

**13 NCAC 12 .0307            BONUSSES, COMMISSIONS AND OTHER FORMS OF WAGE CALCULATION**

- (a) Employers may pay wages based on bonuses, commissions or other forms of calculation as infrequently as annually, if the employees are so notified before earning such wages.
- (b) Employers shall notify employees of the employers' policies and practices concerning pay, wages based on bonuses, commissions, or other forms of wage calculation.
- (c) Ambiguous policies and practices shall be construed against the employer and in favor of employees.
- (d) All policies or practices relating to bonuses, commissions, or other forms of calculation wages shall address:
  - (1) How and when bonuses, commissions or other forms of calculation wages are earned so that the employees know the amount of bonuses, commissions or other forms of calculation wages to which they are entitled; and
  - (2) Under what conditions and in what amount bonuses, commissions or other forms of calculation wages will be paid upon discontinuation of employment.
- (e) Wages computed under a bonus, commission, or other forms of calculation policy or practice which does not establish specific earning criteria cannot be reduced or eliminated as a result of a change in policy or practice. An example of such a policy is: "Employees earn commissions of xx% on all 'sales' (where sales are not defined by the employer)." If the employer changes a policy or practice which establishes specific earning criteria, the employee is entitled to the bonus, commission or other forms of calculation wages earned under the original policy through the effective date of the change and is entitled to the bonus, commission or other forms of calculation wages earned under the new policy from the effective date forward, so long as the earning criteria are met under both policies.

*History Note:*     *Authority G.S. 95-25.6; 95-25.7; 95-25.13; 95-25.19;*  
                          *Eff. February 1, 1982;*  
                          *Amended Eff. January 1, 2007; April 1, 2001; April 1, 1999;*  
                          *Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1,*  
                          *2016.*