

## **SUBCHAPTER 01E - EMPLOYEE BENEFITS**

### **SECTION .0100 - LEAVE: GENERAL PROVISIONS**

#### **25 NCAC 01E .0101 POLICY**

Administration of the leave program within the scope of established policy shall be the responsibility of the agency head. Paid leave for absences during scheduled working hours shall be charged to the appropriate leave account of the employee.

*History Note:* Authority G.S. 126-4; 126-8;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .0102 TYPES OF LEAVE**

*History Note:* Authority G.S. 126-4; 126-8;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004, January 1, 1983;  
Repealed Eff. July 1, 2012.

#### **25 NCAC 01E .0103 LEAVE OFFSETTING**

If employees work time outside their normal schedule in an overtime period, as defined in 25 NCAC 01D .1900, in which they also have taken time off, the time outside their normal schedule offsets the time that the employee intended to cover with available leave. The number of leave hours must be reduced by the number of additional hours worked. This offset is mandatory; the employee shall not be paid both for the leave time and the time outside the normal schedule. This applies to all types of leave except Holiday Leave, Civil Leave and Other Management Approved Leave.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

### **SECTION .0200 - VACATION LEAVE**

#### **25 NCAC 01E .0201 PURPOSE AND USES**

*History Note:* Authority G.S. 126-4; 126-8;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1988; January 1, 1983;  
Repealed Eff. October 1, 2004.

#### **25 NCAC 01E .0202 SCHEDULING LEAVE**

*History Note:* Authority G.S. 126-4; 126-8;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1983;  
Repealed Eff. October 1, 2004.

#### **25 NCAC 01E .0203 VACATION LEAVE CREDITS**

(a) Vacation leave credits shall be provided to employees subject to the State Human Resources Act who are full-time or part-time (half-time or over) and have a permanent, trainee, time-limited or probationary appointment and who are in pay status for one-half of the regularly scheduled workdays and holidays in a pay period. The rate shall be based on G.S. 126, the length of total state service as defined in 25 NCAC 01D .0112, and the leave practices of the State's competitors.

Competitors include State governments, local governments, non-profit organizations, and private industry. The State Human Resources Commission may adjust the rates to maintain competitiveness, taking into consideration the State's total compensation package and the average of the State's major competitors, but shall not be less than the following:

Years of Total State Service	Hours Granted Each Year	Days Granted Each Year
Less than 5 years	112	14
5 but less than 10 years	136	17
10 but less than 15 years	160	20
15 but less than 20 years	184	23
20 years or more	208	26

(b) Newly appointed employees may receive Incentive Leave in accordance with 25 NCAC 01E .1801 through .1809.

*History Note:* Authority G.S. 126-4; 126-8;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1983; January 1, 1983;  
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Amended Eff. January 1, 2011; November 1, 2004; July 1, 1995; March 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .0204 TOTAL STATE SERVICE DEFINED**

(a) Total state service is the time of full-time or part-time (half-time or over) employment of an employee with a permanent, trainee, probationary, or time-limited appointment, whether subject to or exempt from the State Human Resources Act. If an employee appointed by this Rule is in pay status or on authorized military leave for one-half of the regularly scheduled workdays and holidays in a pay period, credit shall be given for the entire pay period.

(b) Credit toward total state service shall be given for:

- (1) employment with other governmental units that are now state agencies
- (2) authorized military leave from any of the governmental units for which service credit is granted, provided the employee returns within the time limits outlined in the state military leave rules (see 25 NCAC 1E, Section .0800, Rules .0801 - .0819);
- (3) employment with the county cooperative extension service, community college system and the public school system of North Carolina, with the provision that a school year is equivalent to one full year;
- (4) employment with a local mental health, public health, or social services department if such employment is subject to the provisions of the State Human Resources Act under G.S. 126-5(a)(2);
- (5) employment with a local emergency management agency in North Carolina that receives federal grant-in-aid funds; or
- (6) employment with the General Assembly, except for legislators, participants in the Legislative Intern Program, and pages.

*History Note:* Authority G.S. 126-4; 126-8;  
Eff. February 1, 1976;  
Amended Eff. April 1, 2015; July 1, 1995; January 1, 1989; January 1, 1983; March 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .0205 MAXIMUM ACCUMULATION**

Vacation leave may be accumulated without any applicable maximum until December 31 of each calendar year. However, if the employee separates from service, payment for accumulated leave shall not exceed 240 hours. On December 31 any employee with more than 240 hours of accumulated leave shall have the excess accumulation converted to sick leave so that only 240 hours are carried forward to January 1 of the next calendar year.

*History Note:* Authority G.S. 126-4; 126-8;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1993; January 1, 1983; December 1, 1982; October 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .0206 ADVANCEMENT**

Vacation leave shall be taken only upon authorization of the agency head or designee. An employee may be advanced the amount of leave needed on an individual basis and which can be credited during the remainder of the calendar year.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .0207 LEAVE CHARGES**

Vacation leave shall be charged in units of time determined by the agency to be appropriate and consistent with the responsibility of managing absences in keeping with operational needs. Time lost for late reporting may be charged to the appropriate leave account in accordance with 25 NCAC 01C .0504.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; July 1, 1995; January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .0208 LEAVE TRANSFERABLE**

- (a) Unused leave shall be transferred when an employee transfers between state agencies.
- (b) Unused leave may be transferred to or from a public school, community college, technical institute, or a local Mental Health, Public Health, Social Services or Emergency Management Agency, if the agency is willing to accept the leave; otherwise, it shall be handled in accordance with 25 NCAC 01C .1009.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; December 1, 1988; April 1, 1984; December 1, 1983; January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .0209 OPTIONS DURING LEAVE WITHOUT PAY**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1993; January 1, 1983;  
Repealed Eff. October 1, 2004.

#### **25 NCAC 01E .0210 SEPARATION: PAYMENT OF VACATION LEAVE**

- (a) The agency shall pay an employee in a lump sum for vacation leave only at the time of separation.
- (b) When separated from State service due to resignation, dismissal, or death, an employee shall be paid in a lump sum for accumulated vacation leave not to exceed a maximum of 240 hours. The employee is not entitled to any holiday pay after the date of separation. The employee shall cease to accumulate leave or be entitled to take sick leave.
- (c) When separated from State service due to service retirement, early retirement, or reduction in force, an employee may, at the discretion of the employee's supervisor, elect to exhaust vacation leave after the last day of work but prior to the effective date of the separation. All benefits shall accrue while leave is being exhausted, including holidays that occur

during the period. Unused vacation leave not exhausted shall be paid in a lump sum not to exceed 240 hours. An employee who was reduced in force and who had over 240 hours of vacation leave at the time of separation shall have the excess leave reinstated when reemployed within one year. The date of separation shall be determined as follows:

- (1) If leave is exhausted, the last day of leave shall be the date of separation.
- (2) If no leave is exhausted, the last day of work shall be the date of separation.

(d) If an employee separates and is overdrawn on any type of leave, the employing agency shall deduct the value of the overdrawn leave from the final salary check.

(e) The employing agency shall make a retirement deduction from all leave payments.

(f) Receipt of lump sum leave payment and retirement benefit shall not be considered as dual compensation.

(g) In the case of a deceased employee, the employing agency shall make a payment for unpaid salary, vacation leave, and travel, upon establishment of a valid claim, to the deceased employee's administrator or executor. In the absence of an administrator or executor, the employing agency must make a payment in accordance with the provisions of G.S. 28A-25-6.

(h) If the employee separates due to a workers' compensation injury pursuant to 25 NCAC 01C .1007(a)(3), leave shall be paid in a lump sum as follows:

- (1) Unused vacation leave earned (up to a maximum of 240 hours) and bonus leave granted and eligible for payout as of the date of injury;
- (2) Unused vacation and sick leave accumulated only during the first 12 months of workers' compensation leave; and
- (3) Any unused bonus leave eligible for payout granted on or after the date of injury.

(i) If the employee returns to permanent duty after workers' compensation leave, vacation leave shall remain available for use after returning to work until the end of the calendar year, at which time any vacation leave over the 240-hour maximum shall be converted to sick leave. If the employee separates for any reason during the calendar year in which he or she returned to work after workers' compensation leave, the employee shall be paid a lump sum for unused leave as follows:

- (1) Unused vacation leave earned (up to a maximum of 240 hours) and bonus leave granted and eligible for payout as of the date of injury;
- (2) Unused vacation leave accumulated during the first 12 months of workers' compensation leave; and
- (3) Any unused bonus leave eligible for payout granted on or after the date of injury.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1988; January 1, 1993;  
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Amended Eff. December 1, 2008; December 1, 2007; July 1, 1995; March 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;  
Amended Eff. February 1, 2020.

## **25 NCAC 01E .0211 LEAVE RECORDS**

(a) Each agency shall maintain leave records for each employee and balance them at least once by the end of each calendar year.

(b) Agencies shall retain leave records for all separated employees for a period of at least five years from the date of separation.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; January 1, 1983; March 1, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0212 SPECIAL LEAVE**

An employee may be granted up to twenty-four hours of leave as part of an award given under the department or university program which supports the State Employee's Award for Excellence program (reference 25 NCAC 01C .0212).

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; December 1, 1988; January 1, 1983; March 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0213 LEAVE RECORDS**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1978;  
Repealed Eff. January 1, 1983.

## **25 NCAC 01E .0214 LEAVE WITHOUT PAY**

*History Note:* Authority G.S. 126-4;  
Eff. March 1, 1978;  
Amended Eff. February 1, 1981; March 1, 1980; April 1, 1978;  
Repealed Eff. January 1, 1983.

## **25 NCAC 01E .0215 SPECIAL LEAVE**

*History Note:* Authority G.S. 126-4;  
Eff. May 1, 1978;  
Amended Eff. October 1, 1982;  
Repealed Eff. January 1, 1983.

## **25 NCAC 01E .0216 ACCOUNTING FOR CREDITABLE SERVICE**

The employing agency shall be responsible for informing each employee of the types of prior service which are eligible to be counted as total state service. If the employee fails to produce evidence of prior service at the time of employment and later produces such evidence, credit shall be allowed for the service and the earnings rate shall be adjusted; however, retroactive adjustments shall only be allowed for the previous 12 months. Exceptions shall be made if the agency is at fault or fails to properly detect prior service.

*History Note:* Authority G.S. 126-4; 126-8;  
Eff. July 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

# **SECTION .0300 - SICK LEAVE**

## **25 NCAC 01E .0301 SICK LEAVE CREDITS**

Sick leave credits shall be provided for a full-time or prorated for a part-time (half-time or over) employee with a permanent, trainee, probationary or time-limited appointment who is in pay status for one-half of the regularly scheduled workdays and holidays in a pay period. The rate shall be based on the requirements of G.S. 126, and the leave practices of the State's competitors. Competitors shall include State governments, local governments, non-profit organizations, and private industry. The rate may be adjusted to maintain competitiveness, taking into consideration the State's total compensation package and the average rate of the State's major competitors, but shall not be less than eight hours per month for a full-time employee.

*History Note:* Authority G.S. 126-4; 126-8;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1983;  
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Amended Eff. November 1, 2004; July 1, 1995; December 1, 1993; March 1, 1989;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **25 NCAC 01E .0302 ACCUMULATION**

Sick leave is cumulative indefinitely.

*History Note: Authority G.S. 126-4; 126-8;  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **25 NCAC 01E .0303 ADVANCEMENT**

The appointing authority may advance sick leave not to exceed the amount an employee can accumulate during the current calendar year.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **25 NCAC 01E .0304 VERIFICATION**

To avoid the abuse of sick leave privileges, the appointing authority may require:

- (1) a statement from a medical doctor or other evidence satisfactory to the agency that the employee was unable to work due to personal illness, family illness, or death in the family; or
- (2) evidence satisfactory to the agency in support of an employee's request for sick leave for adoption-related purposes.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1995; January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **25 NCAC 01E .0305 USE OF SICK LEAVE**

Sick leave may be used for:

- (1) illness or injury which prevents an employee from performing usual duties;
  - (2) the actual period of temporary disability connected with childbearing or recovery therefrom as defined in this Rule:
    - (a) the biological mother may use accumulated sick leave for the actual period of temporary disability caused or contributed to by pregnancy and childbirth.
    - (b) a member of the employee's immediate family may request sick leave to care for the mother and newborn infant during the biological mother's period of temporary disability. Since there is no certainty as to when disability actually begins and ends, a doctor's certificate or other evidence satisfactory to the agency shall be required verifying the employee's period of temporary disability.
  - (3) medical appointments of the employee's immediate family (this includes dependents);
  - (4) the illness of a member of the employee's immediate family;
- Note: It is not required that the immediate family be living in the employee's household.
- (5) the death of a member of the employee's immediate family;
  - (6) donation to a member of the employee's immediate family who qualifies for Voluntary Shared Leave;
  - (7) adoption of a child, limited to a maximum of 30 workdays for each parent.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;*

*Amended Eff. December 1, 1995; July 1, 1995; December 1, 1988; January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01E .0306      FAMILY ILLNESS**  
**25 NCAC 01E .0307      NON-TRANSFERABLE**

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. January 1, 1983.*

**25 NCAC 01E .0308      LEAVE CHARGES**

Sick leave shall be charged in units of time appropriate and consistent with the responsibility of managing absences in keeping with operational needs. Only scheduled work time shall be charged in calculating the amount of leave taken.

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1985; January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01E .0309      SICK LEAVE TRANSFERABLE**

Unused sick leave shall be transferred when an employee transfers between state agencies. Sick leave may also be transferred to or from county agencies of mental health, public health, social services or emergency management, and a public school, community college or technical institute if the head of the employing agency or school administrative unit is willing to accept it.

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1988; January 1, 1983; December 1, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01E .0310      EFFECT OF SICK LEAVE ON INCREMENTS**

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. January 1, 1983.*

**25 NCAC 01E .0311      SEPARATION**

Unused sick leave is not paid when an employee separates from State service except as provided in Rule .0210 of this Subchapter.

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 2007; July 1, 1995; January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;  
Amended Eff. July 1, 2020.*

**25 NCAC 01E .0312      REINSTATEMENT OF SICK LEAVE**

- (a) Sick leave shall be reinstated when an employee returns from authorized leave without pay or when reinstated within five years from any type of separation.
- (b) Sick leave may be reinstated when an employee returns to employment subject to G.S. Chapter 126 within five years after separating from a local government, public school, community college, or technical institute.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1995; May 1, 1989; January 1, 1983; January 1, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0313 RETIREMENT CREDIT**

*History Note:* Authority G.S. 126-4; 126-8;  
Eff. February 1, 1976;  
Repealed Eff. October 1, 2004.

## **25 NCAC 01E .0314 SICK LEAVE WITHOUT PAY**

An employee shall be granted sick leave without pay in accordance with 25 NCAC 01E .1400, Family and Medical Leave, for a period of 12 workweeks and may be granted leave without pay up to one year after leave has been exhausted. Extension of sick leave without pay beyond one year shall be managed by and documented by the agency head.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; July 1, 1995; December 1, 1993; January 1, 1983; March 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0315 LEAVE RECORDS**

- (a) Each agency shall maintain annual records for sick leave for each employee and balance them at least once each year.
- (b) Agencies shall retain sick leave records for all separated employees for a period of at least five years from the date of separation.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; July 1, 1995; January 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0316 FUNERAL LEAVE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1980;  
Repealed Eff. January 1, 1983.

## **25 NCAC 01E .0317 DEFINITIONS**

For purposes of this Section, immediate family is defined as:

- (1) spouse - a husband or wife;
- (2) parent;
  - (a) a biological or adoptive parent, or
  - (b) an individual who stood in loco parentis (a person who is in the position or place of a parent) to an employee when the employee was a child, or
  - (c) a step-parent, or
  - (d) in-law relationships;
- (3) child - a son or daughter who is:
  - (a) a biological child, or
  - (b) an adopted child, or



- (c) a foster child (a child for whom the employee performs the duties of a parent as if it were the employee's child), or
- (d) step-child (a child of the employee's spouse from a former marriage), or
- (e) a legal ward (a minor child placed by the court under the care of a guardian), or
- (f) a child of an employee standing in loco parentis, or
- (g) in-law relationships;
- (4) sister or brother - biological, adoptive (including step-, half- or in-law relationships);
- (5) grandparents, great grandparents, grandchildren, great grandchildren (including step relationships); and
- (6) other dependents living in the employee's household.

*History Note:* Authority G.S. 126-4;  
 Eff. July 1, 1995;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **SECTION .0400 - PETTY LEAVE**

<b>25 NCAC 01E .0401</b>	<b>POLICY</b>
<b>25 NCAC 01E .0402</b>	<b>AMOUNT EARNED</b>
<b>25 NCAC 01E .0403</b>	<b>NONCUMULATIVE</b>
<b>25 NCAC 01E .0404</b>	<b>ADVANCEMENT</b>
<b>25 NCAC 01E .0405</b>	<b>WHAT PETTY LEAVE MAY BE GRANTED FOR</b>
<b>25 NCAC 01E .0406</b>	<b>LEAVE CHARGES</b>
<b>25 NCAC 01E .0407</b>	<b>SEPARATION</b>
<b>25 NCAC 01E .0408</b>	<b>LEAVE RECORDS</b>

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Repealed Eff. January 1, 1983.

#### **SECTION .0500 - EDUCATIONAL ASSISTANCE PROGRAM**

<b>25 NCAC 01E .0501</b>	<b>PURPOSE</b>
<b>25 NCAC 01E .0502</b>	<b>ELIGIBILITY</b>
<b>25 NCAC 01E .0503</b>	<b>APPROVED COURSES</b>
<b>25 NCAC 01E .0504</b>	<b>APPROVED HOURS</b>

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. December 1, 1988; June 1, 1985; April 1, 1984; January 1, 1979;  
 Repealed Eff. January 1, 1990.

#### **25 NCAC 01E .0505 TRAVEL**

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. February 1, 1979; January 1, 1979;  
 Repealed Eff. April 1, 1984.

#### **25 NCAC 01E .0506 TUITION ASSISTANCE**

*History Note:* Authority G.S. 126-4;

*Eff. February 1, 1976;*  
*Amended Eff. December 1, 1988; June 1, 1985; April 1, 1984; January 1, 1979;*  
*Repealed Eff. January 1, 1990.*

**25 NCAC 01E .0507      APPLICATION PROCEDURES**  
**25 NCAC 01E .0508      REIMBURSEMENT**

*History Note:      Authority G.S. 126-4;*  
*Eff. January 1, 1979;*  
*Amended Eff. December 1, 1988; April 1, 1984;*  
*Repealed Eff. January 1, 1990.*

**25 NCAC 01E .0509      EXCEPTION-COURSES TAKEN AT AGENCY REQUEST**

*History Note:      Authority G.S. 126-4;*  
*Eff. April 1, 1984;*  
*Amended Eff. December 1, 1988;*  
*Repealed Eff. January 1, 1990.*

**25 NCAC 01E .0510      ADMINISTRATION RESPONSIBILITY**  
**25 NCAC 01E .0511      EXTENDED EDUCATIONAL LEAVE**

*History Note:      Authority G.S. 126-4;*  
*Eff. January 1, 1979;*  
*Amended Eff. December 1, 1988; April 1, 1984; August 1, 1979;*  
*Repealed Eff. January 1, 1990.*

**SECTION .0600 - MATERNITY LEAVE AND ADOPTION LEAVE**

**25 NCAC 01E .0601      POLICY**  
**25 NCAC 01E .0602      AGENCY RESPONSIBILITY**  
**25 NCAC 01E .0603      EMPLOYEE RESPONSIBILITY**  
**25 NCAC 01E .0604      USE OF LEAVE**  
**25 NCAC 01E .0605      RETENTION OF BENEFITS**  
**25 NCAC 01E .0606      SALARY INCREASE ANNIVERSARY DATE**

*History Note:      Authority G.S. 126-4; USC 42, Section 2000e;*  
*Eff. February 1, 1976;*  
*Amended Eff. August 1, 1978; March 1, 1978;*  
*Repealed Eff. June 1, 1982.*

**25 NCAC 01E .0607      ADOPTION LEAVE**

*History Note:      Authority G.S. 126-4;*  
*Eff. February 1, 1981;*  
*Repealed Eff. June 1, 1982.*

**SECTION .0700 - WORKER'S COMPENSATION LEAVE**

**25 NCAC 01E .0701      USE OF LEAVE**

*History Note:      Authority G.S. 126-4;*  
*Eff. February 1, 1976;*

*Amended Eff. October 1, 1983; February 1, 1983; March 1, 1980; March 1, 1978;  
Repealed Eff. March 1, 1988.*

## **25 NCAC 01E .0702      RESPONSIBILITY OF EMPLOYER AND EMPLOYEE**

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1983; May 1, 1980; March 1, 1978;  
Repealed Eff. March 1, 1988.*

## **25 NCAC 01E .0703      CONTINUATION OF BENEFITS**

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1983; February 1, 1983; April 1, 1981; February 1, 1981;  
Repealed Eff. March 1, 1988.*

## **25 NCAC 01E .0704      COVERAGE**

All North Carolina State Government employees and officers of the State, including elected officials, members of the General Assembly, and persons appointed to serve on a per diem, part-time or fee basis are covered under the State's self-insured workers' compensation program administered by the Office of State Human Resources.

*History Note:      Authority G.S. 126-4; 126-4(10); 143-583;  
Eff. November 1, 1987;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;  
Amended Eff. July 1, 2019.*

## **25 NCAC 01E .0705      ADMINISTRATION**

- (a) The Office of State Human Resources shall administer a self-insured workers' compensation program for workers' compensation claims arising in State agencies.
- (b) The Office of State Human Resources self-insured workers' compensation program for State agencies shall:
  - (1) Contract with vendor(s) for services for workers' compensation claims arising in State agencies;
  - (2) Act as intermediary between vendor(s) and State agencies; and
  - (3) Monitor contracted vendor(s) performance.
- (c) Each State agency shall pay for workers' compensation expenditures for injuries arising out of and in the course of employment with that State agency.
- (d) The Office of State Human Resources shall:
  - (1) Monitor status of workers' compensation claims arising in State agencies;
  - (2) Issue claim handling guidelines for workers' compensation claims arising in State agencies; and
  - (3) Issue workers' compensation related educational materials for use in State agencies.

*History Note:      Authority G.S. 126-4(10); 143-581; 143-583;  
Eff. November 1, 1987;  
Amended Eff. October 1, 2004; April 1, 2001; August 1, 1998; September 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;  
Amended Eff. July 1, 2019.*

## **25 NCAC 01E .0706      RESPONSIBILITY OF EMPLOYEE AND EMPLOYER**

*History Note:      Authority G.S. 97-22; 97-24; 126-4; NCIC Rule 104;  
ARRC Objection September 24, 1987;  
Eff. February 1, 1988;  
Amended Eff. April 1, 2001; December 1, 1993; December 1, 1988;*

*Repealed Eff. October 1, 2004.*

**25 NCAC 01E .0707 USE OF LEAVE**

(a) When an employee is injured, the employee shall go on workers' compensation leave and receive the workers' compensation weekly benefit after the required waiting period required by G.S. 97-28. One of the following options may be chosen:

- (1) Option 1: Elect to take sick or vacation leave during the required waiting period and then go on workers' compensation leave and begin drawing workers' compensation weekly benefits.
- (2) Option 2: Elect to go on workers' compensation leave with no pay for the required waiting period and then begin drawing workers' compensation weekly benefits.

(b) Under Subparagraphs (a)(1) and (a)(2) of this Rule, after the employee has gone on workers' compensation leave, the weekly benefit may be supplemented by the use of partial sick or vacation leave, earned prior to the injury, in accordance with a schedule that is based on a formula designed to ensure that the monetary amount of leave an employee may supplement, combined with the workers' compensation benefit, is as close as possible to the employee's net pay after State and Federal taxes. This schedule is published by the Office of State Human Resources each year.

*History Note: Authority G.S. 97-28; 126-4;  
Eff. November 1, 1987;  
Amended Eff. October 1, 2004; April 1, 2001; August 1, 1998; December 1, 1993; September 1, 1989;  
December 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01E .0708 CONTINUATION OF BENEFITS**

*History Note: Authority G.S. 126-4;  
Eff. November 1, 1987;  
Amended Eff. April 1, 2001; December 1, 1993; December 1, 1988;  
Repealed Eff. October 1, 2004.*

**25 NCAC 01E .0709 RETURN TO WORK**

**25 NCAC 01E .0710 REFUSAL OF SUITABLE EMPLOYMENT**

*History Note: Authority G.S. 126-4;  
Eff. November 1, 1987;  
Amended Eff. October 1, 2004, August 1, 1998; December 1, 1993; September 1, 1989; December 1, 1988;  
Expired Eff. November 1, 2016 pursuant to G.S. 150B-21.3A.*

**SECTION .0800 - MILITARY LEAVE**

**25 NCAC 01E .0801 POLICY**

*History Note: Authority G.S. 126-4; 127A-116;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1983; December 1, 1980; May 1, 1977;  
Repealed Eff. November 1, 1988.*

**25 NCAC 01E .0802 MILITARY LEAVE**

Military leave shall be granted to employees of the State for periods of service in the uniformed services in accordance with G.S. 127A-116 and the Uniformed Services Employment and Reemployment Act of 1994. Military leave shall also be given for state military duty to members of the State Defense Militia as outlined in Rule .0820 of this Section and the Civil Air Patrol as outlined in Rule .0806 of this Section.

*History Note:* Authority G.S. 126-4; 127A-116;  
Eff. February 1, 1976;  
Amended Eff. April 1, 2003; November 1, 1990; May 1, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0803 DEFINITIONS**

*History Note:* Authority G.S. 127A-116;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1990; December 1, 1988; December 1, 1980; May 1, 1977;  
Repealed Eff. April 1, 2003.

## **25 NCAC 01E .0804 PERIODS OF ENTITLEMENT FOR ALL RESERVE COMPONENTS**

(a) Military leave with pay for training shall be granted to members of the Uniformed Services who are full-time or part-time employees with a permanent, trainee, time-limited or probationary appointment for up to 120 working hours (prorated for part-time employees) during the Federal fiscal year beginning October 1 and ending on September 30, for

- (1) active duty for training; and
- (2) inactive duty training. If the drill is not scheduled on the employee's off-days, the employee may request that the work schedule be rearranged, or the employee may use any unused portion of the 120 hours leave with pay, vacation leave, or leave without pay.

(b) Military leave with pay shall be granted to members of the Civil Air Patrol as defined in Rule .0821 of this Section.

(c) An employee shall be granted necessary time off when the employee must undergo a required physical examination relating to membership in a reserve component without charge to leave.

(d) Military leave with pay shall be granted to members of the State Defense Militia as defined in Rule .0820 of this Section.

(e) The total active and inactive duty shall not exceed five years plus any additional service imposed by law.

*History Note:* Authority G.S. 126-4(5);  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; April 1, 2003; August 1, 1995; October 1, 1992; June 1, 1983; June 1, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0805 ADDITIONAL PERIODS OF ENTITLEMENT FOR RESERVE COMPONENTS OF THE UNITED STATES ARMED FORCES**

Periods of entitlement for military leave with pay for members of the uniformed services reserve components for each period of involuntary service are as follows:

- (1) Members of the National Guard shall receive full pay for activities in the interest of the State usually not exceeding one day, when so ordered by the Governor or his authorized representative;
- (2) Members of the uniformed services reserve shall receive full pay for active state duty or federal duty for periods not exceeding 30 consecutive calendar days. For periods in excess of 30 days, employees shall be entitled to military leave with differential pay between military basic pay and regular state pay for any period of involuntary service if military pay is the lesser. Military leave for active state duty shall be considered separate from and in addition to military leave which may be granted for other purposes.

*History Note:* Authority G.S. 126-4; 127A-116;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1980; May 1, 1977;  
Temporary Amendment Eff. March 18, 2002;  
Amended Eff. August 1, 2004;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01E .0806 PERIODS OF ENTITLEMENT FOR CIVIL AIR PATROL**

*History Note: Authority G.S. 126-4(5);  
Eff. February 1, 1976;  
Amended Eff. October 1, 1992; December 1, 1980; May 1, 1977;  
Recodified to 25 NCAC 01E .0821 Eff. December 29, 2003.*

**25 NCAC 01E .0807 UNACCEPTABLE PERIODS  
25 NCAC 01E .0808 ADMINISTRATIVE RESPONSIBILITY**

*History Note: Authority G.S. 126-4; 126-4(5); 127A-116;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1992; February 1, 1983; June 1, 1981; December 1, 1980;  
Repealed Eff. April 1, 2003.*

**25 NCAC 01E .0809 RETENTION AND CONTINUATION OF BENEFITS**

During the period of reserve active duty, whether receiving full State pay, differential pay, or no pay, no employee shall incur any loss of state service or suffer any adverse service rating. The employee shall continue to accumulate sick and vacation leave, aggregate service credit, and receive any promotion or salary increase for which otherwise eligible. Prior to the 30 days of full pay and the differential, the employee may choose to retain vacation, exhaust vacation, or be paid in a lump sum up to a maximum of 240 hours. If the employee is FLSA non-exempt, any accumulated compensatory time may also be exhausted prior to exhausting leave or may be paid in a lump sum for accumulated vacation.

*History Note: Authority G.S. 126-4; 127A-116;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1983; December 1, 1980; March 1, 1978;  
Temporary Amendment Eff. March 18, 2002;  
Amended Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01E .0810 LEAVE WITH PAY: PHYSICAL EXAMINATION FOR MILITARY SERVICE  
25 NCAC 01E .0811 MILITARY LEAVE WITH DIFFERENTIAL PAY**

*History Note: Authority G.S. 126-4; 127A-116;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1980; September 1, 1976;  
Repealed Eff. October 1, 1992.*

**25 NCAC 01E .0812 MILITARY LEAVE WITHOUT PAY: ATTENDANCE AT SERVICE SCHOOLS**

*History Note: Authority G.S. 126-4(5);  
Eff. February 1, 1976;  
Amended Eff. October 1, 1992; February 1, 1983; December 1, 1980; December 1, 1978;  
Repealed Eff. April 1, 2003.*

**25 NCAC 01E .0813 EXTENDED ANNUAL ACTIVE DUTY**

*History Note: Authority G.S. 126-4; 127A-116;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1983; May 1, 1977.  
Repealed Eff. October 1, 1992.*

**25 NCAC 01E .0814      EXTENDED ACTIVE DUTY**  
**25 NCAC 01E .0815      EMPLOYEE RESPONSIBILITY: LEAVE WITHOUT PAY**  
**25 NCAC 01E .0816      EMPLOYER RESPONSIBILITY**

*History Note:*      *Authority G.S. 126-4; 126-4(5); 127A-116;*  
                         *Eff. February 1, 1976;*  
                         *Amended Eff. October 1, 1992; December 1, 1988; June 1, 1983; December 1, 1980; December 1,*  
                         *1978; May 1, 1977;*  
                         *Repealed Eff. April 1, 2003.*

**25 NCAC 01E .0817      RETENTION AND CONTINUATION OF BENEFITS**

(a) The employee may choose to have accumulated vacation leave paid in a lump sum, may exhaust this leave, or may retain part or all of accumulated leave until return to state service. The maximum accumulation of 240 hours shall apply to lump sum payment.

(b) The employee shall retain all accumulated sick leave and continue to earn time toward salary increases and total State service. Entitlement shall be given to full retirement membership service credit in accordance with the provisions of the Teachers' and State Employees' Retirement System.

*History Note:*      *Authority G.S. 126-4(5);*  
                         *Eff. February 1, 1976;*  
                         *Amended Eff. April 1, 2003; October 1, 1992; February 1, 1983; December 1, 1980; December 1,*  
                         *1978;*  
                         *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*  
                         *2016.*

**25 NCAC 01E .0818      REINSTATEMENT FROM LEAVE WITHOUT PAY FOR MILITARY SERVICE**

Reinstatement shall be made in accordance with the Uniformed Services Employment and Reemployment Act of 1994.

*History Note:*      *Authority G.S. 126-4(5);*  
                         *Eff. February 1, 1976;*  
                         *Amended Eff. April 1, 2003; October 1, 1992; December 1, 1980; August 1, 1978;*  
                         *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*  
                         *2016.*

**25 NCAC 01E .0819      RESERVE ENLISTMENT PROGRAM OF 1963 (REP-63)**

*History Note:*      *Authority G.S. 126-4(5);*  
                         *Eff. May 1, 1977;*  
                         *Amended Eff. October 1, 1992; March 1, 1978;*  
                         *Repealed Eff. April 1, 2003.*

**25 NCAC 01E .0820      PERIODS OF ENTITLEMENT FOR MEMBERS OF THE STATE DEFENSE MILITIA**

(a) The State Defense Militia is considered a reserve to the National Guard, but it is not a reserve component of the U.S. Armed Forces. Its members are not subject to obligatory service unless they are assigned to a unit that is ordered or called out by the Governor. Only under conditions described in this Rule are State employees who are members of the State Defense Militia entitled to military leave with pay. Under these conditions an employee may be granted military leave not to exceed 120 hours (prorated for part-time employees) during any calendar year.

- (1) Infrequent special activities in the interest of the State, usually not exceeding one day, when so ordered by the Governor or his authorized representative.
- (2) State duty for missions related to disasters, search and rescue, etc., again, only when ordered by the Governor or his authorized representative.

(b) State employees who are members of the State Defense Militia are not entitled to military leave with pay when volunteering for support of functions or events sponsored by civic or social organizations even though such support has been "authorized".

(c) Regularly scheduled unit training assemblies, usually occurring on weekends, are not acceptable for military leave with pay, however, employing agencies are encouraged to arrange work schedules to allow the employee to attend this training.

(d) Deputy status may be verified with the Office of the Adjutant General, North Carolina National Guard, ATTN: Vice Chief of Staff-State Operations (VCSOP).

*History Note:* Authority G.S. 126-4(5);  
Eff. October 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0821 PERIODS OF ENTITLEMENT FOR CIVIL AIR PATROL**

(a) While the Civil Air Patrol is not a reserve component, it is an auxiliary to the U.S. Air Force. Its members are not subject to obligatory service. When performing missions or encampments authorized and requested by the U.S. Air Force or emergency missions for the state at the request of the Governor or the Secretary of the Department of Crime Control and Public Safety, a member of the Civil Air Patrol is entitled to military leave not to exceed a combined total of 120 hours (prorated for part-time employees) in any calendar year unless otherwise authorized by the Governor. Such service may be verified by the Secretary of the Department of Crime Control and Public Safety upon the request of the employing agency.

(b) Regularly scheduled unit training assemblies, usually occurring on weekends are not acceptable for military leave with pay, however, employing agencies are encouraged to arrange work schedules to allow employees to attend this training.

*History Note:* Authority G.S. 126-4(5);  
Eff. February 1, 1976;  
Amended Eff. October 1, 1992; December 1, 1980; May 1, 1977;  
Recodified from 25 NCAC 01E .0806 Eff. December 29, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **SECTION .0900 – HOLIDAYS**

### **25 NCAC 01E .0901 APPROVED HOLIDAYS**

In addition to Martin Luther King, Jr.'s Birthday and Veteran's Day, the following shall be designated as holidays: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving and the day after, and December 25 (Christmas) and the last business day before Christmas and the first business day after Christmas.

*History Note:* Authority G.S. 126-4(5); 126-4(5a);  
Eff. February 1, 1976;  
Amended Eff. January 1, 2004; February 1, 1995; December 1, 1988; October 1, 1977;  
Temporary Amendment Eff. May 23, 2014;  
Amended Eff. April 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

### **25 NCAC 01E .0902 RELIGIOUS OBSERVANCES**

(a) An agency shall make efforts to accommodate an employee's request to be away from work for religious holiday observances; however, nothing shall obligate the agency to make accommodation if, in accommodating the request, it would result in hardship on the agency or its employees.

(b) If the religious holidays cannot be accommodated by this Rule, the vacation rules in 25 NCAC 01E .0200 shall be used. If an employee has accrued vacation leave, no request for vacation leave shall be denied unless it would create an emergency condition which cannot be prevented in any other manner.



*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; April 1, 1995; December 1, 1988; February 1, 1983; April 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0903 SCHEDULING HOLIDAYS**

The schedule is issued on a calendar year basis, and each year a schedule of the holidays for that year will be issued to agency heads by the Office of State Human Resources.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1995; April 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0904 TIME ALLOWED OFF**

Agency heads shall post or issue written notice of the holiday schedule to all employees. Employees are granted eight hours away from work on each of these days except where operational needs require work on a designated holiday.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1995; April 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0905 ALTERNATIVE HOLIDAY SCHEDULES**

The holiday schedule shall be used by all state agencies operating under the rules of the Office of State Human Resources unless the following applies:

- (1) Institutions of higher education and agencies requiring a seven-day, 24-hour operation may adopt alternative holiday schedules in keeping with operational needs, provided the employees are given the same number of holidays as approved by the State Human Resources Commission. Such special holiday schedules must be filed with the Office of State Human Resources.
- (2) When the specific date of the legal holiday observance falls on Saturday or Sunday, agencies with a seven-day a week operation shall adopt an additional holiday schedule for employees scheduled to work on the specific date of the legal holiday observance rather than the State government public holiday.
- (3) Either the State government public holiday(s) or the day(s) designated for observance, pursuant to Item (2) of this Rule, shall be specified as premium pay holidays.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 2004; February 1, 1995; April 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .0906 SHIFTS**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. February 1, 1995.

## **25 NCAC 01E .0907 WEEKENDS**

Unless a special schedule has been adopted by institutions of higher education and agencies with 24 hour operations, when a designated holiday falls on Saturday, the preceding Friday will be observed and when the holiday falls on Sunday, the following Monday will be observed.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. April 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .0908 ELIGIBILITY**

Full-time and part-time employees working half-time or more with a permanent, probationary, or time-limited appointment, shall receive paid holidays in accordance with the rules of this Section for the paid holidays. Part-time employees working half-time or more shall receive holidays on a pro rata basis. Temporary and part-time employees working less than half-time are not eligible for paid holidays.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;  
Amended Eff. May 1, 2021.

#### **25 NCAC 01E .0909 FOUR-DAY WORKWEEKS**

Where a workday greater than eight hours has been established all hours above eight shall be charged to vacation leave to equalize holiday benefits.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; February 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

### **SECTION .1000 - MISCELLANEOUS LEAVE**

#### **25 NCAC 01E .1001 JURY DUTY**

(a) A full-time or part-time employee with a permanent, probationary, trainee or time-limited permanent appointment who serves on a jury shall be given civil leave with pay plus fees received for jury duty.

(b) When serving on jury duty a second shift employee shall not be required to work on the day that jury duty occurs. A third shift employee shall not be required to work the shift that begins on the day prior to the day that jury duty occurs. This applies to all employees, regardless of the length of shift.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; December 1, 1995; December 1, 1988; December 1, 1983; June 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .1002 COURT ATTENDANCE OR JOB RELATED PROCEEDING**

(a) When an employee as defined in Rule .1001(a) of this Section is subpoenaed or directed by proper authority to appear as a witness, civil leave with pay shall be granted. Any fees received shall be turned in to the agency. The employee may use vacation leave rather than take civil leave with pay in which case any fees received may be retained.

(b) A job related proceeding is a management approved quasi judicial function arising out of and in the course and scope of the employment for which leave with pay is approved.

(c) When an employee as defined in Rule .1001(a) of this Section or an employee with a temporary appointment attends court or a job related proceeding in connection with official duties, leave with pay shall be granted. Fees received as a witness while serving in an official capacity shall be turned in to the agency. When an employee is required to attend court on a day that would normally be an off day, the time shall be considered as working time and included in the total hours worked per week.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1995; February 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1003 EMPLOYEE PARTICIPATION IN VOLUNTEER EMERGENCY SERVICES**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1990;  
Repealed Eff. April 1, 2001.

## **25 NCAC 01E .1004 LEAVE: EMPLOYEE TRANSFER**

(a) When the transfer of an employee is made to a new duty station 35 miles or more away from the existing residence, the employee becomes eligible for consideration for reimbursement of moving expenses if there is a change in the place of residence. Leave with pay may be granted to the employee for a reasonable amount of time required to locate a new residence and to accomplish the relocation to that residence. The following guidelines shall be used:

- (1) Up to three trips of three days each to locate a new residence.
- (2) Two days to move household and personal goods.

(b) The agency may grant additional days of leave with pay if the distance between the old and new duty station, or other factors beyond the employee's control, require a longer period of time.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 2005; December 1, 1988; June 1, 1985; December 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1005 ADVERSE WEATHER AND EMERGENCY CLOSINGS**

(a) The Office of State Human Resources shall establish guidelines for accounting for time or releasing employees from work when:

- (1) adverse weather or other conditions of a serious nature prohibit some employees from reporting to work but do not necessitate the closing of state offices or facilities; or
- (2) emergency conditions necessitate the closing of state offices or curtailing of operations.

(b) Definitions

- (1) Adverse weather and other conditions of a serious nature: Adverse weather or other conditions that may prohibit some employees from reporting to work but do not necessitate the closing of facilities or curtailing of operations.
- (2) Emergency closing conditions: Conditions that necessitate the closing of a state facility or the curtailing of operations. Conditions that may be hazardous to life or safety and that may warrant closing of State offices include: catastrophic life threatening weather (snow, ice, hurricane, tornado, earthquake, flood or other natural disaster), fire, equipment failure, disruption of power or water, contamination by hazardous agents, terrorist acts or forced evacuations from the agency or work site.
- (3) Emergency employees: Employees who are required to work during an emergency because their positions have been designated by their agencies as mandatory/essential to agency operations during emergencies.

(c) The geographical location and diversity of state services and programs make it impossible to apply a uniform statewide policy regarding how operations will be affected by weather or other conditions; therefore, decisions must be

made on an individual basis. Some operations must continue to provide services without regard to weather or other conditions; therefore, decisions must be made on an individual basis. Some operations must continue to provide services without regard to weather or other conditions. Therefore, agency heads shall predetermine and designate the mandatory operations which will remain open and designate the emergency employees to staff these operations.

*History Note:* Authority G.S. 126-4(5); (10);  
Eff. February 1, 1976;  
Amended Eff. January 1, 2004; May 1, 1989; December 1, 1988; February 1, 1983; February 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .1006 COMPENSATORY TIME**

Under the state's overtime compensation policy certain employees are designated as administrative, executive or professional. Employees in these categories are exempt from the provision for overtime pay. To grant these employees compensating time is a decision that must be made by the agency head. When compensatory time is granted to administrative, executive or professional employees, the following shall apply:

- (1) Amount. Compensatory time is awarded at a rate not to exceed the individual's straight time equivalent rate;
- (2) Non-cumulative. Compensatory time is not cumulative beyond a 12-month period. For this reason, an employee must be required to take compensatory time as soon as possible after it is credited;
- (3) Non-transferable. Compensatory time is not transferable to any other type of leave or to another agency; and
- (4) Separation. Compensatory time is lost when an employee is separated from state service. The employee's separation date shall not be changed in order to pay for compensatory time.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .1007 LEAVE WITH PAY FOR TIME TO LOCATE NEW RESIDENCE**

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1990;  
Repealed Eff. November 1, 2004.

#### **25 NCAC 01E .1008 LEAVE WITH PAY WHEN MOVING TO NEW RESIDENCE**

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1990;  
Repealed Eff. November 1, 2004.

#### **25 NCAC 01E .1009 OTHER MANAGEMENT APPROVED LEAVE**

- (a) Other Management Approved Leave provides paid time off for miscellaneous reasons as set forth in these Rules. These Rules apply to full-time and part-time (half-time or more) employees who have a permanent, probationary, time-limited permanent or trainee appointment;
- (b) Employee shall request Other Management Approved Leave at least two weeks before the leave is needed, unless such notice is impractical; and
- (c) If an employee's job responsibilities include attendance at the activity, it is not leave. It is a work assignment and will be included in hours worked for purposes of computing overtime for FLSA non-exempt employees.

*History Note:* Authority G.S. 126-4(5);  
Eff. May 1, 2010;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01E .1010 NON-DISCRETIONARY TYPES OF OTHER MANAGEMENT APPROVED LEAVE**

(a) An appointing authority shall grant leave with pay to an employee for any of the following purposes:

- (1) to prepare for participation in his or her internal agency grievance or mediation procedure in accordance with 25 NCAC 01J .1208(a);
- (2) to participate in contested case hearings or other administrative hearings in accordance with 25 NCAC 01J .1208(b);
- (3) to place an employee on investigatory status as provided in 25 NCAC 01J .0615;
- (4) to locate and move to a new residence, within the limits allowed by policy, when a transfer is required by the agency in accordance with 25 NCAC 01E .1004;
- (5) to attend workers' compensation hearings;
- (6) to serve on state commissions, councils, boards and committees established by the General Assembly or other bodies established by the Governor and Council of State;
- (7) because of a smallpox vaccination in accordance with G.S. 126-8.4;
- (8) to train for and compete in Pan American, Olympic or international athletic competition in accordance with G.S. 126-8.1; and
- (9) to cover time that an agency is closed for emergencies in accordance with 25 NCAC 01E .1005 and the Adverse Weather and Emergency Closings Policy.

(b) There shall be no loss of pay or other leave time associated with leave under this Rule.

*History Note: Authority G.S. 126-4(5);  
Eff. May 1, 2010;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01E .1011 DISCRETIONARY TYPES OF OTHER MANAGEMENT APPROVED LEAVE**

(a) An appointing authority may grant leave with pay to an employee for any of the following purposes:

- (1) to participate in volunteer emergency and rescue services in accordance with 25 NCAC 01E .1607(a) and (b);
- (2) to participate in specialized disaster relief services with the American Red Cross in accordance with 166A-30-166A-32;
- (3) to donate blood and bone marrow in accordance with 25 NCAC 01E .1607(c);
- (4) to donate organs up to 30 days in accordance with 25 NCAC 01E .1607(c);
- (5) to reward an employee for a suggestion that is adopted under the NC Thinks Program or under the agency's Governor's Awards for Excellence Program in accordance with 25 NCAC 01E .0212; and
- (6) to attend conferences that are associated with an employee's work, but that are not required as a work assignment.

(b) The standards for granting leave with pay shall be left to each agency. There shall be no loss of pay or leave time associated with leave under this Rule.

*History Note: Authority G.S. 126-4(5);  
Eff. May 1, 2010;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**SECTION .1100 - OTHER TYPES OF LEAVE WITHOUT PAY**

**25 NCAC 01E .1101 POLICY**

Leave without pay may be granted to a full-time or part-time permanent, trainee or probationary employee for illness, educational purposes, vacation, or for any other reasons deemed justified by the agency head.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;*

*Amended Eff. October 1, 2004; November 1, 1990; June 1, 1983; June 1, 1982; January 1, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,  
2016.*

#### **25 NCAC 01E .1102      MAXIMUM AMOUNT**

Leave without pay shall not exceed 12 months unless a longer time is specifically provided under the rules in this Section. Any extension of leave without pay longer than 12 months shall be the responsibility of the agency head contingent upon providing written documentation in the file with justification. Leave Without Pay for military purposes is covered under Military Leave, Section .0800 of this Subchapter. Leave without pay for employees receiving Worker's Compensation Benefits is described in Section .0700 of this Subchapter. Leave without pay for employees eligible for family and medical Leave is covered under Family and Medical Leave, Section .1400 of this Subchapter. Parental leave without pay for employees not eligible for family and medical leave is covered in 25 NCAC 01E .1110.

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; December 1, 1993; December 1, 1988; June 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,  
2016.*

#### **25 NCAC 01E .1103      EMPLOYEE RESPONSIBILITY**

The employee shall apply in writing to his supervisor for leave without pay. The employee is obligated to return to duty within or at the end of the time granted. If the employee will not return to work, the agency should be notified immediately. At least 30 days prior to the end of the leave the employee shall give written notice of intention to return to work; otherwise, the employer is not required to provide such reinstatement but may do so if feasible. Failure to report at the expiration of a leave of absence, unless an extension has been requested, may be considered as a resignation.

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1988; June 1, 1982; December 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,  
2016.*

#### **25 NCAC 01E .1104      AGENCY RESPONSIBILITY**

Reinstatement to the same position or one of like seniority, status and pay shall be made upon the employee's return to work unless other arrangements are agreed to in writing. If it is necessary to fill a position which is vacant by leave without pay, the position may be filled by a temporary or time-limited permanent appointment, whichever is appropriate.

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; November 1, 1990; June 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,  
2016.*

#### **25 NCAC 01E .1105      RETENTION OF BENEFITS**

An employee on leave without pay shall retain all accumulated unused vacation leave, sick leave, and retirement status. Eligibility to accumulate leave ceases on the date leave without pay begins.

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; December 1, 1993; November 1, 1990; December 1, 1988; February  
1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,  
2016.*

#### **25 NCAC 01E .1106      PAYMENT OF ANNUAL LEAVE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. March 1, 1978.

**25 NCAC 01E .1107 SALARY INCREASE ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982; July 1, 1980; March 1, 1980; August 1, 1978;  
Repealed Eff. October 1, 2004.

**25 NCAC 01E .1108 RETIREMENT STATUS**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982; December 1, 1978;  
Repealed Eff. October 1, 2004.

**25 NCAC 01E .1109 REINSTATEMENT FROM LEAVE WITHOUT PAY**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1978;  
Repealed Eff. June 1, 1982.

**25 NCAC 01E .1110 SPECIAL PROV/PARENTAL LEAVE/EMPL NOT ELIGIBLE/FAMILY/MEDICAL LEAVE**

(a) The biological parents of a newborn infant and the parents of a newly-adopted child may request leave without pay under provisions of this Subchapter. Accumulated sick leave may be used:

- (1) by the parents or a member of the immediate family for the actual period of temporary disability caused or contributed to by pregnancy and childbirth; or
- (2) by the parents for adoption purposes, limited to 30 workdays.

See "Uses of Sick Leave" in Rule .0305 of this Subchapter.

(b) The agency head shall grant leave without pay to the biological mother for all of the time of personal disability not covered by sick leave, either because the employee has exhausted all sick leave or prefers to retain it. Since there is no certainty as to when disability actually begins and ends, a doctor's certificate shall be required verifying, on a prescribed form, the employee's period of temporary disability.

*History Note:* Authority G.S. 126-4;  
Eff. June 1, 1982;  
Amended Eff. December 1, 1995; December 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01E .1111 EXTENDED LEAVE WITHOUT PAY**

Extended leave without pay is defined as leave in excess of one-half the workdays in the pay period. Extended leave without pay shall be administered in accordance with the provisions outlined in 25 NCAC 01E .1102 through .1110.

*History Note:* Authority G. S. 126-4;  
Eff. November 1, 1990;  
Amended Eff. October 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1112      SHORT LEAVE WITHOUT PAY**

*History Note:*     *Authority G. S. 126-4;*  
                         *Eff. November 1, 1990;*  
                         *Amended Eff. October 1, 2004;*  
                         *Expired Eff. November 1, 2016 pursuant to G.S. 150B-21.3A.*

### **SECTION .1200 - COMMUNITY INVOLVEMENT**

<b>25 NCAC 01E .1201</b>	<b>POLICY</b>
<b>25 NCAC 01E .1202</b>	<b>ELIGIBILITY</b>
<b>25 NCAC 01E .1203</b>	<b>TIME GUIDELINES</b>
<b>25 NCAC 01E .1204</b>	<b>RECORDS</b>
<b>25 NCAC 01E .1205</b>	<b>PARTISAN POLITICAL INVOLVEMENT</b>

*History Note:*     *Authority G.S. 126-4(5),(10); 126-13;*  
                         *Eff. February 1, 1983;*  
                         *Amended Eff. December 1, 1988;*  
                         *Repealed Eff. April 1, 2001.*

### **SECTION .1300 - VOLUNTARY SHARED LEAVE PROGRAM**

#### **25 NCAC 01E .1301      PURPOSE**

*History Note:*     *Authority G.S. 126-4;*  
                         *Eff. May 1, 1990;*  
                         *Amended Eff. September 1, 1992;*  
                         *Repealed Eff. October 1, 2004.*

#### **25 NCAC 01E .1302      POLICY**

(a) In cases of a prolonged medical condition an employee may apply for or be nominated to become a recipient of leave transferred from the vacation leave account of another employee, from the sick leave or vacation account of an immediate family member as defined in Rule .0317 of this Subchapter or from the sick leave account of a non-family member as provided in Rule .1305 of this Section. For purposes of this Rule, prolonged medical condition means medical condition that is likely to require an employee's absence from duty for a period of at least 20 consecutive workdays. If an employee has had previous random absences for the same condition that has caused excessive absences, or if the employee has had a previous, but different, prolonged medical condition within the last 12 months, the agency may make an exception to the 20 day period.

(b) An employee who receives benefits from the Disability Income Plan of North Carolina (DIPNC) is not eligible to participate in the shared leave program. Shared leave, however, may be used during the required waiting period and following the waiting period provided DIPNC benefits have not begun.

(c) Participation in this program shall be limited to 1,040 hours, (prorated for part-time employees), either continuously or, if for the same condition, on a recurring basis. However, management may grant employees continuation in the program, month by month, for a maximum of 2,080 hours, if management would have otherwise granted leave without pay.

(d) An employee on workers' compensation leave who is drawing temporary total disability compensation may be eligible to participate in this program. Use of donated leave under the workers' compensation program shall be limited to use with the supplemental leave schedule as described in 25 NCAC 01E .0707.

(e) The employee shall exhaust all available leave before using donated leave.

(f) Non-qualifying conditions: This leave does not apply to short-term or sporadic conditions or illnesses that are common, expected or anticipated. This includes such things as sporadic, short-term recurrences of chronic allergies or conditions; short-term absences due to contagious diseases; or short-term, recurring medical or therapeutic treatments. These examples are illustrative, not all inclusive. Each case must be examined and decided based on its conformity to the intent of this Rule and must be applied consistently and equitably.



*History Note:* Authority G.S. 126-4;  
Eff. May 1, 1990;  
Amended Eff. February 1, 2011; October 1, 2004; July 1, 1995; September 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1303 ADMINISTRATION**

- (a) All departments and universities shall develop policies and procedures to implement this program. If an agency's policy includes employees exempt from the State Human Resources Act who are in leave earning and reporting positions, leave may be shared between subject and exempt employees.
- (b) Establishment of a leave "bank" for use by unnamed employees is prohibited. Leave shall be donated on a one-to-one personal basis.
- (c) This Section does not apply to local government employees but shall apply to public school and community college employees as set forth in 25 NCAC 01E .1305.

*History Note:* Authority G.S. 126-4;  
Eff. May 1, 1990;  
Amended Eff. December 1, 2007; July 1, 1995; September 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1304 QUALIFYING TO PARTICIPATE IN VOLUNTARY SHARED LEAVE PROGRAM**

In order to participate in the Voluntary Shared Leave Program, an employee shall meet the following conditions:

- (1) A donor or recipient shall have a half-time or more permanent, probationary, trainee or time-limited appointment. (The limitation and leave balance for permanent part-time employees shall be prorated.)
- (2) A recipient shall apply or be nominated by a fellow employee to participate in the program,
- (3) A recipient shall produce medical evidence to support the need for leave beyond the available accumulated leave, and
- (4) The parent department or university shall review the merits of the request and approve or disapprove according to these Rules.

*History Note:* Authority G.S. 126-4;  
Eff. May 1, 1990;  
Amended Eff. December 1, 2007; October 1, 2004; July 1, 1995; September 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1305 DONOR GUIDELINES**

- (a) An employee of any State agency, public school system or community college may donate vacation leave, bonus leave or sick leave to an immediate family member in any State agency, public school or community college. An employee may donate vacation or bonus leave to another employee in any State agency or to a coworker's immediate family member who is an employee in a public school or community college provided the employee and coworker are in the same agency. An employee may donate sick leave to another employee in any State agency in accordance with the provisions of Paragraph (b) of this Rule. Immediate family is defined in 25 NCAC 01E .0317 DEFINITIONS.
- (b) An employee of a State agency may donate up to five days of sick leave to a nonfamily member employee of a State agency. The combined total of sick leave donated to a recipient from a nonfamily member donor shall not exceed 20 days per year. Donated sick leave shall not be used for retirement purposes. Employees who donate sick leave shall be notified in writing of the State retirement credit consequences of donating sick leave.
- (c) The minimum amount of sick leave or vacation leave to be donated is four hours. An employee family member donating sick leave to a qualified family member under the Voluntary Shared Leave program may donate up to a maximum of 1040 hours but may not reduce the sick leave account below 40 hours.
- (d) The maximum amount of vacation leave allowed to be donated by one individual is the amount of the individual's annual accrual rate. However, the amount donated shall not reduce the donor's vacation leave balance below one-half of the annual vacation leave accrual rate. Bonus leave may be donated without regard to this limitation.

(e) An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using annual leave under this program. Such action by an employee shall be grounds for disciplinary action up to and including dismissal on the basis of personal conduct. Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave. The employee donating may not receive remuneration for the leave donated.

*History Note:* Authority G.S. 126-4;  
Eff. May 1, 1990;  
Amended Eff. July 1, 1995; September 1, 1992; July 1, 1991;  
Temporary Amendment Eff. June 26, 2003;  
Amended Eff. January 1, 2004 (This amendment replaces permanent rule approved by RRC on February 20, 2003 to become effective August 1, 2004);  
Amended Eff. February 1, 2011; December 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1306 LEAVE ACCOUNTING PROCEDURES**

The following conditions shall control the accounting and usage procedures for leave donations in the Voluntary Shared Leave program:

- (1) The agency may establish a specific time period during which leave can be donated.
- (2) All leave donated shall be credited to the recipient's sick leave account and is available for use on a current basis or may be retroactive for up to 60 calendar days to substitute for advanced vacation or sick leave already granted to the recipient or to substitute for leave without pay. Donated leave shall be applied to advanced leave before applying it to leave without pay.
- (3) At the expiration of the medical condition, as determined by the agency, any unused leave in the recipient's donated leave account shall be treated as follows:
  - (a) The recipient's vacation and sick leave account balance shall not exceed a combined total of 40 hours (prorated for part-time employees).
  - (b) Any additional unused donated leave shall be returned to active (working or on leave without pay) donor(s) on a pro rata basis and credited to the leave account from which it was donated.
- (4) If a recipient separates due to resignation, death, or retirement from state government, participation in the program ends. Donated leave shall be returned to active donor(s) on a pro rata basis.

*History Note:* Authority G.S. 126-4;  
Eff. May 1, 1990;  
Amended Eff. December 1, 2007; October 1, 2004; July 1, 1993; December 1, 1993;  
September 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1307 DURATION OF PROGRAM**

*History Note:* Authority G.S. 126-4;  
Eff. May 1, 1990;  
Repealed Eff. August 3, 1992.

## **SECTION .1400 - FAMILY AND MEDICAL LEAVE**

### **25 NCAC 01E .1401 PURPOSE AND SCOPE**

The State of North Carolina shall follow the Family and Medical Leave Act of 1993, with the provision that the method used to determine the 12-month period shall be the 12-month period measured forward from the date any employee's family and medical leave begins. The rules in this Section set out the additional provisions applicable to employees subject to G.S. 126.

*History Note:* Authority G.S. 126-4(5); P.L. 103-3;  
Eff. August 2, 1993;  
Amended Eff. December 1, 2007; October 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1402 ELIGIBLE EMPLOYEES**

- (a) Permanent, Probationary, Trainee, and Time-Limited - An employee who has been employed with State government for at least 12 months and who has been in pay status at least 1040 hours (half-time) during the previous 12 month period shall be entitled to a total of 12 workweeks, paid or unpaid, leave during any 12 month period for one or more of the reasons listed in the Family and Medical Leave Act.
- (b) Additional leave without pay shall be provided for employees to care for the employee's child, spouse or parent who has a serious health condition. See 25 NCAC 01E .1412 Family Illness Leave.
- (c) Leave without pay for other reasons not covered under this Section shall be administered under 25 NCAC 01E .1100 Other Leave Without Pay. Under these provisions, employees must pay for health benefits coverage.
- (d) Temporary Employees - A temporary employee shall be covered if the employee has worked at least 1250 hours during the past 12-month period. Any leave granted to a temporary employee shall be without pay. This also applies to intermittent appointments.

*History Note:* Authority G.S. 126-4(5); P.L. 103-3;  
Eff. August 2, 1993;  
Amended Eff. October 1, 1995; December 1, 1993;  
Temporary Amendment Eff. November 1, 2002;  
Temporary Amendment Expired August 29, 2003;  
Amended Eff. October 1, 2004, December 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1403 DEFINITIONS**

*History Note:* Authority G.S. 126-4(5); P.L. 103-3;  
Eff. August 2, 1993;  
Amended Eff. October 1, 1995; December 1, 1993;  
Repealed Eff. October 1, 2004.

## **25 NCAC 01E .1404 LEAVE CHARGES**

- (a) Periods of paid leave and periods of leave without pay (including leave without pay while drawing short-term disability benefits) count towards the 12 workweeks to which the employee is entitled. This includes leave taken under the Voluntary Shared Leave Rules (25 NCAC 01E .1300).
- (b) Workers' Compensation Leave - If an employee is on workers' compensation leave drawing temporary total disability, the time away from work is not considered as a part of the family and medical leave 12-week entitlement.
- (c) Compensatory Leave - The agency cannot require an employee to use compensatory time for unpaid family and medical leave.
- (d) Employee Options - The employee has the following options for charging leave:
  - (1) For the birth of a child, the employee may choose to exhaust available vacation or sick leave, or any portion, or go on leave without pay; except that sick leave may be used during the period of disability. This applies to both parents.
  - (2) For the adoption of a child, the employee may choose to exhaust a maximum of 30 days sick leave, available vacation leave, or any portion, or go on leave without pay.
  - (3) For the illness of an employee's child, spouse, or parent, the employee may choose to exhaust available sick or vacation leave, or any portion, or go on leave without pay.
  - (4) For the employee's illness, the employee shall exhaust available sick leave and may choose to exhaust available vacation leave, or any portion, before going on leave without pay. If the illness extends beyond the 60-day waiting period required for short-term disability, the employee may choose to exhaust the balance of available leave or begin drawing short-term disability benefits.

*History Note:* Authority G.S. 126-4(5); P.L. 103-3;  
Eff. August 2, 1993;  
Amended Eff. October 1, 2004; October 1, 1995; December 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1405 INTERMITTENT LEAVE OR REDUCED WORK SCHEDULE**

*History Note:* Authority G.S. 126-4(5); P.L. 103-3;  
Eff. August 2, 1993;  
Amended Eff. October 1, 1995; December 1, 1993;  
Repealed Eff. October 1, 2004.

## **25 NCAC 01E .1406 AGENCY RESPONSIBILITY**

Designation of Leave as Family and Medical Leave. The agency shall:

- (1) determine that leave requested is for a family and medical leave qualifying reason, and
- (2) designate leave, whether paid or unpaid, as family and medical leave even when an employee would rather not use any of the employee's family and medical leave entitlement.

When an employee is on paid leave but has not given notice of the need for family and medical leave, the agency shall, after a period of 10 workdays, request that the employee provide sufficient information to establish whether the leave is for a family and medical leave qualifying reason. This does not preclude the agency from requesting the information sooner, or at any time an extension is requested.

*History Note:* Authority G.S. 126-4(5); P.L. 103-3;  
Eff. August 2, 1993;  
Amended Eff. October 1, 2004; October 1, 1995; December 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1407 EMPLOYEE RESPONSIBILITY**

- (a) The employee shall give notice to the supervisor for leave requested.
- (b) If the employee is not going to return to work, the agency shall be notified in writing by the employee or someone acting on behalf of the employee. The agency shall consider failure to report at the expiration of the leave as a resignation unless an extension has been requested.

*History Note:* Authority G.S. 126-4(5); P.L. 103-3;  
Eff. August 2, 1993;  
Amended Eff. October 1, 2004; October 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01E .1408 CERTIFICATION**

*History Note:* Authority G.S. 126-4(5); P.L. 103-3;  
Eff. August 2, 1993;  
Amended Eff. October 1, 1995; December 1, 1993;  
Repealed Eff. October 1, 2004.

## **25 NCAC 01E .1409 EMPLOYMENT AND BENEFITS PROTECTION**

*History Note:* Authority G.S. 126-4(5); P.L. 103-3;  
Eff. August 2, 1993;  
Amended Eff. October 1, 1995;  
Repealed Eff. October 1, 2004.

## **25 NCAC 01E .1410 INTERFERENCE WITH RIGHTS**

*History Note:* Authority G.S. 126-4(5); P.L. 103-3  
Eff. October 1, 1995;  
Amended Eff. August 1, 2004;  
Repealed Eff. October 1, 2004.

## **25 NCAC 01E .1411 RECORDKEEPING REQUIREMENTS**

*History Note:* Authority G.S. 126-4(5); P.L. 103-3;  
Eff. October 1, 1995;  
Repealed Eff. October 1, 2004.

## **25 NCAC 01E .1412 FAMILY ILLNESS LEAVE**

In addition to the 12 weeks of leave per year provided by the Family and Medical Leave Act as outlined in 25 NCAC 01E .1401-.1411, an employee shall be entitled to up to 52 weeks of leave without pay during a five-year period in order to care for the employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition. The following provisions set forth guidelines for Family Illness Leave:

- (1) This leave shall be available to employees who qualify for Family and Medical Leave.
- (2) The same provisions and procedures shall apply to this additional leave that apply to the 12 weeks except the following:
  - (a) A part-time employee shall be entitled to 52 weeks regardless of their work schedule.
  - (b) During this period of leave without pay, the employees must pay the health plan premiums if they choose to maintain coverage.
  - (c) This period of leave may be accounted for separate from the 12 weeks. It shall not affect the method used to determine the 12-month period. The five-year period shall begin on the date that the employee uses the 52-week provision.

*History Note:* Authority G.S. 126-4(5); S.L. 2002-126, s. 28.3B;  
Temporary Adoption Eff. November 1, 2002;  
Temporary Adoption Expired August 29, 2003;  
Eff. December 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **SECTION .1500 - CHILD INVOLVEMENT LEAVE**

<b>25 NCAC 01E .1501</b>	<b>PURPOSE AND USES</b>
<b>25 NCAC 01E .1502</b>	<b>AMOUNT OF LEAVE</b>
<b>25 NCAC 01E .1503</b>	<b>APPROVAL OF LEAVE</b>
<b>25 NCAC 01E .1504</b>	<b>INTER-AGENCY TRANSFER</b>
<b>25 NCAC 01E .1505</b>	<b>NON-CUMULATIVE</b>
<b>25 NCAC 01E .1506</b>	<b>SEPARATION</b>

*History Note:* Authority G.S. 126-4(5);  
Eff. January 4, 1994;  
Repealed Eff. April 1, 2001.

## **SECTION .1600 – VOLUNTEER SERVICE AND CHILD INVOLVEMENT LEAVE**

### **25 NCAC 01E .1601 PURPOSE**

- (a) A supervisor may approve Volunteer Service and Child Involvement Leave for employees as follows:
- (1) for parents for involvement with their child in a "school" as defined in in Rule .1602 in this Subchapter;

- (2) for any employee to volunteer in a school or in a Volunteer Service Organization as defined in Rule .1602 in this Subchapter; or
  - (3) for any employee to volunteer in a school or state agency as defined in Rule .1602 of this Subchapter provided that the service is outside of the employee's normal scope of duties and responsibilities and that the employee is not receiving any form of compensation for the services rendered.
- (b) A supervisor may approve special provisions for volunteer work for serving as a tutor, mentor, or volunteer in a literacy program in a school.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2001;  
Amended Eff. April 1, 2015; August 1, 2010; October 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;  
Amended Eff. November 1, 2020.*

## **25 NCAC 01E .1602 DEFINITIONS**

When used in this Section, these terms have the following meaning:

- (1) "Child" means dependent son or daughter who is a biological child, an adopted child, a foster child, a step-child, a legal ward, or a child of an employee standing in loco parentis.
- (2) "Child Involvement" means the act of supporting one's child through attendance or participation in activities related to the child's education at his or her school.
- (3) "Literacy Program" means act of volunteering in an elementary, middle, or high school to assist students with reading or writing skills in accordance with established academic standards.
- (4) "School" means elementary school, a middle school, a high school, an accredited community college, university, vocational or trade school, or a child care program that is authorized to operate under the laws of the state in which it is located.
- (5) "State Agency" means a state government agency that is authorized to operate under the laws of the state in which it is located.
- (6) "Tutoring and Mentoring" means the act of volunteering in an elementary, middle, or high school to support a student who is more likely than other students to struggle academically.
- (7) "Volunteer Service Organization" means a non-profit, non-partisan community organization that is designated as an IRS Code 501(c)(3) civic, charitable, or humanitarian agency, or a human service organization licensed or accredited by the state in which it is located to serve citizens with special needs including children, youth, and the elderly.
- (8) "Volunteer Service" means the act of serving citizens of North Carolina and the broader community without expectation of compensation for services.
- (9) "Volunteer" means a person who willingly chooses to perform hours of service for civic, charitable, or humanitarian reasons without promise or expectation of compensation for services provided.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2001;  
Amended Eff. April 1, 2015; August 1, 2010;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;  
Amended Eff. November 1, 2020.*

## **25 NCAC 01E .1603 COVERED EMPLOYEES AND LEAVE CREDITS**

(a) A full-time employee with a permanent, probationary, trainee or time-limited appointment may be granted 24 hours of community service leave each calendar year, or in lieu of the 24 hours award, with the approval of the supervisor, an employee may be eligible to choose one of the following leave options:

- (1) Tutoring and Mentoring - up to one hour per week, not to exceed 36 hours in a calendar year; or
- (2) Literacy Program – up to five hours per month.

(b) The 24 hours of paid leave shall be credited to employees on January 1 of each year, unless they choose the tutoring/mentoring option. New employees shall be credited with leave immediately upon their employment, prorated at two hours per month for the remainder of the calendar year. Separated employees who are reemployed within the same

calendar year shall be credited leave the same as a newly hired employee; however, the combination of reemployment credit and total hours used prior to separation in the same calendar year shall not exceed the annual 24 hour maximum leave benefit.

(c) Part-time (half time or more) employees with a permanent, probationary, trainee or time-limited appointment may be granted leave prorated proportionately to the percentage awarded to full-time employees.

(d) If an employee chooses to change leave options from regular Community Service Leave to the special leave provisions for volunteering for the tutoring or mentoring program or the literacy program or vice versa, during the calendar year, the maximum hours allowed under the new option shall be reduced by the amount already used in the prior leave option.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2001;  
Amended Eff. May 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

## **25 NCAC 01E .1604 USES OF VOLUNTEER SERVICE AND CHILD INVOLVEMENT LEAVE**

Volunteer Service and Child Involvement Leave may be used for:

- (1) meeting with a teacher or administrator concerning the employee's child;
- (2) attending any function sponsored by the school in which the employee's child is participating. This shall only be utilized in conjunction with nonathletic programs that are a part or supplement to the school's academic or artistic program;
- (3) performing school-approved volunteer work approved by a teacher, school administrator, or program administrator;
- (4) performing a service for a Volunteer Service Organization. Service shall not include attendance or participation in an event in which no service is performed;
- (5) performing volunteer work for a university that is approved by a university administrator or other university official;
- (6) performing volunteer work for a community college that is approved by a community college administrator or other community college official;
- (7) performing volunteer work for a non-profit vocational or trade school that is approved by a school administrator or other school official; or
- (8) performing volunteer work for a state agency that is approved by the agency head or his or her designee.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2001;  
Amended Eff. August 1, 2010;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;  
Amended Eff. November 1, 2020.*

## **25 NCAC 01E .1605 LEAVE ADMINISTRATION**

Each agency shall administer the Volunteer Service and Child Involvement Leave program as follows:

- (1) Employees shall receive approval from their supervisor to use Volunteer Service and Child Involvement Leave. The agency may require that the leave be taken at a time other than the one requested, based on the needs of the agency. The agency may require proof that community service leave taken is being utilized within the purpose of this Section.
- (2) Leave shall only be requested and approved for Volunteer Service that occurs during the employee's regularly scheduled hours of work. Agencies with shift employees regularly scheduled to work evening or night shift may allow the use of Volunteer Service and Child Involvement Leave in situations where the employee's participation in Volunteer Service and Child Involvement Leave outside of the work schedule impacts the employee's normal sleep period, and if the agency can maintain coverage at the workplace.

- (3) Travel time may be included in approved time for Volunteer Service and Child Involvement Leave, but only for the time that intersects the employee's regular work schedule.
- (4) If an employee transfers to another State agency, any balance of the Volunteer Service and Child Involvement Leave not used shall be transferred to the new agency. Under the tutoring and mentoring or literacy leave option, the employee shall secure approval from the new supervisor to continue with that option prior to the transfer.
- (5) Leave not taken in a calendar year is forfeited; it shall not be carried over into the next calendar year.
- (6) Employees shall not be paid for this leave upon separation from State government.
- (7) The use of Volunteer Service and Child Involvement Leave shall be reported separately from all other paid leave. Employees and supervisors are responsible for accurate reporting of the use of Volunteer Service and Child Involvement Leave on the employee's time record.

*History Note:* Authority G.S. 126-4;  
 Eff. July 18, 2002;  
 Amended Eff. April 1, 2015;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;  
 Amended Eff. November 1, 2020.

## **25 NCAC 01E .1606 ADDITIONAL TIME FOR COMMUNITY SERVICE ACTIVITIES**

*History Note:* Authority G.S. 126-4;  
 Eff. July 18, 2002;  
 Repealed Eff. April 1, 2015.

## **25 NCAC 01E .1607 SPECIAL LEAVE PROVISIONS**

- (a) Agency heads may establish a policy providing time off with pay to employees participating in volunteer emergency and rescue services. Each agency head shall determine that a bona fide need for such services exists within a given area. A bona fide need is defined as real or eminent danger to life or property. Volunteer emergency and rescue services leave shall not exceed 15 work days in any 12-month period, and shall be entered as Other Management Approved Leave for timekeeping purposes.
- (b) Each policy shall require proof of the employee's membership in an emergency volunteer organization and that the performance of such emergency services will not hinder agency activity for which the employee is responsible.
- (c) Blood, Bone Marrow, and Organ Donorship - Employees may be given time off with pay for whole blood donation, pheresis procedure, and bone marrow transplant. Employees may be given up to 30 days with pay for organ donation. Leave granted under this Paragraph shall be entered as Other Management Approved Leave for timekeeping purposes.

*History Note:* Authority G.S. 126-4;  
 Temporary Adoption Eff. March 18, 2002 (This temporary adoption replaces a permanent rulemaking originally proposed to be eff. July 1, 2002);  
 Eff. August 1, 2004;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;  
 Amended Eff. November 1, 2020.

## **SECTION .1700 - LEAVE: ADMINISTRATIVE**

### **25 NCAC 01E .1701 SMALLPOX VACCINATION**

*History Note:* Authority G.S. 126-4; 126-8.4;  
 Temporary Adoption Eff. June 26, 2003;  
 Eff. January 1, 2004;  
 Repealed Eff. May 1, 2010.

### **25 NCAC 01E .1702 OTHER CONTAGIOUS DISEASES**



*History Note: Authority G.S. 126-4;  
Temporary Adoption Eff. July 1, 2003;  
Eff. February 1, 2004;  
Repealed Eff. December 1, 2007.*

## **SECTION .1800 - INCENTIVE LEAVE**

### **25 NCAC 01E .1801 POLICY**

(a) Incentive leave may be used as a recruitment tool to assist in the employment of individuals who are middle or late career applicants employed outside of State government and who are interested in accepting employment with the State of North Carolina.

(b) An agency may award incentive leave to a middle or late career applicant who is newly appointed to a position that the agency has identified as critical to the agency mission and for which the agency has documented recruitment difficulty attracting qualified applicants, or who is newly appointed to an executive management position.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **25 NCAC 01E .1802 DEFINITIONS**

As used in this Section:

- (1) Employed Outside of State Government means employed with an organization that is not part of the State of North Carolina government or not an organization for which the State currently accepts transferred accrued vacation leave upon hire.
- (2) Executive Management Position means a senior management position that reports directly to an appointed or elected agency head and is delegated authority to make decisions that impact the overall direction of the agency and whose duties typically involve planning, strategy, policy-making and line-management. Typical job titles include chief executive officer, chief operating officer, chief financial officer, and deputy secretary.
- (3) Middle Management Position means a position that reports directly to an executive management position and supervises lower level management positions and is delegated authority to make decisions that impact the overall direction of a department or division of an agency and whose duties typically involve program planning and coordination, organization structure, determining goals and standards, determination and interpretation of policy, and fiscal control.
- (4) Middle or Late Career Applicant means an applicant with 10 or more years of directly related experience in their profession.
- (5) Newly Appointed means the initial appointment as an employee of the State of North Carolina, or an appointment following a break in service of at least 12 months from a previous appointment as an employee of the State of North Carolina.
- (6) Recruitment Difficulties means positions that are highly competitive in the labor market due to specialized competencies, licenses, or certifications, or geographic location or those positions in which there is a high turnover which impacts the agency's efforts to recruit and provide services. Recruitment typically involves active recruitment efforts utilizing multiple recruitment resources that require an extended period of recruitment and results in a limited qualified applicant pool.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **25 NCAC 01E .1803 RECRUITMENT DOCUMENTATION**

If recruitment difficulties are the basis for the application of the rules in this Section, the agency shall maintain written documentation related to difficulties in recruiting to fill positions of applicants offered incentive leave. The agency shall

provide this documentation to the Office of State Human Resources upon request. Documentation shall include high turnover rates, special required competencies, types of specialized recruitment resources used during the recruitment period, beginning and ending dates of active recruitment, number of qualified applicants in the applicant pool, and any additional documentation such as number of applicants that may have rejected offers including a reason why, or applicants that may have withdrawn their application from consideration.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .1804 ELIGIBILITY REQUIREMENTS**

To be eligible for incentive leave, the employee must be newly appointed and have the following:

- (1) All qualification and competency requirements of the position;
- (2) At least 10 years of experience that is directly related to the position; and
- (3) A full-time or part-time (half-time or more) permanent, probationary or time-limited appointment.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .1805 AMOUNT OF LEAVE**

An agency may award a one-time accrual up to 20 days (160 hours) of incentive leave to an eligible new employee upon hire. The one-time leave award shall be pro-rated for part-time employees. Management may negotiate the amount of leave to award to the selected applicant taking into consideration the applicant's current annual vacation leave accrual.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .1806 RELATIONSHIP TO OTHER LEAVE**

- (a) The employee is eligible to earn other accrued leave as allowed by rules adopted by the State Human Resources Commission.
- (b) Incentive leave shall be maintained and accounted for in a separate account from other accrued leave.
- (c) If an employee has any earned compensatory time such as holiday, overtime, gap hours, on-call, or travel, the compensatory time shall be used before incentive leave.
- (d) Incentive leave shall be restored (offset) to the employee's incentive leave account for later use if an employee worked in excess of the employee's established work schedule during the applicable overtime work cycle.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01E .1807 CARRY-OVER AND PAYMENT OF LEAVE**

Unused incentive leave carries over from year to year and shall be used only as paid leave. Under no circumstance shall it be:

- (1) transferred to sick leave,
- (2) paid out upon separation,
- (3) credited toward retirement, or
- (4) donated as voluntary shared leave.

*History Note:* Authority G.S. 126-4;

*Eff. January 1, 2011;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **25 NCAC 01E .1808      TRANSFER**

If the employee transfers to a State SPA or EPA position, unused incentive leave may be transferred subject to the receiving agency's approval. If incentive leave is not transferred, it shall not be paid out in a lump sum.

*History Note:      Authority G.S. 126-4;*  
*Eff. February 1, 2011;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **25 NCAC 01E .1809      USE OF LEAVE**

Vacation leave shall be taken only upon authorization of the agency head or designee.

*History Note:      Authority G.S. 126-4;*  
*Eff. February 1, 2011;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **SECTION .1900 – PAID PARENTAL LEAVE**

#### **25 NCAC 01E .1901      DEFINITIONS**

For the purposes of this Section, the following definitions shall apply:

- (1) "Agency" means any State agency, department, institution, office, board, or commission, including institutions and offices of the University of North Carolina, but excluding the legislative branch, the judicial branch, community college institutions, and public schools.
- (2) "Child" means a child as defined at G.S. 126-8.6(a)(1).
- (3) "Parent" means:
  - (a) the mother or father of a child through birth or legal adoption; or
  - (b) an individual who cares for a child through foster or other legal placement under the direction of a government authority.
- (4) "Qualifying event" means when an employee becomes a parent to a child.

*History Note:      Authority G.S. 126-5(c19); 126-8.6;*  
*Temporary Adoption Eff. August 25, 2023;*  
*Eff. August 1, 2024.*

#### **25 NCAC 01E .1902      RELATIONSHIP TO OTHER RULES AND POLICIES**

- (a) This Section states the terms and conditions only for paid parental leave that is provided under G.S. 126-8.6 by an agency, as defined in Rule .1901 of this Section.
- (b) The paid parental leave provided under this Section is in addition to any other leave authorized by state or federal law.

*History Note:      Authority G.S. 126-8.6;*  
*Temporary Adoption Eff. August 25, 2023;*  
*Eff. August 1, 2024.*

#### **25 NCAC 01E .1903      ELIGIBILITY FOR PAID PARENTAL LEAVE**

- (a) This Section applies to all agency employees subject to G.S. 126-8.6, whether or not those employees are exempt from other sections of the State Human Resources Act.
- (b) Employees may receive paid parental leave under this Section only if they are in a permanent, time-limited, or probationary appointment. Temporary employees are not eligible for paid parental leave under this Section.

(c) An agency shall allow an employee to take paid parental leave under this Section only if, at the time of the qualifying event, the employee meets each of the following conditions.

- (1) For the immediate 12 preceding months, the employee has been employed without a break in service as defined by 25 NCAC 01D .0114 in a permanent, time-limited, or probationary appointment, aggregating employment at any of these employers:
  - (A) the State of North Carolina agencies, departments, and institutions, including without limitation the University of North Carolina;
  - (B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or
  - (C) community college institutions of the State of North Carolina.
- (2) The employee has been in pay status for at least 1,040 hours during the previous 12-month period, aggregating employment at any of these employers:
  - (A) the State of North Carolina agencies, departments, and institutions, including without limitation the University of North Carolina;
  - (B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or
  - (C) community college institutions of the State of North Carolina.

(d) This Section applies to requests for paid parental leave related to qualifying events occurring on or after July 1, 2023.

*History Note:* Authority G.S. 126-8.6;  
Temporary Adoption Eff. August 25, 2023;  
Temporary Adoption Eff. December 22, 2023;  
Eff. August 1, 2024.

#### **25 NCAC 01E .1904 LEAVE AVAILABLE TO FULL-TIME EMPLOYEES**

(a) Full-time employees eligible for paid parental leave under this Section may take, in their discretion, up to the following amounts of leave:

- (1) For a parent who gives birth to a child, eight total weeks of paid parental leave, made up of:
  - (A) Four weeks for physical and mental recuperation, and
  - (B) Four additional weeks for bonding with the child.
- (2) For any other qualifying event, four weeks of paid parental leave for bonding with the child.

(b) Each week of paid parental leave under this Section shall result in compensation at 100 percent of the eligible employee's regular pay on a straight-time basis (without including overtime pay or paid time off, on the employee's regular weekly schedule).

*History Note:* Authority G.S. 126-8.6;  
Temporary Adoption Eff. August 25, 2023;  
Eff. August 1, 2024.

#### **25 NCAC 01E .1905 LEAVE AVAILABLE TO PART-TIME EMPLOYEES**

(a) Part-time employees (regardless whether they work half-time or more) shall receive paid parental leave under this Section if they meet all other requirements for eligibility.

(b) Part-time employees eligible for paid parental leave under this Section may take, in their discretion, a prorated amount of leave based on the hours worked in the employee's regular, weekly schedule compared to the hours worked by a full-time employee in a similar position at that agency.

(c) Each week of paid parental leave under this Section shall result in compensation at 100 percent of the eligible employee's regular pay on a straight-time basis (without including overtime pay or paid time off, on the employee's regular weekly schedule).

*History Note:* Authority G.S. 126-8.6;  
Temporary Adoption Eff. August 25, 2023;  
Eff. August 1, 2024.

#### **25 NCAC 01E .1906 USE OF OTHER LEAVE**

The paid parental leave provided under this Section shall not be counted against or deducted from the employee's sick, vacation, bonus, or other accrued leave. For agency employees, the paid parental leave provided under this Section is in addition to any other leave authorized by law, rule, or policy, including but not limited to leave without pay provided

under 25 NCAC 01E .1110, voluntary shared leave under G.S. 126-8.3 and 25 NCAC 01E .1300, or family and medical leave. However, when an employee becomes eligible, as described in 25 NCAC 01E .1400, for family and medical leave, the paid parental leave under this Section shall run concurrently with the family and medical leave.

*History Note:* Authority G.S. 126-8.6;  
Temporary Adoption Eff. August 25, 2023;  
Eff. August 1, 2024.

#### **25 NCAC 01E .1907 REQUESTING USE OF PAID PARENTAL LEAVE**

(a) Eligible employees may take paid parental leave in one continuous period or may take intermittent use of paid parental leave. Requests for intermittent use of paid parental leave are subject to the agency's approval as stated in Paragraph (d) of this Rule.

(b) Whenever possible, eligible employees shall notify their employing agencies at least 10 weeks in advance of their intention to use paid parental leave. This requirement is so that agencies can secure backfill coverage.

(c) The agency shall not deny, delay, or require intermittent use of paid parental leave to employees who gave birth and seek to use paid parental leave in one continuous period.

(d) For all other employees, the agency may delay providing paid parental leave or may provide paid parental leave intermittently if it determines that providing the leave will cause a public safety concern, meaning a significant impairment to the agency's ability to conduct its operations in a manner that protects the health and safety of North Carolinians. For example, the extension of paid parental leave to an eligible employee who did not give birth may constitute a public safety concern if:

- (1) Providing the paid parental leave would result in agency staffing levels below what is required by federal or state law to maintain operational safety; or
- (2) Providing the paid parental leave may impact the health or safety of staff, patients, residents, offenders, or other individuals the agency is required by law to protect; and
- (3) The agency has been unable to secure supplemental staffing after requesting or diligently exploring alternative staffing options.

(e) If the agency determines that it must delay paid parental leave, or make paid parental leave intermittent, because of a public safety concern under Paragraph (d) of this Rule, the agency shall provide paid parental leave as soon as practical following the qualifying event.

*History Note:* Authority G.S. 126-8.6;  
Temporary Adoption Eff. August 25, 2023;  
Eff. August 1, 2024.

#### **25 NCAC 01E .1908 LEAVE ADMINISTRATION**

(a) Paid parental leave under this Section may be used only once by an eligible employee within a rolling 12-month period.

(b) The birth or other qualifying event of twins, triplets, or other multiple children shall produce only one award of paid parental leave under this Section.

(c) Both parents may receive paid parental leave under this Section if they are both eligible agency employees. Both parents may take their leave simultaneously or at different times, subject to Rule .1907 of this Section.

(d) Employees shall submit documentation that they will use paid parental leave for a qualifying event under this Section. An agency may take appropriate action if an employee fraudulently requested or used paid parental leave. This action may include revoking approval and disciplinary action up to and including dismissal, pursuant to 25 NCAC 01J .0600.

(e) Employees shall not be paid for the leave provided by this Section upon separation from the employer. The leave provided by this Section shall not be used for calculating an employee's retirement benefits and shall not accrue or be donated as voluntary shared leave.

(f) Paid parental leave provided under this Section shall be reported separately from all other paid leave. Employees and supervisors are responsible for accurate reporting of the use of this leave on the employee's time record.

*History Note:* Authority G.S. 126-4(6); 126-8.6; 126-35(a);  
Temporary Adoption Eff. August 25, 2023;  
Eff. August 1, 2024.

**25 NCAC 01E .1909 LEAVE ADMINISTRATION FOR ADOPTIONS OR FOSTER CARE PLACEMENTS**

(a) When a child is given up for adoption or placed in foster care, from that point forward:

- (1) The birth parent shall continue to be eligible for the paid parental leave listed in Rule .1904(a)(1)(A) of this Section for physical and mental recuperation; and
- (2) Each parent shall not be eligible for further use of the paid parental leave listed in Rule .1904(a)(1)(B) of this Section for bonding with the child.

(b) When a prospective adoptive parent or foster parent expects an adoption or placement, but it does not occur, it does not produce paid parental leave under this Section. However, agencies can allow adequate time for bereavement to the persons who would have become parents, using sick leave, vacation leave, bonus leave, compensatory time, and any other leave options that may be available to the employee.

*History Note: Authority G.S. 126-8.6;  
Eff. August 1, 2024.*

**25 NCAC 01E .1910 MISCARRIAGE OR STILLBIRTH**

(a) When a fetus dies before 12 weeks of the pregnancy were complete, it is not a qualifying event for paid parental leave under this Section.

(b) When a fetus dies after the 12th completed week of pregnancy, but before childbirth is complete:

- (1) If the birth parent meets the eligibility requirements in Rule .1903 of this Section, the birth parent may receive the paid parental leave listed in Rule .1904(a)(1)(A) of this Section. This leave is four weeks for a full-time eligible state employee.
- (2) The parents shall not receive the paid parental leave for bonding with the child that is listed in Rule .1904(a)(1)(B) and Rule .1904(a)(2) of this Section.

(c) When a child dies after childbirth is complete, each parent of the child who meets the eligibility requirements in Rule .1903 of this Section shall receive the full paid parental leave listed in Rule .1904(a)(1) and (a)(2) of this Section. The paid parental leave will not be ended at the time of the child's death.

(d) In any of the situations in this Rule, agencies can allow adequate time to the parents for bereavement and recovery, using sick leave, vacation leave, bonus leave, compensatory time, and any other leave options that may be available to the employee.

*History Note: Authority G.S. 126-8.6;  
Eff. August 1, 2024.*