

25 NCAC 01J .0615 INVESTIGATORY LEAVE

(a) Investigatory leave with pay shall be used to temporarily remove an employee from work status. Placement on investigatory leave with pay shall not constitute a disciplinary action as defined in this Section, G.S. 126-34.02, or in G.S. 126-35. Management shall notify an employee in writing of the reasons for placement on investigatory leave not later than the second scheduled work day after the beginning of the placement. Investigatory leave with pay may last no longer than 30 calendar days without written approval of extension by the agency head and the State Human Resources Director. The State Human Resources Director shall approve an extension of the period of investigatory leave with pay, for no more than an additional 30 calendar days, for one or more of the following reasons:

- (1) the matter is being investigated by law enforcement personnel, the investigation is not complete, and the agency is unable to complete its own independent investigation without facts contained in the law enforcement investigation, and the agency is unable to conduct its own investigation;
- (2) a management individual who is necessary for resolution of the matter is unavailable; or
- (3) a person or persons whose information is necessary for resolution of the matter is/are unavailable.

(b) When an extension beyond the 30-day period is required, the agency shall advise the employee in writing of the extension, the length of the extension, and the reasons for the extension. If no action has been taken by an agency by the end of the 30-day period and no further extension has been granted, the agency shall either take appropriate disciplinary action on the basis of the findings made during the investigation or return the employee to active work status. An agency shall not use placement on investigation status for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

(c) An agency may place an employee on investigatory leave only under the following circumstances:

- (1) to investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
- (2) to provide time within which to schedule and conduct a pre-disciplinary conference;
- (3) to avoid disruption of the work place and to protect the safety of persons or property; or
- (4) to facilitate a management directed referral or fitness for duty/risk evaluation to ensure the employee's safety and the safety of others and to obtain medical information regarding the employee's fitness to perform his or her essential job functions.

*History Note: Authority G.S. 126-4; 126-25; 126-34.02; 126-35;
Eff. October 1, 1995;
Amended Eff. April 1, 2015; January 1, 2011; April 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*