

SECTION .0100 – PRIVATE PERSONNEL SERVICES REGULATIONS

13 NCAC 17 .0101 DEFINITIONS

As used in G.S. 95, Article 5A and this Chapter, unless the context clearly requires otherwise:

- (1) "Accept an employer's offer of employment," as used in G.S. 95-47.1(1), means to consent orally or in writing to take the job the employer is offering. This offer or acceptance may be made directly between the employer and the applicant or may be communicated through a representative of the private personnel service acting as the applicant's agent.
- (2) "Advertising" means any material or method used by a private personnel service for solicitation or promotion of business. This includes, but is not limited to, newspapers, radio, television, the internet, business cards, invoices, letterheads, or other forms that may be used in combination with the solicitation and promotion of business.
- (3) "Communication," as used in G.S. 95-47.1(4), means a written communication.
- (4) "Days" means calendar days.
- (5) "Division" means the Private Personnel Service Office of the North Carolina Department of Labor.
- (6) "Employer fee paid personnel consulting service" means any business that consults with employers in locating and placing employees where the sole obligation for the placement fee is assumed by the employer in all circumstances and the applicant is never obligated for the fee, directly or indirectly, even if the applicant quits or is terminated for cause.
- (7) "Employment agency" or "agency" means a private personnel service as defined in G.S. 95-47.1(16).
- (8) "Existing licensed business," as used in G.S. 95-47.2(f), means any existing licensed private personnel service or job listing service.
- (9) "Indirectly" being responsible for a fee to a private personnel service includes the applicant paying, or repaying, any portion of the fee paid to the private personnel service by the employer or any other person.
- (10) "Material information," as used in G.S. 95-47.2(d)(3)a, and the rules in this Section means any facts or knowledge that are relevant to operating a private personnel service.
- (11) "Meeting between an employer and an applicant" as used in G.S. 95-47.1(10) and the rules in this Chapter includes but is not limited to interviews in person, conducted by telephonic conference, video conference, or other electronic means.
- (12) "Operate" means to engage in the business of a private personnel service within the State of North Carolina. Within the State of North Carolina includes, but is not limited to, any of the following:
 - (a) Property, offices, or employees located in North Carolina;
 - (b) Use of a North Carolina phone number;
 - (c) Use of a North Carolina address;
 - (d) Interviewing applicants in North Carolina;
 - (e) Placing applicants in North Carolina;
 - (f) Collecting money from applicants in North Carolina;
 - (g) Directing North Carolina applicants to interviews;
 - (h) Directing applicants to interviews with North Carolina employers; and
 - (i) Advertising in North Carolina.
- (13) "Partnership" and "corporation," when used in the context of owners of a private personnel service, mean any similar state-chartered legal entity. Examples of similar state-chartered legal entities include, but are not limited to, limited liability partnerships and limited liability corporations.
- (14) "Person who uses or attempts to use the services of a private personnel service" as used in G.S. 95-47.1(2) includes applicants without regard to how or by whom the contact between the applicant and the private personnel service is initiated.
- (15) "Premises," as used in G.S. 95-47.2(d)(3)c., means the property occupied by any owner or manager of the private personnel service where the business of the private personnel service is conducted. Two businesses occupy the same premises if a person can move from one to the other without traveling through a public area available to non-customers.
- (16) "Private personnel service industry" means all private personnel services that are or may be required to be licensed to operate in the State of North Carolina.

- (17) "Refund policy" means a voluntary refund policy adopted by the private personnel service. It does not mean the fee reimbursement provisions mandated by G.S. 95-47.3A and such a fee reimbursement shall not be considered as a refund policy which would trigger operation of the "Termination of Employment" provisions under Rule .0107(f)(6) of this Section.
- (18) "Responsible for the operation" means to conduct the daily administrative functions required to direct and control the business. This includes, but is not limited to, current and ongoing knowledge and oversight of the following: all placement functions; hours the business operates; hiring, supervision, and dismissal of the business' personnel; the finances and financial records of the business; advertising; job orders; compliance with G.S. 95, Article 5A; and the needs of applicants and employers who work with the business to receive placement and hiring assistance. It further means that the person is available during working hours to answer questions and respond to the needs of applicants, employers, the business' own employees, and the Private Personnel Service Office.
- (19) Except in G.S. 95-47.2(d)(1), in G.S. 95-47.2(d)(3)b.2 and in G.S. 95-47.2(d)(3)b.3, "rules", "regulations", or "rules or regulations" as used in G.S. 95, Article 5A and in this Chapter refer to administrative rules adopted by the Department of Labor pursuant to G.S. 95, Article 5A and G.S. 150B.
- (20) "Temporary help service" means any business which employs persons whom it assigns to assist its customers. The employer-employee relationship exists between the temporary help service and the employee. If a temporary help service ever charges the employee a fee for help in securing employment with an employer other than itself, then the service is a private personnel service.

History Note: Authority G.S. 95-47.9;
Eff. February 27, 1995;
Amended Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.