thank you for the four days of verbally giving me over the FMLA, but had I known and filed for the disability earlier, and this is stress related, I probably would be at work without my hands going numb.

MR. CANN: Okay. Well, I mean, and you --

MR. HOLBERT: And that's another argument. I mean, that's just another debate rather.

MR. CANN: Yeah. I mean, I didn't -- I'm sorry. I didn't know you had the disability. If you filed it, you should have known about it. I mean, I have to put that back on you,

too. You knew you had it. I mean, it was coming out of your check. I don't know what people's --

MR. HOLBERT: Well, the basic disability is for everybody that works 30 hours or more. So had I been told about the basic, I would have -- which shouldn't -- I think I should have been told about, I would have gone and looked at my -- or asked about my last year's statement and asked or inquired at that time whether or not I had supplemental.

MS. LOMAX: Let me interject one minute, Mr. Holbert.

MR. HOLBERT: Sure.

MS. LOMAX: You said a transfer, if I'm not mistaken, --

MR. HOLBERT: That's right.

MS. LOMAX: -- what benefits you had should have been explained to you with your last employer. When you came to me they sent me the form, you shouldn't do anything other than sign a form and what you had in place is what we moved forward with.

MR. HOLBERT: I understand. And, actually, my last employer --

MS. LOMAX: I mean, did you go over the benefits with you being a transfer because you had the supplemental long term disability prior to your coming to Greenville Tech and you should have received a certificate of credible coverage booklet

with pf all of your benefits.

MR. HOLBERT: Right. And how ADA (inaudible) you want to go right by it? I mean, I was having other stresses involved.

MR. CANN: Let's take the stress out of this conversation. Let's -- let's just --

MR. HOLBERT: Well, no, no. What happened at -- I was out twelve weeks once with my daughter being born at the Department of Revenue. And their HR said, Mr. Holbert, basic coverage, we go ahead and fill out.

MR. CANN: Well --

MR. HOLBERT: Just like you said at the beginning of our conversation.

MR. CANN: -- being out when your daughter was born. You didn't have a disability.

MS. LOMAX: No. That's -- that's --

MR. HOLBERT: No, no, no. My daughter was at the Department of Revenue. I'm saying the Department of Revenue's HR policy was, Mr. Holbert, you're entitled to the basic so we're going to go ahead and fill that out and supplemental if you are to go -- become sick or whatever during this period of time or something of that nature. I can't remember -- no, I had shoulder surgery. I'm sorry.

MR. CANN: Okay.

MR. HOLBERT: It happened during shoulder surgery.

MR. CANN: (Inaudible) signed that for your first benefits there.

MR. HOLBERT: No, no, no. I'm talking about at the Department of Revenue, the HR department there did inform me ahead of time.

MR. CANN: But not -- but that didn't relate to when you were out on your daughter's birth, right?

MR. HOLBERT: It was when I had shoulder surgery.

MR. CANN: Yes.

MR. HOLBERT: In 1999, yes.

MR. CANN: Yes. That makes sense because, yeah --

MR. HOLBERT: But, I mean, when I first applied for leave --

MR. CANN: Yeah.

MR. HOLBERT: -- even though Mr. -- they said, Mr. Holbert, even though you've got enough annual leave or sick leave, they said we -- we're going to go ahead and fill the basic and supplemental coverage out for you just in case.

MR. CANN: Okay.

MR. HOLBERT: And, also, there's a leave (inaudible) that I know if I qualify for. There is -- but what I'm saying is they told me ahead of time. I'll stick with that topic for now.

MR. CANN: Yeah.

MR. HOLBERT: They told me ahead of time and

reminded me because I only looked at that really once a year and, now, I met with Lydia in October which it was the time the twelve weeks was about to be over and it wasn't even mentioned then. So -- and I'm not trying to throw that back on Ms. Lomax, I just -- both of us dropped the ball, I guess.

MR. CANN: And I -- you know, like you said, you've proven, I'm going to try to -- try to get us some measures. I wasn't here when you first went out on your leave, but I'll -- I'm making sure that we're going to have that. We're going to do that. We don't have that communication drop anymore. But when did you -- you went out on July 12th. Is that when you first went out?

MR. HOLBERT: That's when I went out.

MR. CANN: Okay. Okay.

MR. HOLBERT: But if we had a communication drop, I'm just saying let's meet in the middle. At least grant me until the MRI and if I have to have surgery, yeah, you need to fill that slot.

MR. CANN; Yeah. Well -- well, Ken, like I say, I wish I could negotiate. I don't -- I don't have that power.

MR. HOLBERT: No. But if you were able to verbally give me four days --

MR. CANN: Well, but when I look back to that, I didn't you any -- I really gave you what you're allotted to because, see, you went out on July 20 --

MR. HOLBERT: Now, you said Monday, that that was my last day or, no, last Friday was -- no, you said Sunday was my last day.

MR. CANN: Yes.

MR. HOLBERT: When I met with you.

MR. CANN: See, we're giving you the benefit of the doubt because today is January 11th. You went out on -- you went out on July 12th. Tomorrow is January 12th.

MR. HOLBERT: But you told me you verbally --

MR. CANN: Okay. If you want to hold me to that, I'll back it up back to the 8th then. If that's what you want to do.

MR. HOLBERT: No. I'm not holding you to anything. I'm just -- I'm saying if -- if we both --

MR. CANN: You're asking me to give you more dates.

MR. HOLBERT: I'm not asking you for -- I'm trying to see what I'm options are.

MR. CANN: Okay. So these are you options. I thought I had made them clear, but let me -- let me just make sure they're clear. You are welcome to return back to work.

MR. HOLBERT: Well, no, I was just told I can't if my arms are going numb at the keyboard and the surgeon, Dr. Nelson, may be sued.

MR. CANN: I'm not your doctor. If your doctor releases you to return to work and you can do your job, you're

welcome to return to work. If you return to work, and you can't do your job, then we're going to be talking again.

The way we're going to be talking at that point is that we are going to be looking for to backfill the position. And the only reason it's different then versus, you know, then versus when it happened before is that all of your time is gone at this point.

That's -- that's the difference. We're at a juncture in the road to where Ken Holbert's time of -- of where Greenville Tech's going to hold the job for him is over.

MR. HOLBERT: Uh-huh.

MR. CANN: That's the only difference.

MS. LOMAX: (Inaudible)

MR. CANN: That's the only difference that we're at now. So -- but if this had -- if you still had time, we wouldn't even be having this conversation, I mean, but if -- but if your doctor releases you to return to work, you can -- you can return to work. But you've got to be able to do the job.

That's going to be -- that's the caveat. That's -- and if he's willing to say that and support that, and you're willing to take that, you're welcome to return tomorrow. That's no problem. That's what we would rather have.

MR. HOLBERT: Well, actually, I was just asking until Monday, but --

MR. CANN: What's that till Monday?

MR. HOLBERT: Because tomorrow is five hours and I go to the physical therapist and he could give me some things to do over the weekend to be able to come back on Monday. I don't see what the big deal was between those four days, but I think I could recover enough to my arms didn't go numb if I had the proper coaching, so to speak, or proper regime set up for therapy.

MR. CANN: Yeah. Yeah. See, unfortunately, again, it's consistency. I mean, we don't -- we can't -- it is 180 days. I mean, that's what it is. That's what they -- that's what they've allotted for us. I mean, I didn't make that policy. I mean, that's -- that's just a state policy with that. But -- but, I mean, do you think he'll release you to return to work?

MR. HOLBERT: I -- I think so.

MR. CANN: Okay. Well, you know, that -- again, I'm not -- the only thing I'm going to do is read what he writes and -- and, then, you know, if he says that Ken is released to return to work in full, that -- that is perfectly with us. That's what we'd prefer actually.

Because, that way, I mean, you know that you've got the knowledge of the job. We'd much rather have that than have somebody new. But what I'm telling you is that, you know, if you can't do the job when you return to work, then we're going to make other decisions to --

MR. HOLBERT: I built the job to where it does itself with minimal -- having minimal input. I could have VPNed to make sure everything was running smoothly.

MR. CANN: Well, you're not going to be to VPN if you return to work. That's right. You're not going to work --

MR. HOLBERT: No, no. I'm not asking for that. I'm thinking about -- I know exactly what's going on, not from your standpoint, from other standpoints that I'm just trying to -- to just digest it, so to speak.

MR. CANN: Tell me -- tell me what you mean.

MR. HOLBERT: I have to think about it.

MR. CANN: Okay.

MR. HOLBERT: And I can talk to you about it.

MR. CANN: Yeah, but, see, what I'm saying is, I mean, you -- we just don't have a week -- you can't work from home in this position. We don't have that capability.

MR. HOLBERT: No. I'm not asking that now. I was given that -- the doc -- when I was told by HR about another employee doing that, the doctor allowed me to do that and I gave a letter to HR and to that effect, but then I was told I couldn't.

MR. CANN: Yeah. Yeah. I don't -- we can't sanction that, unfortunately. I wish we could, but we -- it's just too much of a liability. Too much of a liability on that. And -- because, see, we don't -- we don't know what a person's

workplace is at home. We would be liable for -- for accidents at home and those kinds of things and we just -- we just can't -- we don't have the knowledge to know that everybody's got a --

MR. HOLBERT: Well -- well, let me -- I'll --

MR. CANN: Do you want -- what was that? I couldn't hear you. I'm sorry.

MR. HOLBERT: I'm just -- I can't even have a few hours to digest this, can I?

MR. CANN: Oh, yeah. Sure. You got all -- I mean, yeah. You've got till tomorrow. Yeah. I mean, we talked about that this week, earlier this week. This was the day that we had to make a decision.

MR. HOLBERT: Well, this was the day I was seeing the doctor.

MR. CANN: Yeah. And that's -- that's what I was thinking that you were going to back to get a release to return to work today. I thought -- I shouldn't say that.

MR. HOLBERT: But, then, you just warned me that if my fingers go numb while I'm typing, then, you're going to make the doctor accountable.

MR. CANN: Your doctor will be accountable for that.

MR. HOLBERT: And you will see him in court. That's exactly what you said and so that's the tone that I took as being --

MR. CANN: Well, Ken --

MR. HOLBERT: -- where I'm backing up and saying -- because I'm not an argumentative person. I need to digest this, the big picture of this. The abstract, the contract -- the abstract, the concrete and the detail.

MR. CANN: What I'm -- this is the bottom line. If you're --

MR. HOLBERT: I know the bottom line. I'm not going to waste any more of your time and I apologize for wasting the time I've wasted.

MR. CANN: I've got all day, but the bottom line --

MR. HOLBERT: No, no. I'll make my phone calls and figure something out and I'll --

MR. CANN: The bottom line is that --

MR. HOLBERT: -- talk to you tomorrow.

MR. CANN: -- if your doctor was going to release you to return to work, you've got to be able to do the job. That --

MR. HOLBERT: Like you said, the -- the C is for consistency.

MR. CANN: -- that.

MR. HOLBERT: And I'm looking for consistency. That's all. The C is for consistency. That's what you said.

MR. CANN: That -- I mean, we -- we have to -- I mean, you doctor can't return you to work and you can't do your job. I mean, because we're going to be looking at that because

-- first of all, we're concerned -- we don't want you to get hurt at work. We've got to be careful of that.

And -- and -- and, you know, if you -- I don't know what all -- like I said, that's why your doctor's got to know what your job -- you've got to be -- you've got to have some dialogue with him and tell him this is what I have to do in my job. Can I do this job?

And if he says, well, Ken, you know, based on your condition, I don't think you can, then you need to pursue you disability options on that side, or if he says, Ken, yes, you can do this job, then, that's AOK, come back --

MR. HOLBERT: But if I have the sick leave days, you wouldn't fill my position.

MR. CANN: No. You can use those sick leave days, yes, definitely.

MR. HOLBERT: But, right now, you're saying my position has to be filled, therefore, you're going to post a job for it. But if I have the sick leave days, the job being filled wouldn't be as important.

MR. CANN: No, I don't know -- what are talking about? The sick leave that's going to be earning again?

MR. HOLBERT: No. If I had sick leave remaining.

MR. CANN: If you had sick leave remaining, it wouldn't matter because it would have to be exhausted anyway. We're looking at 180 days.

MR. HOLBERT: Okay.

MR. CANN: That's what we're looking at. That's why we're making a decision today.

MR. HOLBERT: Right.

MR. CANN: I mean, if you had sick leave, it'd be gone already anyway. Because you have to --

MR. HOLBERT: I understand sick leave.

MR. CANN: -- sick leave. Okay. So if you're asking about the sick leave that you're earning in the future, if you return to work --

MR. HOLBERT: If I return to work, I'm in Sid's gunsights and your gunsights and the doctor's in the gunsights.

MR. CANN: Well, you know, I didn't tell you that I was in -- you were in my --

MR. HOLBERT: No. But I --

MR. CANN: So I don't --

MR. HOLBERT: You didn't -- you didn't say that. I'm not -- I retract that. I'm sorry.

MR. CANN: You're right. I did not say that.

MR. HOLBERT: But you said he would be pulled into court if something were to happen.

MR. CANN: I said if the doctor comes in and tries to say that you are -- you returned to work and it was detrimental to your health, I'm going to have a release to return to work in my file to refute your doctor. That's what

I'm saying.

MR. HOLBERT: Right. I understand.

MR. CANN: Now, don't say that I said that you're in my gunfight.

MR. HOLBERT: No. I never -- I was inferring and I'm still taking medicine today, not tomorrow.

MR. CANN: Do not say that because I'm going to tell you if I hear that you told anybody that --

MR. HOLBERT: No, I didn't say that. I was just saying -- I was just saying by the tone of you pulling the doctor into court and Sid -- Sid saying that, I mean, his gunfight.

MR. CANN: You were not -- I want you to come back to work. My goal is to return --

MR. HOLBERT: But you also said that any small -- that you would look at me with a magnify -- I would be seen with a magnifying glass, I can't take any more FMLA type leave this year --

MR. CANN: Wait a minute. Whoa. Whoa.

MR. HOLBERT: And I don't have -- you did say a magnifying glass.

MR. CANN: No, I did not. I did not -- you said that yesterday. You said that you were going to be under a microscope. I told you no, you're not, you're going to be under the same auspices that every other employee here is.

MR. HOLBERT: No. But you said --
MR. CANN: No, no.
MR. HOLBERT: -- no. You said what I did at work would be looked at, in other words, --
MR. CANN: Uh-uh.
MR. HOLBERT: -- days missed, if I didn't have the leave time, times missed for doctor's appointments, things like that would be looked at.
MR. CANN: Well, you --
MR. HOLBERT: You did say that.
MR. CANN: What I'm saying with that is that you don't have anymore time off like that. Yes, you -- that will be -- that will be a part of the factor here. You don't have any more time off is what I'm saying.
MR. HOLBERT: I understand.
MR. CANN: I mean, until you start accruing the time. Now, when you accrue the time, sure, you take whatever you need to. But you -- you don't have any accrual in there yet.
MR. HOLBERT: Okay.
MR. CANN: But, yeah, I mean, that's what that means. And, no, sir, I did not -- you're the one that said yesterday that if you came back to work, you were going to be under a microscope. Those were --
MR. HOLBERT: No, no, no. I said I would be in the

gunsights.

MR. CANN: You said microscope yesterday.

MR. HOLBERT: Okay.

MR. CANN: You said microscope.

MR. HOLBERT: I'll just -- I'll leave it at that.

MR. CANN: And that's fine.

MR. HOLBERT:

MR. CANN: I can assure you, you're not going to be under any -- and you were trying to tie that to what you've got going on with the school district.

MR. HOLBERT: No, no, I was not.

MR. CANN: Well, you said --

MR. HOLBERT: Sid said I was in gunsights based on what was going on at the school district and this was last year. That's why I had to take the leave that I took last year.

MR. CANN: Okay. Okay. Well, like I said, now, you're not going to be any different than any other employee here if you come back to work tomorrow. Now, you mentioned yesterday about what you've got going on outside and I don't know if people knew that.

MR. HOLBERT: No, no, no. I was -- Greenville Tech was tied into the school district by Sid Strohm (ph) and Carrie Castle and their conversations with Steve Halan (ph) and Ellen Clarkson.

MR. CANN: Yeah. See, I don't know too much about

that.

MR. HOLBERT: They tied the school district into this.

MR. CANN: Who did?

MR. HOLBERT: See, I told you that yesterday. Sid Strohm.

MR. CANN: Yeah, you did say that.

MR. HOLBERT: Carrie Castle and Steve Halan. And --

MR. CANN: And they shouldn't have -- I mean --

MR. HOLBERT: They shouldn't haven, but that was before your time, but, --

MR. CANN: Yeah.

MR. HOLBERT: -- regardless, they were tied in -- they brought the school district into it.

MR. CANN: So how is that going to impact if you come back?

MR. HOLBERT: I'm not saying it will. It's just that the scrutiny I'm under right now because I look guilty or people think that I'm guilty. It's just I'm going to be looked at negatively. I already know that.

MR. CANN: Well, I mean, I hope not. I hope certainly not. Because --

MR. HOLBERT: And I did it to help -- personally, I mean, I did it to help.

MR. CANN: Yeah.

MR. HOLBERT: Until it hurt and -- and --

MR. CANN: (Inaudible)

MR. HOLBERT: -- the stress I was under, I called Ms. Lomax one day just to let -- and I shouldn't have but I was just really upset about the whole thing because I was trying to resolve this in a -- in a manner where there was no lawsuit filed. There was nothing in the paper and --

MR. CANN: And I haven't (inaudible) so much, but I -- I don't know. I don't think you're going to be looked at negatively here. I don't think so. I mean, like you said, I mean, if you -- I mean, just what you just said, you were trying to help. How can people look at you negatively?

MR. HOLBERT: Well, there is -- I don't know.

MR. CANN: I mean -- I mean, we all have things on the outside. I mean, I might be in a lawsuit one day, you know, I might take up a crime but, you know, --

MR. HOLBERT: Hopefully, it won't be at a time we're having surgery and you have a change of an HR director and there's stress and you forget you have supplemental disability and no one else reminds you.

MR. CANN: Yeah. Well, I hope the change of the HR Director didn't add to the stress. I hope not.

MR. HOLBERT: Oh, there's no question that did because before then I was told about working at home to supplement having to take sick leave.

MR. CANN: Yeah.

MR. HOLBERT: And that's what I accrued the four days.

MR. CANN: Okay. Well, I mean, if she did that, she did it wrong.

MR. HOLBERT: And I actually did work four days. And the times that I was in there to meet with you, I felt like should have been -- I mean, I -- at one point, I felt like it was a mandate that -- that you had me come in which was -- I thought it was.

MR. CANN: You know, Ken, if you're going to blame me for --

MR. HOLBERT: I'm not blaming you. I'm trying to say that I still feel like I had those days.

MR. CANN: The only day that I wanted you to come in was if you were saying you had a workers' comp claim, you needed to come in and tell us about it so that we could file a claim for you. That's the only thing --

MR. HOLBERT: Right. And -- and you did.

MR. CANN: And if that wasn't trying to help you, well, then, I'm sorry. That's what I was trying --

MR. HOLBERT: I'm not saying that. I'm not trying to get into an argument. I'm the one losing the job, not you.

MR. CANN: Well, you know, I don't know. I mean, because, you see, my goal was to try to help you with that

worker's comp. You weren't -- you were not even going to have a claim unless you filed a claim. I don't care what your staff room was saying down there.

So, I mean, you know, you can't file -- they can't act on a claim if they hadn't been filed. So that's why we had to come in to get the facts from you. So, I mean, you know, if you want to blame me for that --

MR. HOLBERT: I'm not blaming you for that. I'm just stating that I thought in my mind that the time I was to -- coming in to meet was -- could be considered time --

MR. CANN: Worked.

MR. HOLBERT: -- worked.

MR. CANN: No. Well, you were working. Where were you working?

MR. HOLBERT: If I'm allowed to come to work tomorrow, I don't take leave to come down and talk to you about those types of situations.

MR. CANN: No. No. But, I mean, you -- you don't understand. You have been on a leave since July 12th. You are not working.

MR. HOLBERT: Right. And that's not by my choice.

MR. CANN: Well, I know it's not, but -- but, see, you keep -- you keep saying if I come in and you're not working. If you came in every day and -- but you're not working, your doctor said put you on a leave.

MR. HOLBERT: All right.

MR. CANN: I mean, that's just -- that -- I mean, it's just --

MR. HOLBERT: I mean, I'll have to call my doctor. I'll -- I'll just -- what do I do? Call you or come in tomorrow or --

MR. CANN: Yeah. I'll be here in the morning and if you get that, all you got to do is drop it by here.

MR. HOLBERT: Okay.

MR. CANN: And like I said, we'll look at it and see what we've got to make sure we've got everything, you know, as far as we need for document --

MR. HOLBERT: And if you don't, I'll lose my job.

MR. CANN: Huh?

MR. HOLBERT: If you don't, I'll lose my job then.

MR. CANN: No. That's not -- that's not what I said -- I'm talking about if you come in to return to work.

MR. HOLBERT: All right.

MR. CANN: You're not going to lose your job if you return to work. What do you mean by that?

MR. HOLBERT: Well, if you -- if you don't have all the documentation and I have to go and get the documentation.

MR. CANN: Well, we'll look at -- I mean, certainly, we're not going to be that hard-nosed about it. If we -- once we see what you've got and I thought that's what you were going

today to get from him.

MR. HOLBERT: I was until they scheduled the MRI for the thorax because of the complications I'm still having.

MR. CANN: Well, let me ask you this and ask him this. I mean, can he -- can he release you to work -- well, when are you going to do the MRI?

MR. HOLBERT: Well, that hasn't -- I'm supposed to be called as soon as they have scheduled the time.

MR. CANN: Okay.

MR. HOLBERT: So, see, I don't have leave to take to get an MRI done so --

MR. CANN: Well, how long does an MRI take?

MR. HOLBERT: About two hours.

MR. CANN: Well, we would work with you on that kind of stuff.

MR. HOLBERT: Well, Ms. Clarkson said I couldn't get comp time but during one week as long as I worked 37 and a half hours, it didn't matter the times, you know --

MR. CANN: Ken, I don't even think you're even eligible for comp time.

MR. HOLBERT: No, no, no. I was saying I'm not eligible for comp time, but Ms. Clarkson had said during one week as long as I worked a 37 and a half hour week, I could -- like, some days, I'll stay till seven during my normal job hours. We have evening coverage. I don't know if that'll be

allowed anymore.

MR. CANN: Well, I'm saying --

MR. HOLBERT: Well, what I'm saying is I'd could come in at ten in the morning and work till seven.

MR. CANN: Yeah. And see that's between you and Sid on your -- on your work out.

MR. HOLBERT: Right. So if my MRI takes two hours but I'm working till seven that night, that's my point.

MR. CANN: Yeah. And that's enough.

MR. HOLBERT: That's fine.

MR. CANN: I mean, I'm not going -- I mean, if you need that two hours off to go do an MRI in two weeks, that's not a problem. That's not a problem. We certainly will work with you on that.

MR. HOLBERT: I understand.

MR. CANN: But, I mean, but you're just not going to be able to be out, I mean, I mean, you don't have the time to be out on sick leave right now at this point. But, yeah, if you need an MRI in two weeks, certainly, we'll work with you on that. That's not an issue.

MR. HOLBERT: Okay.

MR. CANN: But, now, if you have to have surgery and you go out, there is no -- you don't have FMLA time.

MR. HOLBERT: I understand.

MR. CANN: So -- so that will be a different

situation.

MR. HOLBERT: Okay.

MR. CANN: But, yeah, I mean, don't worry about that, I mean, but no, not -- gosh, no. If that's what you're thinking, if you've got to have an MRI, if that's all that your doctor is keeping you out of work for, that's a moot point.

MR. HOLBERT: No. That's not why. I'll have to ask him.

MR. CANN: You ask him that. I mean, the key issue is can you -- is your doctor willing to release you to return to do your job. If he says yes, come back to work, you need an MRI and whenever he scheduled it, if it's next week or two weeks, whatever, you got a time, we'll work with you on that. That's not an issue.

MR. HOLBERT: All right.

MR. CANN: That's not an issue.

MR. HOLBERT: Well, let me call. I'll -- I'll let you know.

MR. CANN: Yeah. I thought you were talking about a day, you know, those kind of things, but if you can do that kind of stuff, no, that's not an issue.

MR. HOLBERT: All right. Let me -- let me call him then and I'll let you know.

MR. CANN: We're a little bit more benevolent than that. I mean, we're not going to hold you, I mean, to that,

that length of the ordeal with it. So -- so that --

MR. HOLBERT: Well, I'm in the home stretch now I know. I mean, I'm getting better. I'm just trying to figure out what this last portion of my sickness is.

MR. CANN: Yeah.

MR. HOLBERT: And just if I'm the guy that fell into the -- fell into the cracks because I didn't realize that I have -- was entitled to disability and it may have caused more stress which might have caused my illness, you know, but --

MR. CANN: I mean, there's all kind of what-ifs, you know, but I haven't -- but -- I hate to happen -- we'll -- whatever happens with that, you know, if they approve that, you're going to retroact back to you.

MR. HOLBERT: I understand.

MR. CANN: Yeah. So that's not an issue. But, now, like I said, tomorrow or if you want to call me back today, that's not a problem. But -- and let me know what's going to happen with it, but I'll be here. But if you're coming to work tomorrow, just drop by here. But don't -- you need to come by here first, though, so that I can see what you got.

MR. HOLBERT: All right.

MR. CANN: And -- and then we'll talk about that point and, at point if you're -- if you're clear, you're in here.

MR. HOLBERT: Okay.

MR. CANN: That's not an issue.

MR. HOLBERT: No problem. Thank you.

MR. CANN: Okay. I'll see you.

MR. HOLBERT: Bye, bye.

MR. CANN: Bye, bye.

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MR. HOLBERT: Are you there?

MR. CANN: Yeah, I'm here.

MR. HOLBERT: Okay. I just wanted to make you -- what I wanted to clarify is. You said if I wasn't able -- I wasn't a hundred percent, that you didn't want me back.

MR. CANN: Yeah. What we're saying is we want to see if you --

MR. HOLBERT: I'm sorry.

MR. CANN: Yeah.

MR. HOLBERT: I'm beeping now.

MR. CANN: Yeah.

MR. HOLBERT: Give me a second.

MR. CANN: Go ahead.

MR. HOLBERT: No. I'm not going to answer it.

MR. CANN: Yeah. But if he seems to release you and you return to work, that's why I say I'm going kind of put it in writing so he can kind of see what you're talking about.

MR. HOLBERT: Well, what you said, I mean, you

mentioned about taking him to court if I wasn't a hundred percent or something.

MR. CANN: No. I'm not taking him to court. What I'm saying is if you come back and you can't do your job, then, we're going to go back and say, well, Mr. Physician, why did you release him to return to work. That's what we -- that's what -- that's what we said. We would do that. Because we will -- we will get to that point. I mean, if he's -- if he's saying you're released to return to work, that's what we need to stand on. And we do that to make sure that you are, I mean, you need to be fit for duty to return to work.

MR. HOLBERT: All right. But that -- that's not stated in this letter.

MR. CANN: Oh, you've already got it?

MR. HOLBERT: Yeah.

MR. CANN: Okay. Yeah. Let me pull that letter up.

MR. HOLBERT: Stay -- because I told you my arms go numb when I type.

MR. CANN: Yes.

MR. HOLBERT: You said I don't want you back at work because -- if that's happening. And I'm telling you the truth.

MR. CANN: Yeah. Well, and, see, that's what I'm saying between you and your doctor, you need to -- you need --

MR. HOLBERT: But please clarify that.

MR. CANN: Clarify what?

MR. HOLBERT: I mean, if you're saying -- if you say Mr. Holbert, if your arms go numb typing.

MR. CANN: Do you type at work?

MR. HOLBERT: I'm on the computer. I'm a network administrator.

MR. CANN: Well, and -- and that's fine. See, I don't know what you do really. I mean, if you type at work and you can't type, and then that's causing you problems, then you're not doing your job.

MR. HOLBERT: Well, I have -- right.

MR. CANN: Yeah.

MR. HOLBERT: If you clarify that --

MR. CANN: Yeah. Yeah.

MR. HOLBERT: -- in the letter, I'll take the letter and I'm on my way out the door actually right now. Because --

MR. CANN: See, you and him, you need to tell him what all your job entails. Just tell him everything you do. Just tell him --

MR. HOLBERT: But I can't come limited is what you're saying.

MR. CANN: I mean, we'll look at it. That's what we've got to -- see, we've got to see what he says. I can't -- I can't comment on anything about what he's saying until I read it.

MR. HOLBERT: I understand.

MR. CANN: That --

MR. HOLBERT: First of all, we need to workers' comp straight.

MR. CANN: Yeah. Yeah. I mean, if he comes back and says no --

MR. HOLBERT: No. That's straight now, I think.

MR. CANN: Yeah. I think -- if he comes back and says you can't 50 percent of your job, then, we've got to talk about it. But, see, I don't -- I don't know. Until he says it, I can't comment on it. I don't know what he's going to say. He may say for you --

MR. HOLBERT: He -- he basically gave me a release when I left and then called back and said they want me out because of my arms until after the MRI. So I'll go and ask.

MR. CANN: Well, and what you can do, now, like I'm --

MR. HOLBERT: Put it in the letter and --

MR. CANN: Well, what you need to do is ask him this, well, doctor, can I go -- can I return to work and still get an MRI or are you saying I can't go back to work at all until I have the MRI. That's the key issue. It's just like I told you earlier, if you got to have an MRI in two weeks or if -- next week, we'll do the MRI. You can do that. But if -- if he's saying, Ken, I think it's --

MR. HOLBERT: Well, see, that's what I was asking,

even if I had to go to physical therapy till Monday, would you give me till Monday, but you said no.

MR. CANN: Well, see, we've got -- again, we've got to make a decision for your doctor. I thought that's what we had talked about earlier. You were going to know all this today.

MR. HOLBERT: Yeah. I went to the doctor today. The cervical MRI was normal. The problems I'm having and I told him I don't think there's psychosomatic.

MR. CANN: Uh-huh.

MR. HOLBERT: That means invented in your mind.

MR. CANN: Yeah. I didn't know what that meant.

MR. HOLBERT: Well, I wasn't -- I'm sorry. I'm --

MR. CANN: Yeah. I'm glad you told me because I didn't know.

MR. HOLBERT: You know, psychosomatic means like a hypochondriac type thing.

MR. CANN: Oh.

MR. HOLBERT: It can be, but this is an actual problem that can be stress related.

MR. CANN: Yeah. Yeah. Yeah.

MR. HOLBERT: And my point was saying, well, the stress, part of the -- to be part of my stress had been financial.

MR. CANN: Uh-huh.

MR. HOLBERT: That that was my point.
MR. CANN: That is stressful. I have -- I have to agree with you.
MR. HOLBERT: Had I known in November I would still be getting money, I might not feel, you know, feel this way --
MR. CANN: Yeah.
MR. HOLBERT: -- and it didn't come across right.
MR. CANN: Yeah. Well, I agree with you.
MR. HOLBERT: I'm sorry.
MR. CANN: Money is stressful. Money is stressful.
MR. HOLBERT: And I was trying to come across saying, look, if I can, you know, if this MRI shows okay, I know that -- that it's probably due to stress and physical therapy is going to take good care of it and --
MR. CANN: Uh-huh.
MR. HOLBERT: -- but, right now, it's tight then.
MR. CANN: Uh-huh.
MR. HOLBERT: That's what -- when you mentioned -- I'm sorry. I'm so sorry. Because you mentioned consistency and how we're going to attack and that I was attacking fairness and what I felt like I had done to protect --
MR. CANN: Yeah, yeah, yeah. And --
MR. HOLBERT: -- and what I was hoping (inaudible) would do for me and by saying if I fell into a ditch, I'm the one that discovered the supplemental, then --

MR. CANN: Yeah. Yeah.

MR. HOLBERT: -- by accident.

MR. CANN: Yeah.

MR. HOLBERT: That I have some lee -- leeway to get a little better if he won't let, you know, if I can't type very long.

MR. CANN: Yeah. And, see, ask him -- ask him that, you know, tell him what -- see, I don't know how much typing you do on your job. And ask him. I mean, if you think is it ten percent of your job, is it five percent, is it 50 percent. Tell him that.

MR. HOLBERT: Well, typing and lifting because I'm installing computers in labs and taking defective ones out and --

MR. CANN: Yeah.

MR. HOLBERT: My job is a lot of upper body --

MR. CANN: Yeah.

MR. HOLBERT: -- and --

MR. CANN: See, I hadn't gotten around to see what all these jobs are yet, but, see -- see, that's the dialogue you and he need to have because it's not worth ruining your overall long term health for. That's what I'm trying to --

MR. HOLBERT: Yeah. But my overall long term health resides in my twelve years left with the state --

MR. CANN: Yeah.

MR. HOLBERT: -- and I'm not looking at it that way. I enjoy Greenville Tech. There is a lot of things I think that I'll be able to do to benefit in the future.

MR. CANN: Yeah. Yeah.

MR. HOLBERT: And I don't want to get lost because of a -- of a two week interim problem --

MR. CANN: Uh-huh.

MR. HOLBERT: -- even though it's stretched out over a 180 days.

MR. CANN: Yeah. I mean, it's really a six -- it's been six month leave. That's what it is.

MR. HOLBERT: I understand that.

MR. CANN: And that's where we are, but I --

MR. HOLBERT: I'm the type of person that will come back and say I'll give you 80 hours a week if you need it.

MR. CANN: No, you shouldn't work 80 hours a week.

MR. HOLBERT: I mean, I'm that type.

MR. CANN: Yeah.

MR. HOLBERT: I'm sorry. I just take people literal sometimes.

MR. CANN: You shouldn't -- nobody -- that's too much work. Don't ever -- even if you -- when you come back --

MR. HOLBERT: Well, I send you emails at 5:30 and six and you've still been there.

MR. CANN: Well, I know. I've got to preach to my

own self, too. But -- but what -- if you come back -- more -- and definitely, if you come back, you don't need to be working

80 hours a week to start off.

MR. HOLBERT: No, no. I'm just say I try to give back more than I ever take.

MR. CANN: Yeah. But don't come in here and the set the world on fire the first -- when you first get back in.

MR. HOLBERT: No, no. I'm not.

MR. CANN: Yeah.

MR. HOLBERT: What I was -- I'm sorry. I may have miss --

MR. CANN: I'll be watching you to make sure you don't do that.

MR. HOLBERT: I mis-conveyed. What I was trying to say is I try to give back --

MR. CANN: Yeah, I know.

MR. HOLBERT: -- more than I take.

MR. CANN: I know.

MR. HOLBERT: And --

MR. CANN: But -- but, again, your health is our paramount concern. I mean, that's -- that's what we've got to -- and it should be --

MR. HOLBERT: But as of tomorrow, it wouldn't be a concern at all because you would be filling my position.

MR. CANN: Well, it's still our -- it's nothing that we like doing. You -- I don't -- see, I feel like I know you, but I really don't know you. It's nothing personal. It really isn't.

MR. HOLBERT: I know that.

MR. CANN: I mean, it's -- it's just -- you know, it's just what we -- it's just a -- it's a practice that they have in place that we have to -- we have to act on. Otherwise, you know, we, you know, we can't --

MR. HOLBERT: Well, I found out there's been a slight miscommunication in the workers' comp that I've got to go correct out. So --

MR. CANN: Oh, did you?

MR. HOLBERT: Yeah.

MR. CANN: Good. So can you do that?

MR. HOLBERT: Uh-huh. That's where I was going.

MR. CANN: Okay. Well, --

MR. HOLBERT: But were you going to revise the letter and --

MR. CANN: Yeah. Yeah. I mean, what do you want me to say in it?

MR. HOLBERT: Well, no, exactly what you said earlier.

MR. CANN: What's that?

MR. HOLBERT: I got you irate. Not a irate. I got

you a -- I can't even think of the right words. I got you upset, not upset. I got you -- I'm good at frustrating people.

MR. CANN: Well --

MR. HOLBERT: And I don't do it intentionally.

MR. CANN: I know you don't. But you're in a stressful situation. I don't want you to think I have you in my gunsights. I don't know you --

MR. HOLBERT: No, no, no. I don't mean that. I meant --

MR. CANN: I don't know you well enough to --

MR. HOLBERT: When you said if -- if I wasn't a hundred percent and you would sign a release, you would --

MR. CANN: What I -- what I meant by that -- what I meant -- should say with that is if he tells that you're returned -- released to return to work, if you have -- if that -- we have to look at what he's saying about that.

If he's saying you are a hundred percent to return to work, can't have any problems, but then you start having problems with it, we're going to have to revisit that. I mean, he's -- that's what I mean by that.

We'll go back to him and say, look, Dr. Whoever, you released him to return to work. And I know things can change, but we just, you know, he's got to put that in writing.

MR. HOLBERT: Again -- and I'm not going to lie to you. I mean, I had two hours' sleep last night.

MR. CANN: Oh, I know. I know.
MR. HOLBERT: I'm not able to sleep, I hurt so bad.
MR. CANN: Yeah, I know. And --
MR. HOLBERT: So --
MR. CANN: Is he helping you with that? Giving you anything for --
MR. HOLBERT: No. No.
MR. CANN: Yeah.
MR. HOLBERT: He's not giving me anything for that.
MR. CANN: Yeah.
MR. HOLBERT: But --
MR. CANN: See, maybe return to work's going to be good for you, you know, you've got to look at it that way.
MR. HOLBERT: Well, if I can return at 50 percent, or 60, or whatever, you know, that's fine. I don't care. I just don't want to lose my job.
MR. CANN: Yeah, I know and nobody does. Trust me. I don't want you -- nobody wants to lose their job. I mean, that's -- that's -- everybody's that way. I know some people aren't, but most people are.
MR. HOLBERT: But if you could send the letters just saying -- if you could revise that and send it, I'll get it. I'm on my way to the doctor. And just say can you specify your limitations or whatever you wanted me to -- whatever you're trying to say that I'm trying to squeeze it down into a

sentence.

MR. CANN: Well, let's see. I think I said -- if your physician releases you to return, that's the key. Is he releasing you to return to work. Please drop by my office on Friday morning so that we can review your return to work documents. That's what we'll look at.

We're going to review them. Then, if we have any questions, you know, we'll -- we'll address those questions and see what it is. But I -- see, I don't know what he's going to tell you. I don't know -- I don't know what he's going to say. Ken -- Ken can work ten percent, you know, and I don't know if Sid's going to be able to operate with ten percent. I mean, that's -- that's going to be the thing. So we're going to have to look at that. That's up to Sid.

MR. HOLBERT: Well, yeah. But the letter -- if you're going to say if you're not able to return to work tomorrow, the college has made a decision to back fill your position.

MR. CANN: Uh-huh.

MR. HOLBERT: Now, if you can elaborate on what conditions I have in going back to work. In other words, allowable conditions. I mean, I'm basically a what do you call it, a paraplegic.

MR. CANN: Uh-huh.

MR. HOLBERT: Say that.

MR. CANN: Uh-huh.

MR. HOLBERT: I can't come back to work. Right?

MR. CANN: What now?

MR. HOLBERT: A paraplegic. That means you can use your legs and not your arms.

MR. CANN: No. I mean, that's not what that means. I mean, what that means if a paraplegic came in here -- now, what that does mean is if it requires a person to use their arms and those kinds of things and they request a reasonable accommodation, we would try --

MR. HOLBERT: Oh, that's the lower part. Gosh. What's the --

MR. CANN: I don't -- well, I think you are right. Quadriplegic. Quadriplegic.

MR. HOLBERT: Quadriplegic is all four.

MR. CANN: Yeah. That's all four. But if a quadriplegic came in and said, well, look, I want do a groundskeeper job, well, you know, maybe they can, but they're going to have to demonstrate how they can do that job and, if they can't, they're going to have to say, well, you know, I need a special shovel to do that.

MR. HOLBERT: Right.

MR. CANN: Well, that's a reasonable accommodation, but if it means, well, I can't really do that but I can sit in an office, then that's not a reasonable accommodation. Because

that's not what --

MR. HOLBERT: Well, in front of my office right now is a pile of junk to be moved, right, when I come back to work.

MR. CANN: Well, you're not -- I mean, why --

MR. HOLBERT: Every time I've been about to come back to work, I've gotten this email from -- from my supervisor saying we need you to move this or that or that --

MR. CANN: Well --

MR. HOLBERT: -- and --

MR. CANN: -- I'll get that moved. I mean, I don't know what that is. I hadn't been out there. I don't know where ya'll work. I haven't been out there yet to even see it. Ain't that horrible?

MR. HOLBERT: Okay. Well, my office is a mess right now, too.

MR. CANN: Where -- what building are you in here?

MR. HOLBERT: The ET building. That's the oldest building on campus.

MR. CANN: Which is up from where I am or where I am? I don't even know where that is.

MR. HOLBERT: It's up from where you are.

MR. CANN: Okay. Okay.

MR. HOLBERT: It's 103. Building 103.

MR. CANN: Okay. Yeah. But, see, tell your doctor what your job is. Have you ever told him everything you have to

do?

MR. HOLBERT: If you can email me that, that fax didn't come through and I can't -- do you remember the other day I asked for a copy?

MR. CANN: Yeah.

MR. HOLBERT: Maybe she made one. I can't find it.

MR. CANN: I thought she -- well, I don't know if I can email. We're not that techy here. Isn't that horrible? We don't have a scanner here.

MR. HOLBERT: I see --

MR. CANN: To his office. Do you know his -- do you know his telephone or his fax number? Have you got anything that's got his information on it?

MR. HOLBERT: I think it's -- yes, sir.

MR. CANN: Oh, I may have it. Do I have something that's got it on it? Did you ever give me anything from him?

MR. HOLBERT: Let's see.

MR. CANN: I can certainly fax it to him.

MR. HOLBERT: 455-1735.

MR. CANN: 1735. Okay. Well, you go, and I'll fax that to him.

MR. HOLBERT: Okay.

MR. CANN: And when you get there, you just tell him that I faxed that and I'll just put a cover to Dr. Nelson on it. So 455-1735 is a fax.

MR. HOLBERT: Let me get that out.
MR. CANN: Oh, I'm sorry. That's --
MR. HOLBERT: That's all right. 455-1735, yes, sir.
MR. CANN: I'm going to send it right now.
MR. HOLBERT: Okay. Thank you.
MR. CANN: Okay. Call me back.
MR. HOLBERT: I will.
MR. CANN: Bye-bye.
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MR. CANN: Human Resources, this is Greg.
MR. HOLBERT: Hey, Mr. Cann.
MR. CANN: Hey, how are you? I just tried to call you I think.
MR. HOLBERT: Yeah. I was on the other line and so I called immediately back and left a message and --
MR. CANN: Oh, okay.
MR. HOLBERT: Sorry.
MR. CANN: See, I can't -- I don't know people's calling when I'm on my line. We only have one line here.
MR. HOLBERT: Right. I understand. Yesterday morning, when I left, the doctor didn't mention work, and so I just told the lady up front that I wanted a release. I was called by the doctor later and he said he did not want me to come back to work until the results of the MRI.
MR. CANN: Okay. Okay.

MR. HOLBERT: And he did that and he did another -- another assessment letter of the -- I'm sorry -- another letter for -- in regards to the workers' compensation.

MR. CANN: Okay.

MR. HOLBERT: To try to facilitate that. I did not know -- I can scan them and send them to you.

MR. CANN: Okay.

MR. HOLBERT: I just hope it won't be used against me.

MR. CANN: Oh, no, no.

MR. HOLBERT: What I did do, though, and -- because I know you said I've exhausted all of my -- I've exhausted all of my avenues of being able to stay out even another week.

MR. CANN: Yeah. We -- there's no time left.

MR. HOLBERT: Well, I understand that and so I went and -- and reviewed not to go against you, just to -- because this is my career and -- and you -- you mentioned coming from private industry and -- and public was a little different and -- and I'm right now probably unemployable.

MR. CANN: Why?

MR. HOLBERT: Because --

MR. CANN: Because of your condition?

MR. HOLBERT: Condition, yes. And because workers' comp still may come into play.

MR. CANN: Oh, yeah, it still could.

MR. HOLBERT: So there were two code sections that I did find --

MR. CANN: Uh-huh.

MR. HOLBERT: -- that I wanted to ask you about, not to throw at you.

MR. CANN: Oh, no, no. You found it. Go ahead. You know, no problem.

MR. HOLBERT: One is under the Office of Human Resource Regulations 712, it would be Section 712, 19-712.01, subparagraph -- subparagraph (i) --

MR. CANN: Uh-huh.

MR. HOLBERT: -- Item No. 6.

MR. CANN: Okay.

MR. HOLBERT: Because yesterday, he made that determination based on your fax and the letter that I brought to him.

MR. CANN: Okay.

MR. HOLBERT: He's still thinking that workers', you know, under workers' comp, but I'll mention that in a minute. Anyway, No. 6 says in extenuating circumstances, two extensions are available. This is FMLA.

MR. CANN: Okay.

MR. HOLBERT: But this is of the agency head and that -- there's an A and B. The agency head may extend the 180-day period of leave to a total of 365 days provided the

healthcare practitioner certifies employees that return within this time period and, B, the agency head may request from OHR an extension of a disability leave beyond the 365 days without a break in service provided the healthcare practitioner certifies employee's to return to work within the time frame of the requested extension.

So the 180-day was automatic and I understand that.

MR. CANN: Yeah. Yeah.

MR. HOLBERT: The extenuating circumstance would be the agency head.

MR. CANN: Yeah. And I've already talked to the agency head which is Dr. Barton and we're -- we're -- and he's not -- he's not inclined to extend that period.

MR. HOLBERT: Well, I understand that. My -- but I had to -- I --

MR. CANN: Yeah. You had to --

MR. HOLBERT: I discussed the -- I'm discussing this with my attorneys. I don't know if they're going to call or not.

MR. CANN: Yeah.

MR. HOLBERT: What they can do, that'll be them, not me.

MR. CANN: Yeah. That's the way -- and I'll be glad

-- you can give them my number. I'll be glad to talk to them.

That's not a problem.

MR. HOLBERT: Well, one has a relationship I don't know already. They'll call somebody.

MR. CANN: Okay. That'll be fine.

MR. HOLBERT: The second is the workers' compensation.

MR. CANN: Yeah.

MR. HOLBERT: No employer may discharge or demote any employee because the employee has instituted or caused to be instituted in good faith any proceeding under the South Carolina Workers' Compensation law.

And the reason I brought that is my main concern is being taken care of from an insurance standpoint until I'm able to work again. Because, right now, I'm unemployable. This is South Carolina Section 41-1-80.

MR. CANN: Okay. And read that to me again. It says no --

MR. HOLBERT: It says prohibition against retaliation based upon employee's institution of -- or -- and prohibition means against retaliation is kind of a curse to me, but --

MR. CANN: Yeah.

MR. HOLBERT: -- but, anyway, it says a participation in proceedings under workers' compensation law, civil actions, no employee may discharge or demote any employee

because the employee has instituted or caused to be instituted in good faith any proceeding under the South Carolina Workers' Compensation law.

MR. CANN: That's true.

MR. HOLBERT: And mine's still open.

MR. CANN: Yeah. That's true. And that is true. But you are not being discharged because you instituted a workers' comp claim.

MR. HOLBERT: Right. But my workers' comp claim does extend until the doctor releases me.

MR. CANN: It does, yeah. It can. It can. It sure can, but, see, --

MR. HOLBERT: I'm under the understanding that it does.

MR. CANN: Yeah. Yeah.

MR. HOLBERT: So being terminated today, all my insurance is gone, the disability is gone until the workers' comp can be settled. Everything is gone. So --

MR. CANN: Well, now, your insurance won't be gone today because what happens, the insurance -- once you pay that premium for January, you actually got that through the end of January.

MR. HOLBERT: But in talking with the doctor yesterday, you know, if I go -- well, I'm going to therapy today, I was actually asking until Monday just to be able to

come to work because I can -- I can get therapy and get -- get myself ready. I didn't realize that I would get worse this week, which I did.

MR. CANN: Okay.

MR. HOLBERT: Is that -- and it's like anotner doctor told me, Ken, if you get better, you can wait on surgery until next year if you know what's wrong and how to deal with it.

MR. CANN: Uh-huh.

MR. HOLBERT: So I was -- that's the only reason -- waiting until the MRI results and they're trying to expedite the MRI.

MR. CANN: Is it scheduled?

MR. HOLBERT: I'd have to -- I could call the doctor's office and find out. But --

MR. CANN: Okay.

MR. HOLBERT: -- it's not that I'm trying not to work. He will not let me come to work.

MR. CANN: Yeah. Yeah. And --

MR. HOLBERT: I had a release. I could have brought a release this morning, but --

MR. CANN: How could you have a release from him if he's not willing to release --

MR. HOLBERT: When I left yesterday morning, I told the lady up front that --

MR. CANN: Well, I don't want a release from the lady up front.

MR. HOLBERT: Well, that's what I'm saying. I could have brought that, but I didn't. I'm being truthful with you.

MR. CANN: Yeah.

MR. HOLBERT: I always have been and I always will.

MR. CANN: So what you're telling me is --

MR. HOLBERT: So --

MR. CANN: -- the lady up front was going to write you a release, but the doctor's not releasing you.

MR. HOLBERT: Right. Yesterday afternoon, the doctor said he was going to keep me out until the MRI results.

MR. CANN: Yeah, yeah, yeah.

MR. HOLBERT: And that was a miscommunication from last Friday. They thought of -- the lady that my regular doctor thought a C-spine was a thorax and a cervical, but it wasn't and so --

MR. CANN: I see.

MR. HOLBERT: -- that's what he's ordering. A thorax.

MR. CANN: I see.

MR. HOLBERT: With all that said and done, you know, there's just been so many little SNAFUs and here I am toward the end working very hard to get back to work and, you know, as we did discuss it last Friday. I wasn't able to go back to

physical therapy until I saw Dr. Nelson.

MR. CANN: Yeah. Yeah.

MR. HOLBERT: And I'm going because the physical therapy said, Ken, there's nothing we can do for you unless he writes us an order for you to be, you know, be -- to start traction type --

MR. CANN: Yeah. I understand.

MR. HOLBERT: So that's why I'm -- I'm going today.

MR. CANN: Yeah.

MR. HOLBERT: To start that. And so it's just a few mishaps that -- that happened. And I was trying to work on -- on getting those resolved.

MR. CANN: Yeah.

MR. HOLBERT: Because even reading some of the other FMLA, it does allow -- which I was given a chance to do, but not allow, but -- into the office of Human Resources, it allows me not being a hundred percent but coming back to work, restricted duty and things of that nature. And when I asked about it, I was not allowed to do that. But I do have time that I had spent when I was allowed restricted duty. I was told to order Auto Cad. That's just one example. I spent about two days trying to get that summed up and then I -- Sid took the ball and went ahead and ordered it.

MR. CANN: Who did?

MR. HOLBERT: Sid.

MR. CANN: Oh, okay.

MR. HOLBERT: Because we have to order Auto Cad. We do that yearly --

MR. CANN: Okay.

MR. HOLBERT: -- in August.

MR. CANN: Okay.

MR. HOLBERT: So I found those variances being allowed under South Carolina FMLA law.

MR. CANN: Well, South Carolina doesn't have FMLA law. FMLA is federal.

MR. HOLBERT: Well, this was the Office of Human Resources, South Carolina.gov regulations.

MR. CANN: Yeah.

MR. HOLBERT: Under regulations.

MR. CANN: Gotcha.

MR. HOLBERT: Which regulations generally are South Carolina's interpretation of federal law.

MR. CANN: I gotcha.

MR. HOLBERT: And I'm saying that back when I was a tax lawyer.

MR. CANN: Yeah.

MR. HOLBERT: You had opinions -- the opinions of the attorney general and regulations. So --

MR. CANN: So what --

MR. HOLBERT: -- here's where the frustrations --

and I'm sorry I came across the way I did yesterday.

MR. CANN: No, no.

MR. HOLBERT: I was really lack of -- an excuse is just the skin I'm breathing or something, but --

MR. CANN: Well --

MR. HOLBERT: -- lack of sleep and -- and shock and trying to just say, well, look, can I get something for this or this or this, but, anyway --

MR. CANN: Yeah. I --

MR. HOLBERT: -- there are some -- there are some regulations and there is agreements and appeals attendance, which I'll have to --

MR. CANN: Yeah. You can do that. That's --

MR. HOLBERT: -- but I'm trying to avoid it because it's just -- it's -- it costs both parties.

MR. CANN: Well --

MR. HOLBERT: -- to do.

MR. CANN: -- that's a mechanism in place so you can do that. That's not an issue. That's --

MR. HOLBERT: All I'm asking for is maybe a week.

MR. CANN: Yeah. And, unfortunately, they've made a decision to go ahead and -- like I said, they've got --

MR. HOLBERT: Now, backfill the job means what?

MR. CANN: You're going to fill the position.

MR. HOLBERT: But, wait, you said -- it said -- your

letter said backfill.

MR. CANN: Well, what I mean by that is backfill it, we're going to put a person in that job.

MR. HOLBERT: Right. As of last July or --

MR. CANN: No, no, no. We're going to put somebody in that job.

MR. HOLBERT: Okay.

MR. CANN: Yes. I mean, that's -- and if that somebody is your or somebody else, it'll be somebody in the job.

MR. HOLBERT: Well, let's say in a week or so, I'm ready to come back and then I would just apply?

MR. CANN: Yeah, you could apply, certainly. You sure could.

MR. HOLBERT: But I don't have protection.

MR. CANN: I'm sorry?

MR. HOLBERT: But -- but I don't have protection. Now, what happens if you post it and I go through the appeals process and, based on some of the regulations, I am allowed that time that I had worked?

MR. CANN: Uh-huh. Well, and, like you said, you'll have to cover all that, like I said --

MR. HOLBERT: No, no, no. I'm saying what happens if you hire somebody --

MR. CANN: Uh-huh.

MR. HOLBERT: -- and I -- I go through the workers'

comp appeal and I go through this appeal.

MR. CANN: I think you've got -- I think you've got to understand, the workers' comp is separate.

MR. HOLBERT: Well, okay, that's fine. Well, let's say FMLA and they put me back in my position.

MR. CANN: Yeah.

MR. HOLBERT: What happens to the person that gets hired?

MR. CANN: Well, they won't -- we're not -- we won't be doing anything. If you're going to appeal, we'll -- we'll look at all that prior to that.

MR. HOLBERT: Well, yeah, there's no question I'll appeal.

MR. CANN: But -- and that's your right.

MR. HOLBERT: No, no, no. I'm saying that from the standpoint of -- 'cause, 'cause yesterday I was under the understanding that there was no other available ways for me to even have a day or two. And, now, I'm out is -- until the results of the thorax MRI.

MR. CANN: Yeah.

MR. HOLBERT: And -- and physical therapy.

MR. CANN: Yeah. Yeah.

MR. HOLBERT: So --

MR. CANN: Yeah. But what you just said -- you said that you're unemployable at this point in time, so that -- that

means --

MR. HOLBERT: Right. For the next two weeks until the doctor says I can come back to work --

MR. CANN: Right.

MR. HOLBERT: -- which, see, two weeks is not very long. That's 72 -- well, 37 and a half hour weeks, (inaudible) five hours.

MR. CANN: Yeah. Yeah. But, unfortunately, our regulation doesn't call for 190 days. It says 180. I mean, that's -- that's where we are. We're at six months.

MR. HOLBERT: Oh, I understand that.

MR. CANN: Yeah.

MR. HOLBERT: I understand that.

MR. CANN: Yeah. So --

MR. HOLBERT: Now, but some of the appeals -- like I said yesterday, stress has been a tremendous factor in my recovery. Financial stress has been a tremendous factor and I didn't find out until --

MR. CANN: Well, I did a little research on that, Ken. I want to make sure -- draw back to the --

MR. HOLBERT: No, no. That's -- that's fine about -- I knew on the short -- on the supplemental long-term disability.

MR. CANN: Just wait just a second. I want to get the letter that Helen wrote for you in July --

MR. HOLBERT: Uh-huh.

MR. CANN: -- it talks about the basic disability and the supplemental disability in there. It tells you what you need to do to --

MR. HOLBERT: Yeah, but she never -- I've still got that letter and the envelope.

MR. CANN: Yeah.

MR. HOLBERT: It's a 31 cent envelope.

MR. CANN: Yeah.

MR. HOLBERT: Cents. She didn't attach any documents to it and I called about it and was told it would be mailed and it wasn't.

MR. CANN: Who did you talk to?

MR. HOLBERT: I can't remember.

MR. CANN: Well, you're going to need to remember that because we -- I mean, like I said, if --

MR. HOLBERT: But I have that letter and it's -- she said enclosed and it wasn't -- nothing was enclosed with that letter.

MR. CANN: Okay. Well, see, I -- I don't know.

MR. HOLBERT: Penny. I called Penny back and I said Ms. Parham (ph), Ms. Clarkson sent a letter and said she's sending information with it. There was no information with it.

MR. CANN: Okay.

MR. HOLBERT: That's exactly who I talked to.

MR. CANN: And what did Penny say at that time?

MR. HOLBERT: That she would check with her and get it to me.

MR. CANN: Okay. Well, I tell you, we'll -- I think probably what we'll do. We'll probably need to cover that in all the appeals piece of it and -- and then just see where we go from there.

MR. HOLBERT: That's fine.

MR. CANN: Yeah. So what -- where we are today, we've decided that we're going to have your separation -- if you're not returning to work today, we are going to separate you --

MR. HOLBERT: Well, I mean, I'm -- it's 12:00, I'm not there. So --

MR. CANN: Yeah, I know. I know. But, I mean, I've, you know, that's why I sent you an email about that this morning, just call me or --

MR. HOLBERT: Right. And I -- that's I was trying to do.

MR. CANN: Yeah.

MR. HOLBERT: Call you and --

MR. CANN: But we -- unfortunately, that's where we are. I'm sorry about that.

MR. HOLBERT: That's fine. I'm -- I mean, there's -- like you said, you seemed shocked when I said that Human

Resources treat people as a -- extendable objects, but --

MR. CANN: I do. I am shocked by that.

MR. HOLBERT: Well, it's still true. As of right now it's true because --

MR. CANN: I mean --

MR. HOLBERT: -- as a human, we both admit that we have made errors, yet, and I'm working very hard to come back to work, yet, the decision has been made.

MR. CANN: Yes.

MR. HOLBERT: And I have to go through an appeals process which is fine, I guess, but, nevertheless, you know, to me, it should be able to be worked out amicably.

MR. CANN: Yeah. And I mean, but, see, what happened --

MR. HOLBERT: If I had my choice, I'd be there today.

MR. CANN: Yeah.

MR. HOLBERT: Like I told you, I would come.

MR. CANN: Yeah.

MR. HOLBERT: But if I had no choice in the matter.

MR. CANN: I -- I believe that. I believe that. I -- it's just like I talked to you yesterday. It's a balance between, you know, the -- what we need to do for the employee and what we need to do for the organization and that's --

MR. HOLBERT: Right. And then you've got somebody

that's already well trained, six years' experience that will be coming back and not taking any leave and being very careful and getting back into the groove of things.

I'm just trying to get -- get to where I'm able to and now that I know I have supplemental disability coming in and we'll -- if -- if we do get it in the mail, I'll fill those forms out and things of that nature, I'll be able to relax.

MR. CANN: Yeah.

MR. HOLBERT: And not be stressed and my shoulders can relax and, hopefully, if I have to have surgery, that can be put off until next year.

MR. CANN: Yeah.

MR. HOLBERT: I just have to be careful for the next eight months, but that -- my career is that important to me. And, to me, I don't think of -- an employer would want to invest that kind of money and time, you know, when I could come back and not be out.

MR. CANN: Yeah.

MR. HOLBERT: I know that we've had our issues from the past, but I'm willing to let those go by the wayside.

MR. CANN: Now, what are these issues? I don't know what you mean by that.

MR. HOLBERT: Well, the -- the time that I've been out the last two years.

MR. CANN: Oh, I got ya. Yeah. Okay.

MR. HOLBERT: The Crohn's flare-up. The adoption of my child and things like that, but we're not adopting anymore children.

MR. CANN: Uh-huh.

MR. HOLBERT: I'm not going to take credits on anymore. I'm find.

MR. CANN: Yeah.

MR. HOLBERT: I'm just trying to get over this little part, so I don't think I'm asking for that much. It's beyond my control. So --

MR. CANN: Yeah. Okay.

MR. HOLBERT: -- that's all.

MR. CANN: I know.

MR. HOLBERT: So if you would just do some research and -- and --

MR. CANN: Well --

MR. HOLBERT: -- think about that.

MR. CANN: Yeah. And see -- and I mean it's not my decision. It's the (inaudible) -- it's the corporate.

MR. HOLBERT: And that's why I'm asking, you can -- what I'm telling you how is bringing things to light that wasn't brought to light yesterday. The group might can re-evaluate it.

MR. CANN: I don't know what -- I don't know what you told me today that brings me, I mean, what changes -- what

changes -- what I need to understand that. What do you mean that you brought to light today?

MR. HOLBERT: Well, what changes is the -- when I called the supplemental people and was given the good news of -- of being reimbursed, and that would relieve the stress and allow me to heal properly and quicker and go into physical therapy because I wasn't able to until I saw Dr. Nelson. He couldn't see me until yesterday. And so to get the MRI over, if I have to have surgery --

MR. CANN: When's the last time you saw Dr. Nelson before you went yesterday?

MR. HOLBERT: The early part of December I think.

MR. CANN: So it's been a while.

MR. HOLBERT: Yeah. I was going to physical therapy up to the point where I re-injured myself. I mean, not re-injured.

MR. CANN: Right.

MR. HOLBERT: Injured myself through therapy and trying to do normal things at home to be prepared to come back to work.

MR. CANN: Right.

MR. HOLBERT: I just have to be real careful. I can't -- I know -- well, once I'm put into a traction way of getting my back right and finding out exactly what's wrong with it and knowing how to address it, which is after the MRI --

MR. CANN: Yeah.

MR. HOLBERT: -- then I can be careful and be able to function.

MR. CANN: Yeah.

MR. HOLBERT: Even until next year when I'm able to take time off.

MR. CANN: Yeah. Okay.

MR. HOLBERT: That's what I'm saying. I can schedule my surgery as opposed to just staying out another four months.

MR. CANN: Uh-huh.

MR. HOLBERT: I'm just -- I'm trying -- I called the 20 -- right after Christmas or right before Christmas, right when I had this problem and they couldn't see me.

MR. CANN: Yeah.

MR. HOLBERT: He -- he was supposed to see me the 23rd and release me then, but he said he'd see me the 11th, too.

MR. CANN: Okay.

MR. HOLBERT: So that was the soonest he could see me.

MR. CANN: Okay. Okay.

MR. HOLBERT: It's just that all these dates just falls sort of --

MR. CANN: I know. The timing is -- is -- is different, I know.

MR. HOLBERT: Which, you know, there are some things that come to light now that are different than after I've seen the doctor and after I've done the research into the supplemental.

MR. CANN: Yeah.

MR. HOLBERT: Now, I can bring you a little letter from Ms. Clarkson and -- and --

MR. CANN: Well, the supplemental piece will be there even if, you know, ever --

MR. HOLBERT: Well, it's not in a letter. It was supposed to be enclosed or documents.

MR. CANN: Well, I don't mean that. I mean, the benefit would be there.

MR. HOLBERT: Right. But the weight of the letter, you can -- if she had enclosed what she was going to enclose, it would have been more than 31 cents, or 33. I don't even know how much a stamp is.

MR. CANN: Okay.

MR. HOLBERT: But it was a basic stamp.

MR. CANN: Yeah. Well, I tell you what, I will --

MR. HOLBERT: And I called Penny about that.

MR. CANN: Okay.

MR. HOLBERT: And if I have to pull my phone records up to find them, I'll -- I'll do it.

MR. CANN: Okay. Well, what -- like I said, they've

made the decision. We talked this morning and the decision has been made, you know, like I said, if we -- if they wouldn't return to work today, that we would be starting the separation process. So that's where we're going to go with it on that.

MR. HOLBERT: Well, like I said, it's a -- it's a shame but --

MR. CANN: It's unfortunate. I mean, this is not a good thing for us, either. I mean, we -- we don't ever like to get to this point. But -- but --

MR. HOLBERT: Well, if -- if you didn't, right now, there are things you can do to allow me to -- until I see my MRI so I know -- I'm trying to believe you, but, at the same time, I'm looking at the documentation and saying why in the world do we go through appeals here and -- and --

MR. CANN: I mean, what do you mean? What can I do?

MR. HOLBERT: Well, FMLA allows for --

MR. CANN: Oh, the -- the 365?

MR. HOLBERT: Well, I don't want 365. I just want enough time to come back, see my MRI results, get -- you know, and come back to work.

MR. CANN: You -- you're passed FMLA.

MR. HOLBERT: No. Well, if -- if they -- if he had to do the 100 -- 365, I would sign a statement saying as soon as I can come back.

MR. CANN: Well, no. What I mean by that when I sa

you're passed FMLA, FMLA is 12 weeks. You're way past 12 weeks.

MR. HOLBERT: Right. Then, you have the 180-day disability and then you have extenuating circumstances, which, I mean, this morning qualifies as extenuating circumstances. This is not something I'm abusing. This is not something I'm trying to --

MR. CANN: But what I'm saying is that -- that is up to the agency head and we've talked about that and they're not willing to extend that.

MR. HOLBERT: I understand.

MR. CANN: Yeah. They're not willing to extend that. So --

MR. HOLBERT: All I was saying is I understand what you're saying you wish you can do better and you like to work with people. However, on the other hand, you're not willing to extend for two weeks and -- and so that's where I'm -- this is a philosophical --

MR. CANN: Yeah. And --

MR. HOLBERT: -- thought.

MR. CANN: -- we don't know that it would be two weeks. Your doctor hasn't presented me with anything that says it'll be two more weeks. I haven't seen anything that says that.

MR. HOLBERT: Oh, I have that -- you just asked if -- when they had scheduled it. I was about to get off the phone

and call. Well, it'll be 1:00 before I could call, but --

MR. CANN: Uh-huh. Yeah. See, that's -- that's where -- see, we -- like I said, we were balancing this thing and they need to -- they need someone in the job. They need someone to fill --

MR. HOLBERT: Right.

MR. CANN: -- the position and --

MR. HOLBERT: And I could come in the job and I'm already trained.

MR. CANN: Yes. But -- but you just --

MR. HOLBERT: But I won't be able to tell you until this afternoon or Monday morning when my MRI is scheduled for.

MR. CANN: Yeah. Yeah.

MR. HOLBERT: But they'll probably make a consolidated, I mean, a consolidated re -- appointment the same day of the MRI results.

MR. CANN: Yeah.

MR. HOLBERT: You know, they wouldn't do that for me.

MR. CANN: Okay.

MR. HOLBERT: Well, we just for liability -- as you said, if I wasn't ready to come back to work and he released me, you would haul him to court.

MR. CANN: No, I didn't say that.

MR. HOLBERT: I mean, not haul him to court. I'm --

see, I'm mis-stating something again. I'm sorry. I don't -- I mean, I don't know what -- how you said it, but you said something like that.

MR. CANN: Your doctor has no relationship with me.

MR. HOLBERT: Right.

MR. CANN: What I said yesterday is is your doctor -- when you went to -- see, you just confirmed that again this morning about his practice. His front office, first, was willing to give you a release.

MR. HOLBERT: No. She said -- I said I don't know about my release, whether I -- we had discussed it, I said, and she said, well, I'll let you know.

MR. CANN: Yeah.

MR. HOLBERT: But I probably could have got a release. I don't know.

MR. CANN: I thought that you said that she -- that you would have brought a release from her but that he said that no, so, see, that -- see, that's what I'm saying. We need the doctor's expertise in this. We -- we can't have some -- some secretary in the front writing a release, I mean, because that's where the -- that's where the doctor --

MR. HOLBERT: Well, the doctor dictates whatever is to be written.

MR. CANN: What now?

MR. HOLBERT: The doctor would dictate to the lady

up front.

MR. CANN: Okay. Yeah. Yeah.

MR. HOLBERT: Not that the doctor --

MR. CANN: He would have to sign it. I mean, I mean --

MR. HOLBERT: He would sign it -- well, it's -- he signs t.

MR. CANN: Yeah. Yeah. That's the thing. But we -- like I said, they made the decision.

MR. HOLBERT: Well, that's fine. And -- well, I appreciate your time.

MR. CANN: Listen, and I --

MR. HOLBERT: And have a good weekend.

MR. CANN: Yeah. Wish you well.

MR. HOLBERT: You, too.

MR. CANN: Thanks.

MR. HOLBERT: Bye, bye.

R E P O R T E R 'S C E R T I F I C A T E

I, Scott A. Huseby, Registered Professional Reporter and Certified Stenographic Reporter, hereby certify that this transcript is a true and accurate record of the electronically recorded proceedings transcribed under my direction, this the 29th day of August 2007.

SCOTT A. HUSEBY, RPR, CSR

REGISTERED PROFESSIONAL REPORTER

CERTIFIED STENOGRAPHIC REPORTER

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Marvin F. Kittrell, Chief Judge

Case No. 08-ALJ-30-0061-AP

Kenneth Lee Holbert, Jr., ... Appellant,

v.

South Carolina State Board for Technical and
Comprehensive Education, ... Respondent.

CERTIFICATE OF COMPLIANCE

I certify that the Appendix has been redacted as required to exclude personal data and identifiers, financial information, and other private data pursuant to the Order of the Supreme Court and applicable rules regarding privacy.

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August 25, 2012.