

## CHAPTER 01 - OFFICE OF STATE HUMAN RESOURCES

### SUBCHAPTER 01A - GENERAL PROVISIONS

EDITOR'S NOTE: 25 NCAC 1 has been recodified from 1 NCAC 8: Eff. March 1, 1984.

#### **25 NCAC 01A .0101 ORGANIZATION**

#### **25 NCAC 01A .0102 RELATIONSHIP TO DEPARTMENT OF ADMINISTRATION**

*History Note: Authority G.S. 126-1; 126-2; 126-3;  
Eff. February 1, 1976;  
Repealed Eff. November 1, 1988.*

#### **25 NCAC 01A .0103 DEFINITIONS**

The following definitions shall apply throughout this Chapter:

- (1) Agency: shall mean and include, as the context may require, a department, institution, commission, committee, board, division, bureau, officer or official.
- (2) Commission: shall mean the State Human Resources Commission.
- (3) Department: shall mean one of the principal state departments but shall also include each state supported institution of higher learning.
- (4) Director: shall mean the State Human Resources Director.
- (5) State employee: shall mean all employees of the State of North Carolina who are subject to any part of the State Human Resources Act, unless otherwise indicated in this Chapter.
- (6) Local government employee: shall mean those employees of local social services departments, public health departments, mental health centers and local offices of civil preparedness which receive federal grant-in-aid funds.
- (7) State Human Resources Act: shall mean Chapter 126 of the North Carolina General Statutes.
- (8) Competitive service: shall mean that personnel system based on the Federal Standards for a Merit System of Personnel Administration which applies to state employees and to local government employees determined by the Governor and Council of State.

*History Note: Authority G.S. 126-4; 126-5; 126-12;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

#### **25 NCAC 01A .0104 EXCEPTIONS AND VARIANCES**

(a) The number of state employees, the variety of work done by them and the variations in the circumstances under which they work, make it impossible to establish for the government of the state a system of personnel administration based on accepted principles of personnel administration and applying the best methods as evolved in government and industry, as required by N.C.G.S. 126-1, unless there is given to the State Human Resources Director in his role as day to day administrator of the State Human Resources Commission's policies and rules, authority to grant exceptions and variances from the policies and rules where necessary to promote efficiency of administration and to provide for a fair and reasonable system of personnel administration.

(b) Therefore, to the end that a system of personnel administration may be established as contemplated by N.C.G.S. 126-1, the State Human Resources Director shall have authority to grant exceptions and/or variances to the policies and rules promulgated by the State Human Resources Commission in those limited and special instances in which he makes written findings of fact that the granting of such exceptions and variances are necessary to promote efficiency of administration and provide for a fair and reasonable system of personnel administration, setting forth fully in such written findings of fact the circumstances and need for the exceptions and/or variances granted.

(c) Written reports of the granting of exceptions and variances shall be made by the Director to the Commission at its meeting next following the date the same are granted that is more than five business days from such date. Such written reports shall include the Director's findings of facts upon which the exceptions and/or variances granted were based.

*History Note: Authority G.S. 126-4(10);*

*ARRC Objection May 25, 1989;*  
*Eff. October 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

**25 NCAC 01A .0105      COVERAGE OF TITLE 25**

*History Note:      Authority G.S. 126-4;*  
*Eff. March 1, 1991;*  
*Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.*

**25 NCAC 01A .0106      DELEGATION OF AUTHORITY: DECENTRALIZATION**

(a) The Office of State Human Resources, under the direction of the State Human Resources Director, has sole responsibility for the implementation of the State Human Resources Commission's rules, policies and procedures. The State Human Resources Director has the exclusive authority for final approval of all personnel actions under these Rules and policies.

(b) The State Human Resources Director may delegate authority for final approval and accountability of certain personnel actions to the heads of state agencies and universities, and by extension, to the head of their personnel administration function. The decision to delegate authority for final approval of certain personnel actions or not to delegate, as well as the matters to be delegated, shall be at the discretion of the State Human Resources Director. The delegation decision by the State Human Resources Director shall be made based upon these factors:

- (1) the acceptance of accountability for their own personnel functions by agency heads and chancellors under a delegation of authority from the State Human Resources Director;
- (2) the history of agency cooperation and compliance with statutes relating to personnel administration and with established Commission policies, rules, procedures and related corrective actions;
- (3) a pre-assessment of the compliance capability of the agency's personnel functions and the personnel staff;
- (4) the demonstrated knowledge and expertise in the administration of the Commission's policies, rules and procedures by the personnel staff of the agency;
- (5) the maintenance of an adequate staff in the agency's personnel functions, including an appropriate number of professional level positions commensurate with the size and complexity of the agency; and
- (6) the maintenance of a quality control plan within the agency's personnel functions designed to improve the professionalism of the personnel staff and to produce accurate data in a current and timely manner.

(c) Delegation shall be achieved through decentralization agreements which shall specify agency responsibility for implementing Personnel Commission programs and shall identify those personnel actions for which the agency shall have final approval authority. The agreement shall provide that the decentralized personnel administration authority may be unilaterally withdrawn or modified by the State Human Resources Director based upon demonstrated inability or unwillingness on the part of the agency or university to maintain the level of personnel administration as measured by factors in Paragraph (b) of this Rule.

(d) The Office of State Human Resources shall perform routine, ongoing monitoring of all agency and university decentralization agreements for compliance with specified levels of authority and with Commission rules, policies and procedures. The Office of State Human Resources shall perform periodic on-site performance audits. These monitoring and auditing procedures shall be in accordance with accepted auditing principles and with the advice of the State Auditor.

*History Note:      Authority G.S. 126-4;*  
*Eff. September 1, 1991;*  
*Amended Eff. August 3, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

**SUBCHAPTER 01B - STATE HUMAN RESOURCES COMMISSION**

**SECTION .0100 - GENERAL PROVISIONS**

**25 NCAC 01B .0101      PURPOSE**  
**25 NCAC 01B .0102      EXTENT OF AUTHORITY**  
**25 NCAC 01B .0103      LOCATION**

*History Note:*      Authority G.S. 126-1; 126-2; 126-4; 126-9; 126-11;  
                                 Eff. February 1, 1976;  
                                 Repealed Eff. November 1, 1988.

**25 NCAC 01B .0104      STATE HUMAN RESOURCES DIRECTOR**

*History Note:*      Authority G.S. 126-4;  
                                 Eff. February 1, 1976;  
                                 Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.

**25 NCAC 01B .0105      COMMISSION MEETINGS**  
**25 NCAC 01B .0106      SERVICES TO LOCAL GOVERNMENT**

*History Note:*      Authority G.S. 126-2; 126-10;  
                                 Eff. February 1, 1976;  
                                 Repealed Eff. November 1, 1988.

**25 NCAC 01B .0107      CAREER STATE EMPLOYEE CLASSIFICATION DESIGNATION**

*History Note:*      Authority G.S. 126-1A; 126-4;  
                                 Eff. February 1, 1993;  
                                 Repealed Eff. August 1, 2004.

**SECTION .0200 – RULE-MAKING**

**25 NCAC 01B .0201      CONTENT AND PROCEDURE**

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule of the Commission shall address a petition to:

Office of State Human Resources  
1331 Mail Service Center  
Raleigh, North Carolina 27699-1331.

(b) The petition shall be labeled Petition for Rulemaking and contain the following information:

- (1) either a draft of the proposed rule or a summary of its contents;
- (2) reason for proposal;
- (3) effect on existing rules or orders;
- (4) data supporting proposal;
- (5) fiscal note on the impact of the proposed rule on existing practices in the area involved, including cost factors and basis of analysis;
- (6) names of those most likely to be affected by the proposed rule with addresses if reasonably known;
- (7) name(s) and address(es) of petitioner(s).

(c) The Office of State Human Resources shall examine the petition and weigh the information therein in relation to the public interest. The Office of State Human Resources shall consider all the contents of the submitted petition, plus any additional information the Office of State Human Resources deems relevant. The Office of State Human Resources shall make a recommendation to the Commission for the denial of the petition or the institution of rule-making proceedings, as the case may be.

(d) At the next regularly scheduled Commission meeting occurring at least 60 days after the submission of the petition, the Commission shall render a final decision. If the decision is to deny the petition, the Office of State Human Resources shall notify the petitioner in writing, stating the reasons therefor. If the decision is to grant the petition, the Commission, within 30 days of submission, shall initiate rule-making proceedings by issuing a notice of rulemaking proceeding, in accordance with the requirements G.S. 150B.

*History Note:* Authority G.S. 126-2; 126-4; 150B-20;  
Eff. February 1, 1976;  
Amended Eff. February 1, 2008; March 1, 1996; June 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

**25 NCAC 01B .0202 NOTICE**

*History Note:* Authority G.S. 150B-12(c);  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982;  
Repealed Eff. November 1, 1988.

**25 NCAC 01B .0203 ADDITIONAL INFORMATION**

*History Note:* Authority G.S. 150B-12;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982;  
Repealed Eff. March 1, 1996.

**25 NCAC 01B .0204 PRESENTATIONS**

- (a) Any person desiring to present oral data, views, or arguments on the proposed rule shall before the public hearing, file a notice with: Office of State Human Resources, 1331 Mail Service Center, Raleigh, North Carolina 27699-1331.
- (b) Any person permitted to make an oral presentation may submit a written copy of the presentation to the designated hearing officer at the public hearing.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 2008; March 1, 1996; June 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

**25 NCAC 01B .0205 ORAL PRESENTATIONS**

A request to make an oral presentation shall contain a brief summary of the individual's views with respect thereto, and a statement of the length of time the individual desires. Presentations may not exceed three minutes.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

**25 NCAC 01B .0206 ACKNOWLEDGMENT OF REQUESTS**

**25 NCAC 01B .0207 WRITTEN SUBMISSIONS**

*History Note:* Authority G.S. 150B-12(e);  
Eff. February 1, 1976;  
Amended Eff. June 1, 1982;  
Repealed Eff. March 1, 1996.

**25 NCAC 01B .0208 HEARING PROCEDURE**

Upon the commencement of a hearing, the presiding officer shall have complete control of the proceedings, including: extensions of any time requirements, recognition of speakers, time allotments for presentations, direction of the flow of the discussion and the management of the hearing. The presiding officer, at all times, shall take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.

*History Note:* Authority G.S. 150B-12(d),(e);  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

**25 NCAC 01B .0209 HEARING RECORD**  
**25 NCAC 01B .0210 RETENTION OF RECORD**  
**25 NCAC 01B .0211 EMERGENCY RULES**  
**25 NCAC 01B .0212 DECLARATORY RULINGS**

*History Note:* Authority G.S. 150B-12(d),(e); 150B-13; 150B-17;  
Eff. February 1, 1976;  
Repealed Eff. November 1, 1988.

**25 NCAC 01B .0213 REQUESTS FOR DECLARATORY RULING**

All requests for declaratory rulings shall be written and mailed to: Office of State Human Resources, 1331 Mail Service Center, Raleigh, North Carolina 27699-1331.

*History Note:* Authority G.S. 126-2; 126-4; 150B-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 2008; March 1, 1996; June 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

**25 NCAC 01B .0214 CONTENT**

All requests for a declaratory ruling must include the following information:

- (1) name and address of petitioner;
- (2) statute or rule to which petition relates;
- (3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him;
- (4) a statement of whether an oral hearing is desired, and if so the reasons for such an oral hearing.

*History Note:* Authority G.S. 150B-17;  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

**25 NCAC 01B .0215 REFUSAL TO ISSUE RULING**

Whenever the director believes for good cause that the issuance of a declaratory ruling is undesirable, he may refuse to do so. When good cause is deemed to exist, he will notify the petitioner of his decision in writing stating reasons for the denial of a declaratory ruling.

*History Note:* Authority G.S. 150B-17;  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

**25 NCAC 01B .0216 TIME**

Where a declaratory ruling is deemed appropriate, the director will issue the ruling within 60 days of receipt of the petition.

*History Note:* Authority G.S. 150B-17;  
Eff. February 1, 1976;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

**25 NCAC 01B .0217 PROCEDURE**

(a) A declaratory ruling procedure may consist of written submissions, oral hearing, or such other procedure as may be appropriate in a particular case.

(b) Except in special circumstances, the commission will not, as a general rule, issue a declaratory ruling when the matter in respect of which a declaratory ruling requested is involved in a lawsuit pending in any state or federal court.

*History Note: Authority G.S. 150B-17;  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

**SECTION .0300 - CONTESTED CASE HEARING PROCEDURE**

**25 NCAC 01B .0301 JURISDICTION**

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1977;  
Repealed Eff. February 1, 1985.*

**25 NCAC 01B .0302 AVAILABILITY OF HEARING  
25 NCAC 01B .0303 PUBLIC HEARING**

*History Note: Authority G.S. 126-4; 126-5; 126-16; 126-25; 126-36; 126-36.1; 126-39; 150B-2(2);  
150B-32(a); 150B-23(e);  
Eff. February 1, 1976;  
Amended Eff. February 1, 1985; October 1, 1977;  
Repealed Eff. July 1, 1988.*

**25 NCAC 01B .0304 PRACTICE BEFORE THE COMMISSION**

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1985;  
Repealed Eff. November 1, 1988.*

**25 NCAC 01B .0305 COMMENCEMENT OF PROCEEDINGS  
25 NCAC 01B .0306 DEFICIENCY IN REQUEST**

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1985; October 1, 1977;  
Repealed Eff. July 1, 1988.*

**25 NCAC 01B .0307 ASSISTANCE FROM PERSONNEL OFFICER**

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. February 1, 1985.*

**25 NCAC 01B .0308 AGENCY NOTICE TO STATE PERSONNEL**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1985;  
Repealed Eff. July 1, 1988.

**25 NCAC 01B .0309 PREHEARING MATTERS**  
**25 NCAC 01B .0310 NOTICE**  
**25 NCAC 01B .0311 MOTIONS TO INTERVENE**  
**25 NCAC 01B .0312 ANSWER**

*History Note:* Authority G.S. 150A-23(b),(c),(d); 150A-25(b);  
Eff. February 1, 1976;  
Amended Eff. August 1, 1977;  
Repealed Eff. February 1, 1985.

**25 NCAC 01B .0313 PREHEARING CONFERENCE**

*History Note:* Authority G.S. 126-4; 150B-33(5);  
Eff. February 1, 1976;  
Amended Eff. February 1, 1985;  
Repealed Eff. July 1, 1988.

**25 NCAC 01B .0314 FACTS DISCLOSED PRIVILEGED**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. February 1, 1985.

**25 NCAC 01B .0315 CONDUCT OF HEARINGS**  
**25 NCAC 01B .0316 FAILURE TO APPEAR**  
**25 NCAC 01B .0317 PROCEDURE AT HEARINGS**  
**25 NCAC 01B .0318 ORDER OF RECEIVING EVIDENCE**  
**25 NCAC 01B .0319 DISCUSSION OF PENDING ACTION**

*History Note:* Authority G.S. 126-4(9); 126-4(12); 150B-25(a); 150B-32;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1985;  
Repealed Eff. July 1, 1988.

**25 NCAC 01B .0320 WITNESS FEES**

*History Note:* Authority G.S. 126-44;  
Eff. February 1, 1976;  
Repealed Eff. February 1, 1985.

**25 NCAC 01B .0321 EVIDENCE**

*History Note:* Authority G.S. 150B-29;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1985;  
Repealed Eff. July 1, 1988.

**25 NCAC 01B .0322      STIPULATIONS**  
**25 NCAC 01B .0323      OFFICIAL NOTICE**

*History Note:*    *Authority G.S. 150A-30; 150A-31;*  
*Eff. February 1, 1976;*  
*Repealed Eff. February 1, 1985.*

**25 NCAC 01B .0324      ABSTRACTS OF DOCUMENTS**  
**25 NCAC 01B .0325      COPIES**  
**25 NCAC 01B .0326      OTHER DOCUMENTS**  
**25 NCAC 01B .0327      CROSS EXAMINATION**  
**25 NCAC 01B .0328      REBUTTAL EVIDENCE**  
**25 NCAC 01B .0329      HEARING OFFICERS**  
**25 NCAC 01B .0330      HEARING OFFICER BIAS**  
**25 NCAC 01B .0331      AUTHORITY OF HEARING OFFICER**

*History Note:*    *Authority G.S. 126-4(a); 126-4(9); 126-4(11); 126-37; 150B-25(d); 150B-32;*  
*150B-33;*  
*Eff. February 1, 1976;*  
*Amended Eff. February 1, 1985;*  
*Repealed Eff. July 1, 1988.*

**25 NCAC 01B .0332      EX PARTE COMMUNICATIONS**  
**25 NCAC 01B .0333      DISQUALIFICATION OF HEARING OFFICER**  
**25 NCAC 01B .0334      DISQUALIFICATION OF COMMISSION MEMBER**  
**25 NCAC 01B .0335      ASSIGNMENT OF NEW HEARING OFFICER**

*History Note:*    *Authority G.S. 150A-32(b),(c); 150A-35;*  
*Eff. February 1, 1976;*  
*Amended Eff. October 1, 1977;*  
*Repealed Eff. February 1, 1985.*

**25 NCAC 01B .0336      PROPOSED FINDINGS OF FACT: CONCLUSIONS OF LAW: BRIEF**  
**25 NCAC 01B .0337      PROPOSAL FOR DECISION OF HEARING OFFICER**  
**25 NCAC 01B .0338      SERVICE OF PROPOSAL**  
**25 NCAC 01B .0339      PREPARATION OF PROPOSAL**

*History Note:*    *Authority G.S. 126-4(9); 150B-34; 150B-34(b);*  
*Eff. February 1, 1976;*  
*Amended Eff. February 1, 1985;*  
*Repealed Eff. July 1, 1988.*

**25 NCAC 01B .0340      DEPOSITIONS**

*History Note:*    *Authority G.S. 126-4; 150A-28;*  
*Eff. December 1, 1978;*  
*Repealed Eff. February 1, 1985.*

**25 NCAC 01B .0341      GENERAL PRINCIPLES GOVERNING DISCOVERY**

*History Note:*    *Legislative Objection Lodged Eff. April 5, 1983; Authority G.S. 126-4; 150B-28;*  
*Eff. December 1, 1978;*  
*Amended Eff. April 1, 1983;*  
*Curative Amended Eff. May 12, 1983;*  
*Repealed Eff. July 1, 1988.*



**25 NCAC 01B .0342 INTERROGATORIES TO PARTIES**  
**25 NCAC 01B .0343 PRODUCTION OF DOCUMENTS AND THINGS FOR INSPECTION**  
**25 NCAC 01B .0344 FAILURE TO MAKE DISCOVERY: SANCTIONS**

*History Note:* Authority G.S. 126-4; 150A-28;  
Eff. December 1, 1978;  
Repealed Eff. April 1, 1983.

**25 NCAC 01B .0345 REQUEST FOR CONTINUANCE**

*History Note:* Authority G.S. 126-4(9);  
Eff. August 1, 1980;  
Repealed Eff. July 1, 1988.

**25 NCAC 01B .0346 REQUIREMENT OF FACTUAL DISPUTE**  
**25 NCAC 01B .0347 NOTIFICATION OF WITNESSES**  
**25 NCAC 01B .0348 AVAILABILITY OF STATE EMPLOYEES TO TESTIFY**  
**25 NCAC 01B .0349 HEARING OFFICER'S AUTHORITY TO RECOMMEND DISMISSAL**

*History Note:* Authority G.S. 126-4(9); 126-37;  
Eff. February 1, 1985;  
Repealed Eff. July 1, 1988.

**25 NCAC 01B .0350 TIME FRAME FOR RAISING ALLEGATION OF DISCRIMINATION**

For cases arising before August 21, 2013, allegations of discrimination based on G.S. 126-16, G.S. 126-36, and G.S. 126-36.1 shall be raised within 30 days, either in a direct appeal to the Office of Administrative Hearings or within the departmental grievance procedure, of the date of the action that is alleged to be discriminatory. Failure to raise such an allegation within 30 days shall be cause to have such allegation dismissed.

*History Note:* Authority G.S. 126-4; 126-34.01; 126-34.02; 126-38;  
Eff. February 1, 1985;  
Temporary Amendment Eff. May 23, 2014;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014;  
Amended Eff. April 1, 2015.

**25 NCAC 01B .0351 COMPUTATION OF TIME**  
**25 NCAC 01B .0352 FILING OF PAPERS WITH STATE PERSONNEL**  
**25 NCAC 01B .0353 RESOLUTION OF GRIEVANCES WITHOUT HEARING**

*History Note:* Authority G.S. 126-4(9); 150B-2(2);  
Eff. February 1, 1985;  
Repealed Eff. July 1, 1988.

**SECTION .0400 - APPEAL TO COMMISSION**

**25 NCAC 01B .0401 APPEAL**  
**25 NCAC 01B .0402 WHEN APPEAL ALLOWED**

*History Note:* Authority G.S. 126-4(9); 150A-34(a); 150B, Article 3;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1989; August 1, 1980;  
Repealed Eff. September 1, 1991.

<b>25 NCAC 01B .0403</b>	<b>DECISION BY COMMISSION</b>
<b>25 NCAC 01B .0404</b>	<b>COMMISSION NOTIFICATION</b>
<b>25 NCAC 01B .0405</b>	<b>QUORUM</b>
<b>25 NCAC 01B .0406</b>	<b>BINDING DECISIONS</b>
<b>25 NCAC 01B .0407</b>	<b>OFFICIAL RECORD</b>
<b>25 NCAC 01B .0408</b>	<b>COST OF TRANSCRIPTS</b>
<b>25 NCAC 01B .0409</b>	<b>GIVING NOTICE OR FILING PAPERS WITH THE COMMISSION BY MAIL</b>
<b>25 NCAC 01B .0410</b>	<b>SERVICE OF PROCESS AND NOTICE</b>
<b>25 NCAC 01B .0411</b>	<b>COMPUTATION OF TIME</b>

*History Note:* Authority G.S. 126-2(f); 126-4(9); 126-37; 150A-23(c); 150A-37;  
 Eff. February 1, 1976;  
 Repealed Eff. November 1, 1988.

**25 NCAC 01B .0412 ATTORNEY FEES**

*History Note:* Authority G.S. 126-4(11);  
 Eff. February 1, 1976;  
 Amended Eff. November 1, 1977;  
 Repealed Eff. September 1, 1987.

**25 NCAC 01B .0413 EXERCISE OF COMMISSION DISCRETION**

The State Human Resources Commission shall weigh the facts and circumstances in each contested case, including factors of mitigation and justification, in making a decision in a contested case of whether disciplinary action was imposed for just cause.

*History Note:* Authority G.S. 126-4(9);  
 Eff. August 1, 1980;  
 Amended Eff. May 1, 1989;  
 Temporary Amendment Eff. May 23, 2014;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014;  
 Amended Eff. April 1, 2015.

**25 NCAC 01B .0414 SITUATIONS IN WHICH ATTORNEY'S FEES MAY BE AWARDED**  
**25 NCAC 01B .0415 ATTORNEY'S FEES MAY BE AWARDED AS A RESULT OF A SETTLEMENT**

*History Note:* Authority G.S. 126-4(11);  
 Eff. September 1, 1987;  
 Amended Eff. March 1, 1996; July 1, 1989;  
 Temporary Amendment Eff. February 18, 1999;  
 Amended Eff. August 1, 2000;  
 Temporary Amendment Eff. May 23, 2014;  
 Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.

<b>25 NCAC 01B .0416</b>	<b>PROVISIONS ON AWARDED ATTORNEY'S FEES</b>
<b>25 NCAC 01B .0417</b>	<b>LIMITATION ON REPRESENTATION</b>
<b>25 NCAC 01B .0418</b>	<b>COSTS AND TRAVEL TIME</b>
<b>25 NCAC 01B .0419</b>	<b>DUAL FEE RATES PERMITTED</b>
<b>25 NCAC 01B .0420</b>	<b>APPEAL/COMMISSION SOLELY/DETERMINE ATTORNEY'S FEE AWARD</b>

*History Note:* Authority G.S. 126-4(11);  
 ARRC Objection July 16, 1987;

*Eff. December 1, 1987;*  
*Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).*

**25 NCAC 01B .0421 BACK PAY**  
**25 NCAC 01B .0422 FRONT PAY**  
**25 NCAC 01B .0423 LEAVE**  
**25 NCAC 01B .0424 HEALTH INSURANCE**

*History Note: Authority G.S. 126-4(9);*  
*Eff. September 1, 1987;*  
*Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.*

**25 NCAC 01B .0425 INTEREST**  
**25 NCAC 01B .0426 CERTAIN REMEDIES NOT AVAILABLE**

*History Note: Authority G.S. 126-4(9); 126-37;*  
*ARRC Objection July 16, 1987;*  
*Eff. December 1, 1987;*  
*ARRC Objection Removed Eff. February 16, 1989;*  
*Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.*

**25 NCAC 01B .0427 VOLUNTARY PROGRAMS OR BENEFITS**  
**25 NCAC 01B .0428 REINSTATEMENT**  
**25 NCAC 01B .0429 RECOMMENDATION OF DISCIPLINARY ACTION**  
**25 NCAC 01B .0430 REMOVAL OF MATERIAL FROM PERSONNEL FILE**  
**25 NCAC 01B .0431 CAUSES FOR REINSTATEMENT**  
**25 NCAC 01B .0432 REMEDIES FOR PROCEDURAL VIOLATIONS**  
**25 NCAC 01B .0433 SUSPENSION WITHOUT PAY**  
**25 NCAC 01B .0434 DISCRIMINATION**

*History Note: Authority G.S. 126-4(6); 126-4(9); 126-16; 126-25 (prior to S.L. 2013-382); 126-35; 126-36; 126-36.1; 126-37; 126-38;*  
*Eff. September 1, 1987;*  
*Amended Eff. March 1, 1996; November 1, 1991;*  
*Temporary Amendment Eff. February 18, 1999;*  
*Amended Eff. August 1, 2000;*  
*Temporary Amendment Eff. May 23, 2014;*  
*Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.*

**25 NCAC 01B .0435 REMEDIES: SALARY ADJUSTMENTS**  
**25 NCAC 01B .0436 SETTLEMENTS/CONSENT AGREEMENTS IN GRIEVANCES, CONTESTED CASES**

*History Note: Authority G.S. 126-4; 126-4(2);*  
*Eff. January 1, 1990;*  
*Amended Eff. July 1, 2012; March 1, 1991;*  
*Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.*

**25 NCAC 01B .0437 STATE HUMAN RESOURCES COMMISSION: PROCEDURES**

*History Note: Authority G.S. 126-4; 150B-36;*  
*Eff. September 1, 1991;*  
*Amended Eff. August 1, 2000; March 1, 1996;*  
*Temporary Amendment Eff. January 1, 2001;*  
*Amended Eff. August 1, 2012; July 18, 2002;*

*Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.*

**25 NCAC 01B .0438 ESTABLISHMENT OF REASONABLE ATTORNEY FEES BY THE COMMISSION**  
**25 NCAC 01B .0439 CONTINUANCES**

*History Note: Authority G.S. 126-4(11); 150B-33(b)(11);  
Eff. March 1, 1996;  
Temporary Amendment Eff. May 11, 2001;  
Amended Eff. August 1, 2012; February 1, 2008; August 1, 2002;  
Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.*

**SUBCHAPTER 01C – PERSONNEL ADMINISTRATION**

**SECTION .0100 - EMPLOYMENT**

**25 NCAC 01C .0101 DUTIES OF THE SECTION**

*History Note: Authority G.S. 126-4; 126-7; 126-8;  
Eff. February 1, 1976;  
Repealed Eff. November 1, 1988.*

**25 NCAC 01C .0102 ORGANIZATION OF SECTION**

*History Note: Authority G.S. 126-3; 143B-11;  
Eff. February 1, 1976;  
Repealed Eff. December 1, 1978.*

**25 NCAC 01C .0103 FORMS USE IN PERSONNEL ADMINISTRATION**

*History Note: Authority G.S. 126-4; 150B-11(1);  
Eff. February 1, 1976;  
Repealed Eff. November 1, 1988.*

**SECTION .0200 - GENERAL EMPLOYMENT POLICIES**

**25 NCAC 01C .0201 SCOPE AND AUTHORITY**

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.*

**25 NCAC 01C .0202 EQUAL EMPLOYMENT OPPORTUNITY**

*History Note: Authority G.S. 126-4; 126-5(c)(1)-(4); 126-16; 126-36; 168A-5(b)(3); P.L. 92-261, March 24, 1972;  
S.L. 2013-382, s. 7.1;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; November 1, 1988; July 1, 1988; October 1, 1983; December 1, 1978;  
Temporary Repeal Eff. February 28, 2014;  
Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.*

**25 NCAC 01C .0203 EMPLOYMENT OF RELATIVES**

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

*Eff. February 1, 1976;*  
*Amended Eff. March 1, 1980;*  
*Repealed Eff. October 1, 2004.*

**25 NCAC 01C .0204      COMMITMENTS AND POSITION VACANCY**

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

**25 NCAC 01C .0205      AGE LIMITATIONS: GENERALLY**  
**25 NCAC 01C .0206      LAW ENFORCEMENT OFFICERS**

*History Note:    Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Repealed Eff. July 1, 1977.*

**25 NCAC 01C .0207      MEDICAL EXAMINATIONS**

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

**25 NCAC 01C .0208      RE-EMPLOYMENT OF RETIRED PERSONNEL**

*History Note:    Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Repealed Eff. July 1, 1977.*

**25 NCAC 01C .0209      QUALIFICATIONS**

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

**25 NCAC 01C .0210      POLITICAL ACTIVITIES**

*History Note:    Authority G.S. 126-13; 126-14; 126-15; 5 USCA 1501-1508;*  
*Eff. February 1, 1976;*  
*Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.*

**25 NCAC 01C .0211      PERSONAL PROTECTIVE EQUIPMENT**

*History Note:    Authority G.S. 126-4;*  
*Eff. September 1, 1976;*  
*Amended Eff. January 1, 1990; February 1, 1985; January 9, 1978;*  
*Repealed Eff. July 1, 1995.*

**25 NCAC 01C .0212      INFORMATION ON GROUP INSURANCE PROGRAMS**

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

## **25 NCAC 01C .0213      INFORMATION SOURCES**

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

## **25 NCAC 01C .0214      UNLAWFUL WORKPLACE HARASSMENT**

*History Note:*     *Authority G.S. 126-4; 126-16; 126-17; 126-36; 126-36.1;*  
                          *Eff. December 1, 1980;*  
                          *Amended Eff. November 1, 1988; April 1, 1983;*  
                          *Temporary Amendment Eff. February 18, 1999;*  
                          *Amended Eff. July 18, 2002;*  
                          *Recodified to 25 NCAC 01J .1101 Eff. December 29, 2003.*

## **25 NCAC 01C .0215      EMPLOYMENT CONTRACTS**

(a) Except as to apprenticeship agreements executed according to the provisions of G.S. Chapter 94 and except as to provisions of Paragraph (b) of this Rule, the following provisions apply to employment contracts:

- (1) No employee shall be required, as a condition of employment subject to N.C.G.S. Chapter 126 to enter into a contractual arrangement with any state agency as defined in 25 NCAC 01A .0103 for employment with that agency. No state agency may require, as a condition of employment, that an employee agree, in writing or otherwise, to a minimum specified length of employment.
- (2) No state agency may prohibit, as a condition of initial or continued employment, any employee from transferring to another state agency or university.
- (3) No state agency may require, as a condition of employment, that an employee agree, in writing or otherwise, that a payment be made to the employing agency if a minimum specified period of employment is not met.
- (4) No agency may require the repayment of the cost of job training required by the employing agency as a condition of continued employment.

(b) An agency that provides all or part of the cost of professional development seminars or other educational opportunities to employees that are not a requirement for the job and that are in excess of five thousand dollars (\$5000) may condition the provision of agency funds upon agreement of the employee to repay the funds subject to the following conditions:

- (1) The employee is informed about the repayment provisions in advance,
- (2) The amount of time that the agency expects the employee to remain employed is clearly specified and does not exceed one year,
- (3) The prorated amount that the employee will have to repay for each month the employee leaves prior to the end of the term is specified in the agreement, and
- (4) The terms of the agreement are reduced to writing and the employee and the human resources director both sign the agreement.

*History Note:*     *Authority G.S. 126-4(6);*  
                          *Eff. September 1, 1989;*  
                          *Amended Eff. June 1, 2008; November 1, 1990;*  
                          *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28,*  
                          *2014.*

## **SECTION .0300 – PERSONNEL RECORDS AND REPORTS**

### **25 NCAC 01C .0301      MAINTENANCE OF RECORDS**

*History Note:*     *Authority G.S. 126-4;*  
                          *Eff. February 1, 1976;*  
                          *Amended Eff. October 1, 2004;*  
                          *Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.*

**25 NCAC 01C .0302      MAINTENANCE OF RECORDS OPEN TO PUBLIC INSPECTION**

*History Note:*    Authority G.S. 126-4; 126-23; 126-26;  
                         Eff. February 1, 1976;  
                         Amended Eff. January 1, 1989;  
                         Repealed Eff. October 1, 2004.

**25 NCAC 01C .0303      PUBLIC INSPECTION**  
**25 NCAC 01C .0304      CONFIDENTIAL INFORMATION IN PERSONNEL FILES**

*History Note:*    Authority G.S. 126-23; 126-26; 126-29;  
                         Eff. February 1, 1976;  
                         Amended Eff. May 1, 2008; October 1, 2004; November 1, 1988;  
                         December 1, 1978; October 1, 1977;  
                         Repealed Eff. April 1, 2016.

**25 NCAC 01C .0305      RECORDS OF FORMER EMPLOYEES AND APPLICANTS FOR EMPLOYMENT**

*History Note:*    Authority G.S. 126-22; 126-24; 126-26;  
                         Eff. February 1, 1976;  
                         Amended Eff. November 1, 1988; October 1, 1977;  
                         Repealed Eff. October 1, 2004.

**25 NCAC 01C .0306      REMEDIES OF EMPLOYEES OBJECTING TO MATERIAL IN FILE**

*History Note:*    Authority G.S. 126-25; 126-26;  
                         Eff. February 1, 1976;  
                         Repealed Eff. November 1, 1988.

**25 NCAC 01C .0307      SAFEGUARDING CONFIDENTIAL INFORMATION**

*History Note:*    Authority G.S. 126-23; 126-26;  
                         Eff. February 1, 1976;  
                         Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.

**25 NCAC 01C .0308      PENALTY FOR PERMITTING ACCESS TO CONFIDENTIAL FILE**  
**25 NCAC 01C .0309      PENALTY FOR EXAMINING: COPYING CONFIDENTIAL FILE**

*History Note:*    Authority G.S. 126-24; 126-26; 126-28; 126-37;  
                         Eff. February 1, 1976;  
                         Repealed Eff. November 1, 1988.

**25 NCAC 01C .0310      REPORTS**

*History Note:*    Authority G.S. 126-24; 126-26;  
                         Eff. February 1, 1976;  
                         Amended Eff. November 1, 1988;  
                         Repealed Eff. October 1, 2004.

**25 NCAC 1C .0311      EMPLOYEE OBJECTION TO MATERIAL IN FILE**

*History Note:*    Authority G.S. 126-25;  
                         Temporary Amendment Eff. May 23, 2014;  
                         Repealed Eff. May 1, 2015.

## SECTION .0400 - APPOINTMENT

### 25 NCAC 01C .0401 APPOINTMENT DEFINED

An appointment is the approval or certification of an applicant or employee to perform the duties and responsibilities of an established position subject to the provisions of the State Human Resources Act. The selection and appointment of all personnel into classified state service shall be made by the head of the agency subject to final approval of the State Human Resources Director.

*History Note: Authority G.S. 126-4(6);  
Federal Standards for a Merit System of Personnel Administration;  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

### 25 NCAC 01C .0402 PERMANENT AND TIME-LIMITED APPOINTMENT

- (a) An appointment to an established position shall be a permanent appointment if:
- (1) the requirements of the probationary period have been satisfied in accordance with G.S. 126-1.1, or
  - (2) a time-limited appointment extends beyond three years of continuous employment.
- (b) An appointment to an established position shall be a time-limited appointment if it is an appointment to:
- (1) a permanent position that is vacant due to the incumbent's leave of absence and the replacement employee's services will be needed for a period of one year or less, or
  - (2) a time-limited position. If an employee is retained in a time-limited position beyond three years, the employee shall be designated as having a permanent appointment.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 2004; August 1, 1995; January 1, 1989; June 1, 1983; July 1, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014;  
Amended Eff. April 1, 2017; April 1, 2015.*

### 25 NCAC 01C .0403 TRAINEE APPOINTMENTS

### 25 NCAC 01C .0404 PROBATIONARY APPOINTMENTS

*History Note: Authority G.S. 96-29; 126-1.1; 126-4;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1983; August 1, 1980; January 1, 1979; August 1, 1978;  
Legislative Objection Lodged Eff. June 13, 1983;  
Curative Amended Eff. June 22, 1983;  
Amended Eff. December 1, 1985;  
Temporary Amendment Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988;  
Amended Eff. October 1, 2004; August 1, 1995; March 1, 1988;  
Temporary Amendment Eff. May 23, 2014;  
Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.*

### 25 NCAC 01C .0405 TEMPORARY APPOINTMENT

- (a) A temporary appointment is an appointment to fill a workforce need for a limited period of time. Temporary employees may not be used to permanently expand the workforce beyond authorized levels. Temporary appointments shall not exceed 11 consecutive months, subject to the following exemptions:
- (1) Full-time students, defined as those undergraduate students taking at least 12 credit hours or graduate students taking at least 9 credit hours;
  - (2) Retired employees, defined as those individuals drawing a retirement income or Social Security benefits and having signed a statement that they are not available for, nor seeking, permanent employment;



- (3) Inmates that are on a work-release program;
  - (4) Interns, defined as those students who, regardless of the number of credit hours enrolled, work to gain occupational experience for a period of time not to exceed three months; and
  - (5) Externs, defined as those students who, regardless of the number of credit hours enrolled, are employed as part of a written agreement between the State and an academic institution through which the student is paid and earns course credit.
- (b) Employees with a temporary appointment shall not earn or accrue leave or receive total State service credit, retirement credit, severance pay, or priority reemployment consideration.
- (c) This Rule applies to all temporary employees employed by the State.

*History Note:* Authority G.S. 126-4(5); 126-4(6); 126-4(7a); 126-4(19);  
 Eff. February 1, 1976;  
 Amended Eff. August 1, 1995; November 1, 1991; December 1, 1978;  
 Readopted Eff. April 1, 2016;  
 Amended Eff. December 1, 2021.

**25 NCAC 01C .0406 PERMANENT TRAINEE OR TIME-LIMITED PART-TIME**

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. August 1, 1995; June 1, 1983;  
 Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.

**25 NCAC 01C .0407 TEMPORARY PART-TIME APPOINTMENT**

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. August 1, 1995; November 1, 1991; December 1, 1978;  
 Readopted Eff. April 1, 2016;  
 Repealed Eff. December 1, 2021.

**25 NCAC 01C .0408 INTERMITTENT APPOINTMENT**

**25 NCAC 01C .0409 PRE-VOCATIONAL STUDENT APPOINTMENT**

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. August 1, 1995; December 1, 1985, August 1, 1980;  
 Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.

**25 NCAC 01C .0410 OTHER APPOINTMENTS UNDER COMPETITIVE SERVICE**

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. June 1, 1983; August 1, 1980;  
 Repealed Eff. December 1, 1985.

**25 NCAC 01C .0411 TYPES OF APPOINTMENTS PROVIDING PROBATIONARY PERIOD CREDIT**  
**25 NCAC 01C .0412 PERSONNEL CHANGES SUBJECT TO/NOT SUBJECT TO A PROBATIONARY PERIOD**

*History Note:* Authority G.S. 126-1.1; 126-4;  
 Eff. December 1, 1985;  
 Amended Eff. March 1, 1996; June 1, 1994; December 1, 1988;  
 Temporary Amendment Eff. May 23, 2014;  
 Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.

## **25 NCAC 01C .0413 SEASONAL HOURLY**

*History Note: Authority G.S. 126-4;  
Eff. March 1, 1987;  
Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).*

### **SECTION .0500 - WORK SCHEDULE**

#### **25 NCAC 01C .0501 STANDARD WORKWEEK**

The standard workweek for employees subject to the Personnel Act is 40 hours per week. The normal daily work schedule is five days per week, eight hours a day plus a meal period. Other schedules apply to part-time employees and some shift employees; agencies are responsible for determining the appropriate schedules for these employees. Because of the nature of the various state activities, some positions require a workweek other than five days. The normal daily work schedule may not apply to educational, hospital and similar institutions with schedules geared to round-the-clock service.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1992; August 1, 1985; June 1, 1982; May 1, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

#### **25 NCAC 01C .0502 VARIABLE WORK SCHEDULE**

Agencies may choose to utilize a variable work schedule, that allows employees to choose a daily work schedule and meal period which, subject to agency necessities, is most compatible with their personal needs. Supervisors are responsible for arranging operating procedures that are consistent with the needs of the agency and the public it serves, and at the same time can accommodate, as far as possible, the employee's choice of daily work schedules within the established limits. If any adjustments of employee work schedules are necessary, this should be done as fairly and equitably as possible.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1992; August 1, 1985; February 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

#### **25 NCAC 01C .0503 IMPLEMENTATION**

(a) Each new employee shall be given detailed information about the variable work schedule and given the opportunity to select the schedule preferred prior to reporting for work. Work schedules are to be associated with individuals and not with position, with the exception that there may be positions which must be filled on some predetermined schedule. In these exceptional cases, applicants shall be informed of this predetermined schedule prior to any offer and acceptance of employment.

(b) The employee and his/her supervisor shall agree upon the schedule to be followed, consistent with the needs of the agency. The meal period may be scheduled within the normal work hours to meet the needs of the employee and the working unit but may not be used to shorten the workday. A bona fide meal period is a span of at least 30 consecutive minutes during which an employee is completely relieved of duty. It is not counted as hours worked. Any so-called "meal period" of less than 30 consecutive minutes must be considered as hours worked for employees who are non-exempt as defined by the Fair Labor Standards Act.

(c) Each supervisor shall compile a record of the work schedules for all subordinates.

(d) Agency administrators shall be responsible for providing adequate supervision for each work unit during the hours employees are scheduled to work. This can be accomplished by sharing or by delegation of authority of supervisor.

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

*Amended Eff. October 1, 1992; November 1, 1988; August 1, 1985; February 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28,  
2014.*

#### **25 NCAC 01C .0504      LIMITATIONS**

(a) An employee who arrives later than scheduled, may be permitted by his or her supervisor to make up the deficit of working hours by working that much longer at the end of the workday if this is consistent with the work need of the agency. Otherwise, the tardiness shall be charged to the employee's leave in accordance with 25 NCAC 01E .0207. Supervisors shall be responsible for taking action to correct any abuse or misuse of this privilege which may include deductions from the employee's pay or a disciplinary action in accordance with 25 NCAC 01J .0604.

(b) If an employee reports to work early he or she may be permitted by his or her supervisor to begin work at that time and leave at a correspondingly early hour if this is consistent with the work need of the agency. Otherwise, the employee shall wait in a designated area away from the work station.

(c) If an employee leaves work early without permission from his or her supervisor, the time shall be deducted from the employee's pay or may be charged to the employee's leave account.

(d) An employee may not work later than scheduled unless permitted by his or her supervisor if this is consistent with the work need of the agency.

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. October 1, 1992; November 1, 1988; August 1, 1985; February 1, 1983;  
                         Readopted Eff. April 1, 2016.*

#### **25 NCAC 01C .0505      IMPLEMENTATION AND MAINTENANCE**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. February 1, 1983;  
                         Repealed Eff. September 1, 1985.*

#### **25 NCAC 01C .0506      ADVERSE WEATHER CONDITIONS**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. August 1, 1985; December 1, 1978;  
                         Repealed Eff. October 1, 2004.*

#### **25 NCAC 01C .0507      HOURS OF WORK DUE TO TIME CHANGE**

(a) When the time is changed from Eastern Standard Time to Daylight Savings Time, employees working during this interval only work seven hours rather than eight hours. The employees must be held accountable for the hour that no work is performed. The time may be charged to: vacation leave, or the employee may be allowed to make up the time within a reasonable length of time if it can be worked out satisfactorily with the immediate supervisor.

(b) When the time changes from Daylight Savings Time to Eastern Standard Time, employees on duty at this change actually work a nine-hour shift rather than the usual eight-hour shift. The state, under the overtime pay policy, must compensate for this additional hour. In cases where the employees work in excess of 40 hours for the week, this must be compensated for at one and one-half times the regular rate during the pay period.

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. August 1, 1985; February 1, 1983;  
                         Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28,  
                         2014.*

#### **25 NCAC 01C .0508      HOURS OF WORK AND OVERTIME PAY**

*History Note:* Authority G.S. 126-4; 29 USC 201-219;  
Eff. February 1, 1976;  
Repealed Eff. December 1, 1976.

## **25 NCAC 01C .0509 WORK OPTIONS PROGRAM**

*History Note:* Authority G.S. 126-74 through 126-79;  
Eff. December 1, 1981;  
Amended Eff. November 1, 1988; June 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule expired on November 1, 2014.

### **SECTION .0600 - COMPETITIVE SERVICE**

## **25 NCAC 01C .0601 STANDARDS FOR A MERIT SYSTEM OF PERSONNEL ADMINISTRATION**

*History Note:* Authority 42 USC 246(a)(2)(f); 42 USC 246(d)(2)(f); 42 USC 291d(a)(8);  
42 USC 302(a)(5)(A); 42 USC 602(a)(5)(A); 42 USC 705(a)(3)(A);  
42 USC 1202(a)(5)(A); 42 USC 1352(a)(5)(A); 42 USC 1382(a)(5)(A);  
42 USC 1396a(a)(4)(A); 42 USC 2674(b)(7); 42 USC 2684(a)(6);  
87 Stat. 41; 86 Stat. 92; 42 USC 4573(a)(5); 42 USC 503(a)(1) and  
29 USC 49d(b); 50 USC app. 2286(a)(4); 7 CFR 271.1(g); 45 CFR 14.5(b)(3)(i);  
45 CFR 220.49(c); 29 CFR 1902.3(h); 29 USC 35(a)(6); 45 CFR 401.12;  
29 USC 42-1(c)(5); 45 CFR 402.7;  
Eff. February 1, 1976;  
Repealed Eff. October 1, 2006.

## **25 NCAC 01C .0602 POSITIONS UNDER COMPETITIVE SERVICE**

*History Note:* Authority G.S. 126-12; 42 USC 246(a)(2)(f); 42 USC 246(d)(2)(f);  
42 USC 291d(a)(8); 42 USC 302(a)(5)(A); 42 USC 602(a)(5)(A);  
42 USC 705(a)(3)(A); 42 USC 1202(a)(5)(A); 42 USC 1352(a)(5)(A);  
42 USC 1382(a)(5)(A); 42 USC 1396a(a)(4)(A); 42 USC 2674(b)(7);  
42 USC 2684(a)(6); 87 Stat. 41; 86 Stat. 92; 42 USC 4573(a)(5);  
42 USC 503(a)(1) and 29 USC 49d(b); 50 USC app. 2286(a)(4);  
7 CFR 271.1(g); 45 CFR 14.5(b)(3)(i); 45 CFR 220.49(c); 29 CFR 1902.3(h);  
BLS Grant Application Kit, May 1, 1973, Supplemental Assurance No. 15A;  
29 USC 35(a)(6) and 45 CFR 401.12; 29 USC 42-1(c)(5) and 45 CFR 402.7;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1980; March 1, 1979;  
Repealed Eff. January 1, 2004.

### **SECTION .0700 - SECONDARY EMPLOYMENT**

## **25 NCAC 01C .0701 POLICY**

The employment responsibilities to the state are primary for any employee working full-time; any other employment in which that person chooses to engage is secondary. An employee shall have approval from the agency head before engaging in any secondary employment. The purpose of this approval procedure is to determine that the secondary employment does not have an adverse effect on the primary employment and does not create a conflict of interest. The rules in this Section for secondary employment apply to all employment not covered by the policy on Dual Employment in the North Carolina State Budget Manual.

*History Note:* Authority G.S. 126-4;  
Eff. August 1, 1978;  
Amended Eff. October 1, 2004, May 1, 1989;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

#### **25 NCAC 01C .0702 AGENCY RESPONSIBILITY**

- (a) Secondary employment shall not be permitted when it would:
- (1) create either directly or indirectly a conflict of interest with the primary employment;
  - (2) impair in any way the employee's ability to perform all expected duties, to make decisions and carry out in an objective fashion the responsibilities of the employee's position.
- (b) If the secondary employment has any impact on or may create any possibility of conflict with State operations, the Secondary Employment Form must be approved by the State Human Resources Director in conjunction with the Board of Ethics.
- (c) Each agency shall establish its own specific criteria for approval of secondary employment based on work situation needs. Established criteria shall not be inconsistent with 25 NCAC 01C .0701 and .0702.
- (d) Each agency shall use a Secondary Employment Form that is consistent with the model provided by the Office of State Human Resources.

*History Note: Authority G.S. 126-4;  
Eff. August 1, 1978;  
Amended Eff. October 1, 2004, January 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

#### **25 NCAC 01C .0703 EMPLOYEE RESPONSIBILITY**

- (a) The employee shall complete a Secondary Employment Form for any employment that is not covered by the Dual Employment Policy in the North Carolina State Budget Manual.
- (b) The employee shall update the Secondary Employment Form whenever there is any change in status or annually whichever occurs first.

*History Note Authority G.S. 126-4;  
Eff. October 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

### **SECTION .0800 -- REQUIREMENTS FOR TELEWORKING PROGRAMS**

#### **25 NCAC 01C .0801 PURPOSE**

Teleworking allows agencies to designate employees to work at alternate work locations for all or part of the workweek in order to promote general work efficiencies.

*History Note: Authority G.S. 126-4; S.L. 1999-328;  
Temporary Adoption Eff. January 19, 2000;  
Temporary Adoption Expired on November 11, 2000;  
Eff. April 1, 2001;  
Amended Eff. October 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

#### **25 NCAC 01C .0802 COVERED EMPLOYEES**

Teleworking is available as a work option in every agency for full time and part time classified, temporary and time-limited employees. The decision whether to allow a position or an employee to telework is within management discretion and is not appealable to the State Human Resources Commission.

*History Note: Authority G.S. 126-4; S.L. 1999-328;  
Temporary Adoption Eff. January 19, 2000;  
Temporary Adoption Expired on November 11, 2000;*

*Eff. April 1, 2001;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014;*  
*Amended Eff. September 1, 2020.*

**25 NCAC 01C .0803      DEFINITIONS OF TERMS**  
**25 NCAC 01C .0804      OFFICE OF STATE HUMAN RESOURCES RESPONSIBILITIES**  
**25 NCAC 01C .0805      AGENCY DESIGNATES POSITION/EMPLOYER**  
**25 NCAC 01C .0806      CONDITIONS OF EMPLOYMENT**

*History Note:      Authority G.S. 126-4; S.L. 1999-328;*  
*Temporary Adoption Eff. January 19, 2000;*  
*Temporary Adoption Expired on November 11, 2000;*  
*Eff. April 1, 2001;*  
*Amended Eff. October 1, 2004;*  
*Pursuant to G.S. 150B-21.3A, rules expired on November 1, 2014.*

**25 NCAC 01C .0807      DESIGNATION OF AN AGENCY TELEWORKING COORDINATOR**  
**25 NCAC 01C .0808      DESIGNATION OF EMPLOYEES FOR TELEWORK ARRANGEMENT**  
**25 NCAC 01C .0809      DESIGNATION OF EMPLOYEES FOR TELEWORK ARRANGEMENT**  
**25 NCAC 01C .0810      DESIGNATION OF EMPLOYEES FOR TELEWORK ARRANGEMENT**

*History Note:      Authority G.S. 126-4; S.L. 1999-328;*  
*Temporary Adoption Eff. January 19, 2000;*  
*Temporary Adoption Expired on November 11, 2000.*

**25 NCAC 01C .0811      DESIGNATION OF TERMS OF TELEWORKING ARRANGEMENTS**

*History Note:      Authority G.S. 126-4; S.L. 1999-328;*  
*Temporary Adoption Eff. January 19, 2000;*  
*Temporary Adoption Expired on November 11, 2000;*  
*Eff. July 18, 2002;*  
*Pursuant to G.S. 150B-21.3A, rule expired on November 1, 2014.*

**25 NCAC 01C .0812      DESIGNATION OF TERMS OF TELEWORKING ARRANGEMENTS**

*History Note:      Authority G.S. 126-4; S.L. 1999-328;*  
*Temporary Adoption Eff. January 19, 2000;*  
*Temporary Adoption Expired on November 11, 2000.*

**25 NCAC 01C .0813      TERMINATION OF TELEWORKING ARRANGEMENT**

The agency may terminate the teleworking agreement at its discretion. Termination of a teleworking arrangement by management is not grievable to the State Human Resources Commission under personnel policies. All other grievable rights shall be set forth in the agency policy.

*History Note:      Authority G.S. 126-4; S.L. 1999-328;*  
*Temporary Adoption Eff. January 19, 2000;*  
*Temporary Adoption Expired on November 11, 2000;*  
*Eff. July 18, 2002;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

## **SECTION .0900 - EMPLOYEE RECOGNITION PROGRAMS**

**25 NCAC 01C .0901      STATE HUMAN RESOURCES RESPONSIBILITY**

The Office of State Human Resources shall establish Employee Recognition Programs. Agencies shall establish and maintain employee recognition programs that, at a minimum, recognize employee excellence, years of dedicated service, and other employee recognition. Agencies shall develop a plan for employee recognition programs that includes administration in an equitable manner and incorporates how the program will be communicated to employees statewide.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1995;  
Recodified from 25 NCAC 01J .0401 Eff. December 29, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

**25 NCAC 01C .0902 AGENCY RESPONSIBILITY**  
**25 NCAC 01C .0903 ELIGIBILITY REQUIREMENTS**

*History Note:* Authority G.S. 126-4(10);  
Eff. February 1, 1976;  
Amended Eff. July 1, 1983;  
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
Amended Eff. December 1, 1995; May 1, 1989; March 1, 1989;  
Rule .0902 was recodified from 25 NCAC 01J .0404 Eff. December 29, 2003;  
Rule .0903 was recodified from 25 NCAC 01J .0406 Eff. December 29, 2003;  
Amended Eff. October 1, 2006;  
Repealed Eff. April 1, 2016.

**SECTION .1000 - SEPARATION**

**25 NCAC 01C .1001 DEFINED**

Separation from state service occurs when an employee leaves the payroll for reasons listed in this Section or upon death. Policies stated in this Section, except for leave provisions, do not apply to employees in positions designated exempt pursuant to G.S. 126-5(c).

*History Note:* Authority G.S. 126-4; 126-5(c);  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989; October 1, 1977;  
Recodified from 25 NCAC 01D .0501 Eff. December 29, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

**25 NCAC 01C .1002 RESIGNATION**

An employee may terminate his services with the state by submitting a resignation to the appointing authority. Employees shall be paid in a lump sum for accumulated vacation leave.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Recodified from 25 NCAC 01D .0502 Eff. December 29, 2003;  
Amended Eff. October 1, 2004, November 1, 1988; February 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

**25 NCAC 01C .1003 RETIREMENT**

An employee may retire when he is eligible and applies for immediate retirement benefits from the Teachers' and State Employees' Retirement System or the Law Enforcement Officers' Benefit and Retirement Fund. Employees are paid in a lump sum for accumulated vacation leave.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1988; February 1, 1983;  
Recodified from 25 NCAC 01D .0503 Eff. December 29, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

#### **25 NCAC 01C .1004 REDUCTION IN FORCE**

(a) A State government agency may separate an employee whenever it is necessary due to shortage of funds or work, abolishment of a position, or other material change in duties or organization. Retention of employees in classes affected shall be based on systematic consideration of all the following factors: type of appointment, relative efficiency, actual or potential adverse impact on the diversity of the workforce, and length of service. No temporary or probationary State employee as defined in G.S. 126-1.1 shall be retained where an employee with a permanent appointment shall be separated in the same or related class.

(b) Agency Responsibilities:

- (1) Each agency shall develop written guidelines for reduction in force that meets its particular needs with potential reductions being considered on a fair and systematic basis in accordance with factors listed in Paragraph (a) of this Rule. Each agency's guidelines shall be reviewed and approved by the Office of State Human Resources and filed with the Office of State Human Resources as a public record; and
- (2) The employing agency shall notify the employee in writing of separation as soon as possible and in any case not less than 30 calendar days prior to the effective date of separation. The written notification shall include the reasons for the reduction in force, expected date of separation, the employee's eligibility for priority reemployment consideration, applicable appeal rights, and other benefits described in the agency's reduction in force guidelines.

(c) Appeals: An employee may appeal the reduction in force separation in accordance with 25 NCAC 01H .0901.

(d) The agency shall analyze any application of its reduction in force guidelines to determine its impact on equal employment opportunity in accordance with the Equal Employment Opportunities Commission's (EEOC) Uniform Guidelines on Employee Selection Procedures in the code of federal regulations at 29 C.F.R. part 1607, section 6A, which is hereby incorporated by reference including any subsequent amendments and editions. These guidelines are available for free on the EEOC website at <http://www.eeoc.gov/laws/regulations/index.cfm>.

(e) Severance salary continuation shall be administered in accordance with 25 NCAC 01D .2700.

*History Note:* Authority G.S. 126-4(2);  
Eff. February 1, 1976;  
Amended Eff. May 1, 1980; January 1, 1980;  
Emergency Amendment (a) Eff. March 16, 1981 for a Period of 77 Days to Expire on June 1, 1981;  
Emergency Amendment (a) Made Permanent with Change Eff. April 8, 1981;  
Amended Eff. December 1, 1995; March 1, 1994; November 1, 1990; March 1, 1987;  
Recodified from 25 NCAC 01D .0504 Eff. December 29, 2003;  
Amended Eff. October 1, 2009; March 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014;  
Amended Eff. April 1, 2017; April 1, 2015.

#### **25 NCAC 01C .1005 DISMISSAL**

Dismissal is involuntary separation for cause and should be made in accordance with the provisions of the policy on disciplinary action, suspension and dismissal (see 25 NCAC 01J, Section .0600, DISCIPLINARY ACTION: SUSPENSION AND DISMISSAL). Employees who are dismissed are paid in a lump sum for accumulated annual leave.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989;  
Recodified from 25 NCAC 01D .0505 Eff. December 29, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.



## **25 NCAC 01C .1006 VOLUNTARY RESIGNATION WITHOUT NOTICE**

An employee who is absent from work and does not contact the employer for three consecutive scheduled workdays may be separated from employment as a voluntary resignation. The separation creates no right of grievance or appeal pursuant to the State Human Resources Act (G.S. Chapter 126). A factor to be considered when determining whether the employee should be deemed to have voluntarily resigned is the employee's culpability in failing to contact his or her employer.

*History Note: Authority G.S. 126-4(7a);  
Eff. November 1, 1989;  
Recodified from 25 NCAC 01D .0518 Eff. December 29, 2003;  
Amended Eff. September 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

## **25 NCAC 01C .1007 SEPARATION**

(a) An employee may be separated when:

- (1) the employee is unavailable for work, meaning that all applicable leave credits and leave benefits have been exhausted and agency management does not grant leave without pay, as defined in 25 NCAC 01E .1101, the employee is unable to return to all of the position's essential duties as set forth in the employee's job description or designated work schedule due to a medical condition or the vagueness of a medical prognosis, and the employee and agency are unable to reach agreement on a return to work arrangement that meets both the needs of the agency and the employee's condition;
- (2) notwithstanding any unexhausted applicable leave credits and leave benefits, the employee is unable to return to all of the position's essential duties as set forth in the employee's job description or designated work schedule due to a court order, due to a loss of required credentials, due to a loss of other required certification, or due to other extenuating circumstances that render the employee unable to perform the position's essential duties as set forth in the employee's job description or designated work schedule, and the employee and the agency are unable to reach agreement on a return to work arrangement that meets both the needs of the agency and the employee's situation; or
- (3) notwithstanding any unexhausted applicable leave credits and leave benefits, when an employee is on workers' compensation leave of absence, or when an employee is working with temporary or permanent work restrictions due to a work-related injury, and the employee is unable to return to all of the position's essential duties as set forth in the employee's job description or designated work schedule due to a medical condition or the vagueness of a medical prognosis, and the employee and the agency are unable to reach agreement on a return to work arrangement that meets both the needs of the agency and the employee's medical condition, a separation may occur on the earliest of the following dates:
  - (A) after the employee has reached maximum medical improvement for the work related injury for which the employee is on workers' compensation leave of absence and the agency is unable to accommodate the employee's permanent work restrictions related to such injury; or
  - (B) 12 months after the date of the employee's work related injury.

(b) The employing agency shall send the employee written notice of the proposed separation in a Pre-Separation Letter. The letter shall include the employing agency's planned date of separation, the efforts undertaken to avoid separation, and why the efforts were unsuccessful. This letter shall be sent to the employee at least 15 calendar days prior to the employing agency's planned date of separation. This letter shall include a deadline for the employee to respond in writing no less than five calendar days prior to the employing agency's planned date of separation.

(c) If the agency and employee are unable to agree on terms of continued employment or the employee does not respond to the Pre-Separation Letter, the employing agency shall send the employee written notice in a Letter of Separation. The letter shall be sent no earlier than 20 calendar days after the Pre-Separation Letter is sent to the employee. The Letter of Separation shall state the actual date of separation, specific reasons for the separation, and set forth the employee's right of appeal. Such a separation shall not be considered a disciplinary dismissal as described in G.S. 126-34.02 or G.S. 126-35. It is an involuntary separation and may be grieved or appealed. The burden of proof on the agency in the event of a grievance is not to demonstrate just cause as that term exists in G.S. 126-34.02 or G.S. 126-35. Rather, the agency's burden shall only be to prove that the employee was unavailable.

(d) "Applicable leave credits and benefits" is defined as the sick, vacation, bonus, incentive, and compensatory leave that the employee may earn, but does not include short-term or long-term disability.

*History Note:* Authority G.S. 126-4(7a); 126-34.02;  
Eff. November 1, 1989;  
Recodified from 25 NCAC 01D .0519 Eff. December 29, 2003;  
Amended Eff. April 1, 2015; January 1, 2007; October 1, 2004;  
Readopted Eff. April 1, 2016;  
Amended Eff. July 1, 2023.

#### **25 NCAC 01C .1008 APPOINTMENT ENDED**

An "Appointment Ended" separation occurs when an employee who is exempt pursuant to G.S. 126-5 is separated for reasons other than cause. These separations may occur whenever the Agency Head or the Governor determines that the services of the employee are no longer needed.

*History Note:* Authority G.S. 126-4; 126-5;  
Eff. March 1, 1996;  
Recodified from 25 NCAC 01D .0520 Eff. December 29, 2003;  
Amended Eff. October 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

#### **25 NCAC 01C .1009 SEPARATION: PAYMENT OF VACATION LEAVE**

Payment for vacation leave shall be in accordance with 25 NCAC 01E .0210.

*History Note:* Authority G.S. 28A-25-6; 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1989, December 1, 1988, January 1, 1983;  
Temporary Amendment Eff. January 1, 1989, for a Period of 180 Days to Expire June 29, 1989;  
Amended Eff. July 1, 1995;  
Recodified from 25 NCAC 01E .0210 Eff. December 29, 2003;  
Amended Eff. December 1, 2008; October 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

### **SUBCHAPTER 01D - COMPENSATION**

#### **SECTION .0100 - ADMINISTRATION OF THE PAY PLAN**

##### **25 NCAC 01D .0101 COMPENSATION PLAN**

The State Human Resources Commission shall maintain a compensation plan by providing a salary rate structure or structures adequate to appropriately compensate all positions subject to the State Human Resources Act. This structure or structures may be revised in response to labor market trends and to legislative actions affecting salaries; provided that such action is dependent on the availability of funds. "Appropriate compensation" shall mean compensation that encourages exceptional performance and maintains labor market competitiveness within the limits of financial resources.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;  
Amended Eff. April 1, 2017.

## **25 NCAC 01D .0102 SALARY STRUCTURES**

(a) The salary structures in the compensation plan maintained pursuant to Rule .0101 of this Section shall include all positions subject to the State Human Resources Act. Each such position shall be assigned to a pay grade with an associated salary range based on similar employment in the defined labor market. Each pay grade shall be assigned a minimum, midpoint, and maximum salary rate that is competitive with rates in the external labor market, consistent with the state's ability to pay and the hierarchy within state government employment. The minimum and maximum salary rates shall be the lowest and highest salary rates paid for a job assigned to that pay grade.

(b) Based on labor market demands, salary rates for some classifications may be approved above the standard rates. When a higher salary range (i.e., both the minimums and maximums are raised) is needed to recruit employees to certain areas of the state, the higher range(s) will be known as geographic differentials. When only the entry rates (and not the maximums) need to be higher, the higher rates will be known as special entry rates. Special entry rates may be approved on a geographic basis also.

(c) When geographic differentials are in effect, all salary administration policies are applied as if the classification were at the higher grade. Provisions for applying special entry rates are included in each policy.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;  
Amended Eff. April 1, 2017.*

## **25 NCAC 01D .0103 STATE SALARY SCHEDULE**

*History Note: Authority G.S. 126-4(2); 150B-14(c);  
Eff. September 1, 1976;  
Amended Eff. January 1, 1990; October 1, 1984; June 1, 1984; September 1, 1983;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

## **25 NCAC 01D .0104 APPENDICES TO STATE SALARY SCHEDULE**

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1983; October 1, 1983; September 1, 1983; August 1, 1983;  
Repealed Eff. December 1, 1984.*

## **25 NCAC 01D .0105 PAY STATUS**

(a) An employee shall be deemed to be in pay status when working, when on paid leave, when exhausting vacation or sick leave, or when on workers' compensation leave. Lump sum payment of vacation leave upon separation shall not constitute paid leave status.

(b) An employee shall not be deemed to be in pay status after the last day of work if separated because of resignation, dismissal, death, retirement, reduction in force, or in accordance with any rule.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1983; July 1, 1983;  
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
Amended Eff. March 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;  
Amended Eff. April 1, 2017.*

## **25 NCAC 01D .0106 TOTAL COMPENSATION AND TOTAL EMPLOYMENT**

An employee being paid for full-time employment shall not receive additional compensation for additional work performed for the state except as provided under the dual employment policy and under the overtime policies. Under the

dual employment policy, an agency may secure the services of an employee in another agency on a part-time, consulting or contractual basis when the demand for an employee with special skills and abilities is required for efficient operation of a program.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

#### **25 NCAC 01D .0107 CROSS HIRING**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. July 1, 2012.

#### **25 NCAC 01D .0108 AVAILABILITY OF FUNDS**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. January 1, 1990.

#### **25 NCAC 01D .0109 COMPENSATION FOR POSITIONS EXEMPT EXCEPT AS TO SALARY**

*History Note:* Authority G.S. 126-4; 126-5(b)(3);  
Eff. July 1, 1977;  
Repealed Eff. October 1, 1977.

#### **25 NCAC 01D .0110 POLICY**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1985;  
Repealed Eff. March 1, 1988.

#### **25 NCAC 01D .0111 TECHNICAL ADJUSTMENTS TO THE PAY PLAN**

(a) Technical adjustments to the pay plan are refinements to the pay system approved by the State Human Resources Commission that include, but are not limited to, such actions as establishing special pay plans, renumbering salary ranges, changing the length of salary ranges, and adding or deleting salary ranges. This type of change is not directly related to current labor market fluctuations, and therefore is not defined as a Salary Range Revision. Neither are technical changes related to position classification changes, and therefore are not Reallocations.

(b) Technical adjustments to the pay plan do not create entitlement or authorization to change individual employee salaries.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

#### **25 NCAC 01D .0112 TOTAL STATE SERVICE DEFINED**

(a) Total state service shall mean the time of full-time or part-time (half-time or over) employment of an employee with a permanent, probationary, or time-limited appointment, whether subject to or exempt from the State Human Resources Act. If an employee is in pay status, on authorized military leave in accordance with 25 NCAC 01E .0800, or on workers' compensation leave for at least one-half of the regularly scheduled workdays and holidays in a pay period, credit toward total state service shall be given for the entire pay period.

(b) If an employee's work schedule is less than 12 months and the employee works all the months scheduled, such as a school year, credit toward total state service shall be given for the full year; however, if the employee works less than the scheduled time, credit toward total state service shall be given on a month-for-month basis for the actual months worked.

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

- (1) Employment with other governmental units which are now North Carolina State agencies, such as county highway maintenance forces, War Manpower Commission, and judicial system;
- (2) Employment with the North Carolina county agricultural extension service;
- (3) Employment with the Community College system and the public school system of North Carolina;
- (4) Employment with a local mental health, public health, social services, or emergency management agency in North Carolina if such employment is subject to the State Human Resources Act; and
- (5) Employment with the General Assembly of North Carolina, except for participants in the Legislative Intern Program and pages, including all of the time, both permanent and temporary, of the employees and the full legislative terms of the members.

*History Note:* Authority G.S. 126-4(5),(10);  
Eff. February 1, 1976;  
Amended Eff. July 1, 1983;  
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Amended Eff. August 1, 1995; July 1, 1989; March 1, 1989;  
Recodified from 25 NCAC 01D .1204(g) Eff. December 29, 2003;  
Amended Eff. August 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;  
Amended Eff. April 1, 2017.

#### **25 NCAC 01D .0113 PAYMENT OF SALARY TO EMPLOYEES**

(a) Every state agency shall pay every employee all wages earned and accruing to that employee on the regular payday for that agency. If the date of separation precludes payment on the regularly scheduled payday, then payment shall be made as soon as possible, but not later than the next scheduled payday. This Rule shall not be construed to require agencies to compensate FLSA exempt employees for compensatory time earned and accrued in accordance with 25 NCAC 1E .1006.

(b) Employees who separate from employment with the state shall be paid all salary due no later than the next scheduled payday. If the date of separation precludes payment on that date, then payment shall be made in accordance with Rule .2201 of this Section.

(c) No money shall be withheld from a final payment to a separated employee except for reasons set forth in this Rule or as otherwise provided for by law or the rules of the Office of State Budget.

(d) The employing agency may withhold money from a final salary payment to a separated employee to recover the cost of state property, equipment, uniforms, tools or other items owned by the state and not returned to the employing agency by the separated employee.

(e) The employing agency shall withhold money from a final salary payment to a separated employee to pay for overdrawn vacation or sick leave or other financial obligation to the employing agency arising out of the employment relationship outstanding at the time of the employee's separation.

(f) Failure by the separated employee to perform one or more job responsibilities or other work-related acts prior to separation shall not be cause for withholding of any salary due to the employee at separation.

(g) An employee shall be notified in advance in writing of any deductions to be made from his final payment of salary pursuant to this Rule. The notice shall specify what amounts are being deducted, and the reasons for the deductions.

(h) Provisions of this Section shall be posted prominently at least in every agency and university personnel office and elsewhere as the employing agency deems necessary.

*History Note:* Authority G.S. 126-4(10);  
Eff. November 1, 1989;  
Recodified from 25 NCAC 01D .2201-.2203 Eff. December 29, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

#### **25 NCAC 01D .0114 BREAK IN SERVICE**

A break in service shall be deemed to occur when an employee is not in pay status, as defined in 25 NCAC 01D .0105, for more than 31 calendar days. Periods of leave without pay, as defined in 25 NCAC 01E .1100, shall not constitute a break in service.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
Amended Eff. March 1, 1989;  
Recodified from 25 NCAC 01D .1003 Eff. December 29, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;  
Amended Eff. April 1, 2017.*

#### **25 NCAC 01D .0115 SUPPLEMENTAL SALARY**

(a) Supplemental salary is any compensation from an affiliated public charity, foundation or other private source paid to a state employee for services that are part of the employee's regular job and is in addition to the employee's base salary paid by the state and any other compensation authorized by this Chapter.

(b) Receipt of supplements shall be subject to the approval of the agency head with final approval by the State Human Resources Commission. Requests shall be submitted to the Office of State Human Resources and shall include documentation of relevant labor market information and any other information that the agency head believes justifies a salary supplement. The documentation shall also include why the payment of the supplement will not result in any conflict of interest. In the absence of a conflict of interest, the State Human Resources Commission shall base its decision on documented labor market information submitted by the agency and any additional information of prevailing practices in the applicable labor market supplied by the Office of State Human Resources.

(c) Salary supplements in existence on the effective date of this Rule shall be submitted for review and approval within 90 days.

(d) Any proposed changes in the amount of a salary supplement shall be resubmitted to the Office of State Human Resources with documented labor market information and shall be subject to final approval by the State Human Resources Commission. The State Human Resources Commission shall base its decision on documented labor market information submitted by the agency and any additional information of prevailing practices in the applicable labor market supplied by the Office of State Human Resources.

*History Note: Authority G.S. 126-4;  
Eff. September 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

#### **25 NCAC 01D .0116 SIGN-ON BONUS**

*History Note: Authority G.S. 126-4; S.L. 2008-107, s. 26.12B.(a);  
Eff. March 1, 2009;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

### **SECTION .0200 - EMPLOYEE SUGGESTION SYSTEM**

#### **25 NCAC 01D .0201 INITIAL EMPLOYMENT**

(a) A new hire is the initial employment of an individual to a position in State government. A new hire shall possess the minimum-qualifications for the position, or their equivalent, as set forth in the class specification. A new hire shall begin work on any scheduled workday in a pay period. When the first day of a pay period does not fall on a workday and the new hire begins work on the first workday of a pay period, the date to begin work shall be shown as the first day of the pay period.

(b) An employee entering into state service in a permanent or time-limited position shall be given a probationary appointment in accordance with G.S. 126-1.1. The probationary appointment period shall serve as an extension of the selection process to determine whether the person meets satisfactory performance standards for the work for which

employed. The employee shall earn all the benefits of an employee with a permanent appointment during this probationary period.

(c) The conditions of the probationary appointment shall be conveyed to the applicant prior to appointment. During the probationary period, the supervisor shall work with the employee in coaching and assisting the employee to achieve a satisfactory performance level; progress of the employee shall be reviewed during documented feedback discussions between the employee and the supervisor in accordance with 25 NCAC 01O .0207.

(d) Following the probationary period, the employee shall be given a permanent appointment when the supervisor, in consultation with other appropriate administrators, determines the employee's performance indicated capability to become a satisfactory performer and merits retention in the position. If the employee's performance indicates that the employee is not suited for the position and does not meet acceptable performance standards, the employee shall be separated from that position. Employees may be separated during a probationary appointment for causes related to performance of duties or unacceptable personal conduct.

*History Note:* Authority G.S. 126-1.1; 126-4; 126-34.01; 126-34.02;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1995; December 1, 1988; January 1, 1979; December 1, 1978;  
Temporary Amendment Eff. May 23, 2014;  
Amended Eff. April 1, 2015;  
Readopted Eff. April 1, 2017.

**25 NCAC 01D .0202      HIRING RATE**  
**25 NCAC 01D .0203      JUSTIFICATION**  
**25 NCAC 01D .0204      TEMPORARY OR PART-TIME EMPLOYEES**

*History Note:* Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989; March 1, 1989; November 1, 1988; June 1, 1983;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .0205      EFFECTIVE DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Amended Eff. August 1, 1995; March 1, 1994; March 1, 1989;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .0206      PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1982; July 1, 1980; August 1, 1978;  
Repealed Eff. March 1, 1989.

**25 NCAC 01D .0207      QUALIFICATIONS**  
**25 NCAC 01D .0208      TRAINEE APPOINTMENTS**  
**25 NCAC 01D .0209      TRAINEE SALARIES**  
**25 NCAC 01D .0210      TRAINEE SALARY ADJUSTMENTS**

*History Note:* Authority G.S. 126-4;  
Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;

*Eff. February 1, 1976;*  
*Amended Eff. August 1, 1995; January 1, 1990; March 1, 1989; January 1, 1989; July 1, 1980;*  
*August 1, 1978;*  
*Expired Eff. January 1, 2016 pursuant to G.S. 150B 21.3A.*

**25 NCAC 01D .0211 SALARY RATE**  
**25 NCAC 01D .0212 JUSTIFICATION**  
**25 NCAC 01D .0213 TEMPORARY AND PART-TIME EMPLOYEES**

*History Note: Authority G.S. 126-4; 126-4(2);*  
*Eff. January 1, 1990;*  
*Amended Eff. August 1, 1995; March 1, 1994; September 1, 1991; January 1, 1991;*  
*Expired Eff. January 1, 2016 pursuant to G.S. 150B 21.3A.*

**SECTION .0300 - PROMOTION**

**25 NCAC 01D .0301 PROMOTION**

(a) Promotion is an advancement from one position to another with a higher pay grade as described in 25 NCAC 01D .0102, within the same pay plan, or an advancement from one position to another with a higher market rate in a different pay plan. For a promotion, an employee shall possess at least the minimum qualifications for the position, or their equivalent, as set forth in the class specification. "Market rate" means the average market value for a particular job.  
(b) When it is practical and feasible, a vacancy shall be filled from among eligible employees; a vacancy shall be filled by an applying employee if required by 25 NCAC 01H .0801.

*History Note: Authority G.S. 126-4; 126-7.1;*  
*Eff. February 1, 1976;*  
*Amended Eff. December 1, 1993; July 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20,*  
*2015;*  
*Amended Eff. April 1, 2017.*

**25 NCAC 01D .0302 SALARY RATE**

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. July 1, 1989; January 1, 1989; December 1, 1984; April 1, 1984;*  
*Repealed Eff. January 1, 1990.*

**25 NCAC 01D .0303 EFFECTIVE DATE OF PROMOTIONS FOR GRADED POSITIONS**

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. July 1, 2012; March 1, 1992; July 1, 1990; January 1, 1990; December 1, 1983;*  
*Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01D .0304 PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. December 1, 1983; December 1, 1980; July 1, 1980; December 1, 1978;*  
*Repealed Eff. January 1, 1990.*

**25 NCAC 01D .0305 QUALIFICATIONS**

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



*Eff. February 1, 1976;*  
*Amended Eff. December 1, 1985; December 1, 1983; January 1, 1979; October 1, 1977;*  
*Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01D .0306      NON-COMPETITIVE PROMOTION UNDER COMPETITIVE SERVICE**  
**25 NCAC 01D .0307      PROMOTION DURING PROBATIONARY OR TRAINEE PERIOD**

*History Note:      Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. June 1, 1983; January 1, 1979; December 1, 1978;*  
*Repealed Eff. December 1, 1985.*

**25 NCAC 01D .0308      SALARY INCREASES FOR PROMOTIONS FOR GRADED POSITIONS**

*History Note:      Authority G.S. 126-4;*  
*Eff. January 1, 1990;*  
*Amended Eff. July 1, 2012; March 1, 1992; September 1, 1991; July 1, 1990;*  
*Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**SECTION .0400 - DEMOTION OR REASSIGNMENT**

**25 NCAC 01D .0401      DEMOTION AND REASSIGNMENT**

(a) Demotion shall mean an assignment to a position with a lower pay grade or a salary reduction in an employee's current position, caused by unsatisfactory performance or a disciplinary action in accordance with 25 NCAC 01J .0604. A career state employee, as defined in G.S. 126-1.1, shall have the right to appeal a demotion through their agency's internal grievance procedure.

(b) Reassignment shall mean an assignment to a position with a lower pay grade within the same pay plan or a lower market rate, as defined in 25 NCAC 01D .0301, if assigned to a different pay plan, resulting from a mutual agreement between the employee and employer. A reassignment shall not be deemed the result of disciplinary action.

*History Note:      Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. December 1, 1995; March 1, 1994;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20,*  
*2015;*  
*Amended Eff. April 1, 2017.*

**25 NCAC 01D .0402      SALARY RATE**

*History Note:      Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. December 1, 1978; April 1, 1978; August 1, 1977;*  
*Repealed Eff. January 1, 1990.*

**25 NCAC 01D .0403      EFFECTIVE DATE**

*History Note:      Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. March 1, 1994;*  
*Repealed Eff. July 1, 2012.*

**25 NCAC 01D .0404      PERFORMANCE INCREASE ANNIVERSARY DATE**

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

*Amended Eff. July 1, 1980; December 1, 1978;  
Repealed Eff. January 1, 1990.*

**25 NCAC 01D .0405      QUALIFICATIONS**

*History Note:    Authority G.S. 126-4;  
                      Eff. February 1, 1976;  
                      Amended Eff. March 1, 1994; December 1, 1985; December 1, 1978;  
                      Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01D .0406      SALARY RATE**

*History Note:    Authority G.S. 126-4;  
                      Eff. January 1, 1990;  
                      Amended Eff. December 1, 1995; July 1, 1990;  
                      Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**SECTION .0500 - SEPARATION**

**25 NCAC 01D .0501      DEFINED**

*History Note:    Authority G.S. 126-4; 126-5(c);  
                      Eff. February 1, 1976;  
                      Amended Eff. May 1, 1989; October 1, 1977;  
                      Recodified to 25 NCAC 01C .1001 Eff. December 29, 2003.*

**25 NCAC 01D .0502      RESIGNATION**

*History Note:    Authority G.S. 126-4;  
                      Eff. February 1, 1976;  
                      Amended Eff. November 1, 1988; February 1, 1983;  
                      Recodified to 25 NCAC 01C .1002 Eff. December 29, 2003.*

**25 NCAC 01D .0503      RETIREMENT**

*History Note:    Authority G.S. 126-4;  
                      Eff. February 1, 1976;  
                      Amended Eff. November 1, 1988; February 1, 1983;  
                      Recodified to 25 NCAC 01C .1003 Eff. December 29, 2003.*

**25 NCAC 01D .0504      REDUCTION IN FORCE**

*History Note:    Authority G.S. 126-4(2);  
                      Eff. February 1, 1976;  
                      Amended Eff. May 1, 1980; January 1, 1980;  
                      Emergency Amendment (a) Eff. March 16, 1981 for a Period of 77 Days to Expire on June 1, 1981;  
                      Emergency Amendment (a) Made Permanent with Change Eff. April 8, 1981;  
                      Amended Eff. December 1, 1995; March 1, 1994; November 1, 1990; March 1, 1987;  
                      Recodified to 25 NCAC 01C .1004 Eff. December 29, 2003.*

**25 NCAC 01D .0505      DISMISSAL**

*History Note:    Authority G.S. 126-4;  
                      Eff. February 1, 1976;  
                      Amended Eff. January 1, 1989;*

*Recodified to 25 NCAC 01C .1005 Eff. December 29, 2003.*

**25 NCAC 01D .0506 CLOSING OF A STATE INSTITUTION**

*History Note: Authority G.S. 126-4; 143-27.2;  
Eff. July 1, 1979;  
Repealed Eff. October 1, 1984.*

**25 NCAC 01D .0507 PRIORITY REEMPLOYMENT CONSIDERATION**

*History Note: Authority G.S. 126-5(e);  
Eff. June 1, 1985;  
Repealed Eff. March 1, 1987.*

**25 NCAC 01D .0508 PRIORITY REEMPLOYMENT CONSIDERATION: (EFF. JULY 1, 1985)**

*History Note: Authority G.S. 126-5(e);  
Eff. October 1, 1985;  
Repealed Eff. March 1, 1987.*

**25 NCAC 01D .0509 SEVERANCE SALARY CONTINUATION**

*History Note: Authority G.S. 126-4(10); 143-27.2;  
Eff. October 1, 1985;  
Amended Eff. October 1, 1995; September 1, 1991; November 1, 1990; November 1, 1988;  
Recodified to 25 NCAC 01D .2701 Eff. December 29, 2003.*

**25 NCAC 01D .0510 PRIORITY REEMPLOYMENT CONSIDERATION**

*History Note: Authority G.S. 126-1A; 126-5(c)(2); 126-5(d)(1); 126-7.1;  
Eff. March 1, 1987;  
Amended Eff. December 1, 1995; March 1, 1994; June 1, 1992; March 1, 199;  
Recodified to 25 NCAC 01H .0901 Eff. December 29, 2003.*

**25 NCAC 01D .0511 REDUCTION IN FORCE PRIORITY CONSIDERATION**

*History Note: Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Amended Eff. December 1, 1995; April 1, 1993; June 1, 1992; January 1, 1990;  
Recodified to 25 NCAC 01H .0902 Eff. December 29, 2003.*

**25 NCAC 01D .0512 POLICY-MAKING/CONFIDENTIAL EXEMPT PRIORITY CONSIDERATION**

*History Note: Authority G.S. 126-1A; 126-5;  
Eff. March 1, 1987;  
Amended Eff. June 1, 1994; June 1, 1992; November 1, 1988;  
Recodified to 25 NCAC 01H .1001 Eff. December 29, 2003.*

**25 NCAC 01D .0513 CUMULATIVE STATE SERVICE**

*History Note: Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Recodified to 25 NCAC 01H .1002 Eff. December 29, 2003.*

**25 NCAC 01D .0514 REEMPLOYMENT AFTER PRIORITY EXPIRATION**

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987  
Recodified to 25 NCAC 01H .0903 Eff. December 29, 2003.

**25 NCAC 01D .0515 AGENCY RESPONSIBILITIES**

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Amended Eff. December 1, 1995; June 1, 1992; November 1, 1988;  
Recodified to 25 NCAC 01H .0904 Eff. December 29, 2003.

**25 NCAC 01D .0516 OFFICE OF STATE PERSONNEL RESPONSIBILITY**

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Recodified to 25 NCAC 01H .0905 Eff. December 29, 2003.

**25 NCAC 01D .0517 LEAVE**

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Amended Eff. November 1, 1990;  
Repealed Eff. December 1, 2008.

**25 NCAC 01D .0518 VOLUNTARY RESIGNATION WITHOUT NOTICE**

*History Note:* Authority G.S. 126-4(7a);  
Eff. November 1, 1989;  
Recodified to 25 NCAC 01C .1006 Eff. December 29, 2003.

**25 NCAC 01D .0519 UNAVAILABILITY WHEN LEAVE IS EXHAUSTED**

*History Note:* Authority G.S. 126-4(7a); 126-35;  
Eff. November 1, 1989;  
Recodified to 25 NCAC 01C .1007 Eff. December 29, 2003.

**25 NCAC 01D .0520 APPOINTMENT ENDED**

*History Note:* Authority G.S. 126-4; 126-5;  
Eff. March 1, 1996;  
Recodified to 25 NCAC 01C .1008 Eff. December 29, 2003.

**SECTION .0600 - REALLOCATION**

**25 NCAC 01D .0601 REALLOCATION DEFINED**

**25 NCAC 01D .0602 ASSIGNMENT TO HIGHER GRADE**

**25 NCAC 01D .0603 ASSIGNMENT TO A LOWER GRADE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. April 1, 1984; August 1, 1980; July 1, 1980; January 1, 1979;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .0604      ASSIGNMENT TO SAME GRADE**  
**25 NCAC 01D .0605      EFFECTIVE DATE OF REALLOCATIONS FOR GRADED POSITIONS**

*History Note:*    Authority G.S. 126-4;  
                          Eff. February 1, 1976;  
                          Amended Eff. July 1, 2012; July 1, 1990; January 1, 1990;  
                          Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .0606      PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:*    Authority G.S. 126-4;  
                          Eff. February 1, 1976;  
                          Amended Eff. July 1, 1980; December 1, 1978;  
                          Repealed Eff. January 1, 1990.

**25 NCAC 01D .0607      QUALIFICATIONS**

*History Note:*    Authority G.S. 126-4;  
                          Eff. February 1, 1976;  
                          Amended Eff. December 1, 1985;  
                          Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .0608      REALLOCATION**

Reallocation shall mean the reclassification of a position that may warrant a new job title and job description. Reallocation of a position shall be documented through data collection and analysis approved by the State Human Resources Director or designee if there is an approved delegation of authority in accordance with 25 NCAC 01A .0106.

*History Note:*    Authority G.S. 126-4;  
                          Eff. January 1, 1990;  
                          Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20,  
                          2015;  
                          Amended Eff. April 1, 2017.

**25 NCAC 01D .0609      REALLOCATION TO A HIGHER GRADE**

**25 NCAC 01D .0610      REALLOCATION TO A LOWER GRADE**

*History Note:*    Authority G.S. 126-4(2);  
                          Eff. January 1, 1990;  
                          Amended Eff. November 1, 1990;  
                          Repealed Eff. January 1, 1991.

**25 NCAC 01D .0611      REALLOCATION/SALARY RATE FOR GRADED POSITIONS**

*History Note:*    Authority G.S. 126-4;  
                          Eff. January 1, 1991;  
                          Amended Eff. July 1, 2012; March 1, 1994; April 1, 1992; September 1, 1991;  
                          Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .0700 - SALARY RANGE REVISION**

**25 NCAC 01D .0701      DEFINITION**

(a) Salary range revision is any change in a salary range approved by the State Human Resources Commission and resulting from changes in the labor market.

(b) The primary purpose of a range revision is to provide current and competitive salary rates for the use of managers with recruitment responsibilities. Revisions resulting from upward changes in the labor market serve another purpose in

helping reduce the vulnerability of employees to external job offers when their salaries are below the market average as reflected by the mid-point of the salary range.

(c) Salary increases as a result of salary range revision are not rewards for job performance or assumption of greater responsibility. Increases provided by this policy are for maintenance of labor market competitive pay levels for affected employees. For employees below the midpoint, management is encouraged to increase salaries. Factors that influence the amount of increase include current salary relationship to the minimum and midpoint rates, salary equity among affected employees and satisfactory job performance.

*History Note:* Authority G.S. 126-4(2);  
Eff. February 1, 1976;  
Amended Eff. January 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

**25 NCAC 01D .0702 ASSIGNMENT TO HIGHER GRADE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1980; July 1, 1980; August 1, 1978;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .0703 ASSIGNMENT TO A LOWER GRADE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .0704 PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1980; July 1, 1980; December 1, 1978;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .0705 CLASSES DETERMINED NOT LABOR-MARKET-COMPETITIVE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1985;  
Amended Eff. January 1, 1990;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .0706 ASSIGNMENT TO A HIGHER GRADE**

**25 NCAC 01D .0707 EFFECTIVE DATE**

**25 NCAC 01D .0708 SPECIAL ENTRY RATES**

**25 NCAC 01D .0709 GEOGRAPHIC DIFFERENTIAL**

**25 NCAC 01D .0710 AVOIDANCE OF SALARY INEQUITIES**

*History Note:* Authority G.S. 126-4(2);  
Eff. January 1, 1990;  
Amended Eff. March 1, 1991; September 1, 1991; January 1, 1991; July 1, 1990;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .0800 - INITIAL CLASSIFICATION**

**25 NCAC 01D .0801 POLICY**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1990;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .0802 RATE BELOW MINIMUM**  
**25 NCAC 01D .0803 RATE WITHIN ASSIGNED RANGE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989; July 1, 1980; August 1, 1978;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .0804 CHANGE OF DUTIES**  
**25 NCAC 01D .0805 RATE ABOVE THE MAXIMUM**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989; August 1, 1978;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .0806 PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1980; August 1, 1978;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .0807 QUALIFICATIONS**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989; December 1, 1985; December 1, 1978;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .0808 SALARY RATE UPON INITIAL CLASSIFICATION INTO THE GRADED CLASSIFICATION/PAY SYSTEM**

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1990;  
Amended Eff. July 1, 2012; August 1, 1995;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .0900 - TRANSFER**

**25 NCAC 01D .0901 TRANSFER**

A transfer shall mean the movement of an employee between positions having the same pay grade within the same pay plan or movement to a different pay plan with the same market rate, as defined in 25 NCAC 01D .0301, without a break in service as defined in 25 NCAC 01D .0114.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1990; November 1, 1988; December 1, 1985; December 1, 1978;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;  
Amended Eff. April 1, 2017.*

**25 NCAC 01D .0902      TRANSFER TO COMPETITIVE SERVICE POSITION**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Repealed Eff. December 1, 1985.*

**25 NCAC 01D .0903      REPORTING DATE**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. December 1, 1978;  
                         Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01D .0904      SALARY RATE: PERFORMANCE INCREASE ANNIVERSARY DATE  
25 NCAC 01D .0905      BENEFITS TRANSFERRED**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. June 1, 1983; August 1, 1981; July 1, 1980; December 1, 1978;  
                         Repealed Eff. January 1, 1990.*

**25 NCAC 01D .0906      DETERMINING DATE OF TRANSFER  
25 NCAC 01D .0907      PAYMENT FOR VACATION LEAVE**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. January 1, 1990; November 1, 1988; June 1, 1983; December 1, 1978;  
                         Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01D .0908      JOB QUALIFICATIONS**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. January 1, 1990; November 1, 1988; December 1, 1978;  
                         Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01D .0909      ADDITIONAL PROVISIONS FOR COMPETITIVE SERVICE POSITIONS**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. December 1, 1978;  
                         Repealed Eff. December 1, 1985.*

**25 NCAC 01D .0910      SALARY RATE**

*History Note:      Authority G.S. 126-4;  
                         Eff. January 1, 1990;  
                         Amended Eff. December 1, 1995;  
                         Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01D .0911      BENEFITS AND RECORDS TRANSFERRED**



- (a) When an employee transfers to another agency, all unused sick and vacation leave shall be transferred. If the employee transfers to an exempt position in which leave will not be credited the same as for employees subject to the Personnel Act, accumulated vacation shall be paid for in a lump sum. Accumulated sick leave will be transferred.
- (b) The personnel file, as defined by statute, shall be transferred to the receiving agency.

*History Note:* Authority G.S. 126-4; 126-22;  
Eff. January 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

#### **25 NCAC 01D .0912 REDEPLOYMENT**

(a) A redeployment is the movement of an employee, without a break in service, from one position to another position within the same agency or the movement of an employee, or an employee and a position, from one agency to another when the move is due to an enterprise-wide project that results in the need to utilize an employee's competencies for greater effectiveness in another area of an agency or in another agency. The following shall apply:

- (1) The employee's salary rate shall not be reduced. When necessary, management may maintain the employee's current class by working the employee against the position; and
  - (2) The redeployment of an employee is not a grievable issue under G.S.126-34.
- (b) The receiving agency does not have to post a vacant position to accommodate a redeployment arrangement.

*History Note:* Authority 126-4;  
Eff. January 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

#### **25 NCAC 01D .0913 SALARY RATE**

(a) If an employee transfers to a position having the same salary grade, the salary may be increased as long as the increase does not create internal salary inequity. For the purposes of this Rule, "internal salary inequity" exists when an employee's salary is 10 percent above or below that of others in similar classification having similar duties and responsibilities and with similar knowledge, skills, abilities, education and training, experience, and performance. The salary may be reduced if there is a lack of sufficient funds or if it results in the creation of internal salary inequity. A reduction shall not occur when applied to employees with reduction-in-force priority consideration in which case the salary shall remain unchanged, unless the employee voluntarily offers or agrees to accept a lower salary rate by waiver obtained in the pre-screening phase of the selection process. If the employee is being reinstated to a higher class, the rules of Section .0300 of this Subchapter shall apply.

(b) When the transfer is to a higher class and results in a promotion, the rules in Section .0300 of this Subchapter shall apply.

(c) If the transfer is to a lower class and results in a demotion or reassignment, then the rules in Section .0400 of this Subchapter shall apply.

(d) If an employee is in an agency not utilizing a special entry rate and transfers to an agency that does, the special entry rate cannot be used as justification for a salary increase if both work stations are within the same geographic area.

(e) If an employee is receiving a higher rate of pay by virtue of working in a position where a geographic differential applies and transfers to a position where a geographic differential does not apply, whether in the same geographic area to a position without a differential, or to the same job in a geographic area without a differential, the employee's pay rate shall be reduced by the amount of the differential the employee had been receiving.

*History Note:* Authority G.S. 126-4;  
Eff. March 1, 2019.

### **SECTION .1000 - REINSTATEMENT**

#### **25 NCAC 01D .1001 REINSTATEMENT**

Reinstatement shall mean the return to state employment from an extended leave of absence or after a break in service as defined in 25 NCAC 01D .0114 from a state agency. Employees who are reinstated shall meet the minimum qualifications, or their equivalent, as set forth in the class specification of the position to which they are reinstated. If

reinstatement is from leave without pay as defined in 25 NCAC 01E .1100, the employee shall be automatically qualified provided that employment is in the same classification or in a lower classification in the same field of work.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1995; August 1, 1995; March 1, 1992; October 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;  
Amended Eff. April 1, 2017.

#### **25 NCAC 01D .1002 POLICY**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. October 1, 1977.

#### **25 NCAC 01D .1003 BREAK IN SERVICE**

*History Note:* Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1989;  
Recodified to 25 NCAC 01D .0114 Eff. December 29, 2003.

#### **25 NCAC 01D .1004 SALARY RATE UPON REINSTATEMENT**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1983; August 1, 1978;  
Repealed Eff. March 1, 1992.

#### **25 NCAC 01D .1005 EFFECTIVE DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1983; December 1, 1978;  
Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Amended Eff. December 1, 1995; March 1, 1989;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

#### **25 NCAC 01D .1006 BENEFITS REINSTATED**

(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) Employees who enter the armed services or who engage in active military service and who return to state employment within a period of two years after being separated or released, or becoming entitled to be separated or released, from active military service under other than dishonorable conditions shall be entitled to full retirement membership service credit for the period of such active service in the armed services. Under this provision, credit is received for such service upon furnishing an acceptable copy of a military discharge to the Teachers' and State Employees' Retirement System.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1992; February 1, 1983; July 1, 1980; December 1, 1978;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

**25 NCAC 01D .1007      PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1980; August 1, 1978;  
Repealed Eff. March 1, 1992.*

**25 NCAC 01D .1008      QUALIFICATIONS  
25 NCAC 01D .1009      VETERANS**

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1995; August 1, 1995; December 1, 1985; June 1, 1983; December 1, 1978;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01D .1010      SALARY RATE UPON REINSTATEMENT**

*History Note:      Authority G.S. 126-4;  
Eff. March 1, 1992;  
Amended Eff. December 1, 1995;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**SECTION .1100 - PERFORMANCE SALARY INCREASES**

**25 NCAC 01D .1101      POLICY  
25 NCAC 01D .1102      PERFORMANCE SALARY INCREASES BELOW THE THIRD STEP  
25 NCAC 01D .1103      PERFORMANCE SALARY INCREASES AT THIRD STEP OR ABOVE  
25 NCAC 01D .1104      EMPLOYEES ON FLAT RATE  
25 NCAC 01D .1105      SPECIAL SALARY INCREASES  
25 NCAC 01D .1106      BASIS FOR AWARDED INCREASE**

*History Note:      Authority G.S. 126-4; 126-7;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1988; August 1, 1985; June 1, 1983; August 1, 1980;  
Repealed Eff. January 1, 1990.*

**25 NCAC 01D .1107      EFFECTIVE DATE OF ANNUAL INCREASES**

*History Note:      Authority G.S. 126-4; 126-7;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1978;  
Repealed Eff. July 1, 1980.*

**25 NCAC 01D .1108      COMMUNICATION WITH EMPLOYEES  
25 NCAC 01D .1109      SALARY INCREASE FUNDS BECOME PART OF BASE SALARY**

*History Note:      Authority G.S. 126-4; 126-7;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1985; December 1, 1980; July 1, 1980; August 1, 1978;  
Repealed Eff. January 1, 1990.*

**25 NCAC 01D .1110 UNUSED ANNUAL SALARY INCREASE SUBSTITUTION**  
**25 NCAC 01D .1111 UNUSED SALARY INCREASE FUNDS: WHEN AVAILABLE**  
**25 NCAC 01D .1112 UNUSED ANNUAL INCREASE FUNDS: USE FOR ANOTHER EMPLOYEE**  
**25 NCAC 01D .1113 UNUSED ANNUAL INCREASE FUNDS: SCHEDULING BY AGENCY HEADS**

*History Note:* Authority G.S. 126-4; 126-7;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1978;  
Repealed Eff. July 1, 1980.

**25 NCAC 01D .1114 SALARY INCREASE FUNDS BECOME PART OF BASE SALARY**

*History Note:* Authority G.S. 126-4; 126-7;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1978;  
Repealed Eff. August 1, 1985.

**25 NCAC 01D .1115 COMPUTATION OF FUNDS FOR PERFORMANCE INCREASES**

*History Note:* Authority G.S. 126-4; 126-7;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989; August 1, 1985; January 1, 1982; October 1, 1980;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .1116 EXEMPTION FROM TWO-THIRDS LIMITATION**

*History Note:* Authority G.S. 126-4; 126-7;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1980; August 1, 1978;  
Repealed Eff. August 1, 1985.

**25 NCAC 01D .1117 ANNIVERSARY DATES FOR EMPLOYEES BELOW STEP THREE**

**25 NCAC 01D .1118 REVISION OF ANNIVERSARY DATES**

**25 NCAC 01D .1119 NO CHANGE IN ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4; 126-7;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1988; August 1, 1985; June 1, 1983; August 1, 1982;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .1120 PAYMENT DATES**

*History Note:* Authority G.S. 126-4; 126-7;  
Eff. August 1, 1978;  
Amended Eff. August 1, 1985; July 1, 1980;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .1121 PAYMENT DATES**

*History Note:* Authority G.S. 126-4; 126-7;  
Eff. July 1, 1980;  
Amended Eff. January 1, 1982;  
Repealed Eff. August 1, 1985.

<b>25 NCAC 01D .1122</b>	<b>ANNUAL PERFORMANCE PAY COMPENSATION SURVEY</b>
<b>25 NCAC 01D .1123</b>	<b>ELIGIBLE EMPLOYEES</b>
<b>25 NCAC 01D .1124</b>	<b>BASIS FOR AWARDED INCREASES</b>
<b>25 NCAC 01D .1125</b>	<b>AMOUNT OF INCREASE</b>
<b>25 NCAC 01D .1126</b>	<b>PERFORMANCE SALARY INCREASE EFFECTIVE DATES</b>
<b>25 NCAC 01D .1127</b>	<b>LIMITATION ON FUNDS FOR PERFORMANCE INCREASE</b>
<b>25 NCAC 01D .1128</b>	<b>SALARY INCREASE FUNDS BECOME PART OF BASE SALARY</b>

*History Note:* Authority G.S. 126-4(2); 126-7;  
 Eff. January 1, 1990;  
 Amended Eff. July 1, 1991; January 1, 1991;  
 Repealed Eff. June 1, 1994.

**SECTION .1200 - LONGEVITY PAY**

<b>25 NCAC 01D .1201</b>	<b>PURPOSE</b>
<b>25 NCAC 01D .1202</b>	<b>TIME AND METHOD OF PAY</b>
<b>25 NCAC 01D .1203</b>	<b>AMOUNT OF LONGEVITY PAY</b>
<b>25 NCAC 01D .1204</b>	<b>ELIGIBILITY REQUIREMENTS</b>

*History Note:* Authority G.S. 126-4; 126-4(5),(10);  
 Eff. February 1, 1976;  
 Amended Eff. May 1, 1980; July 1, 1977;  
 Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
 Amended Eff. August 1, 1995; July 1, 1989; March 1, 1989;  
 Recodified 25 NCAC 01D .1204(g) to 25 NCAC 01D .0112 Eff. December 29, 2003;  
 Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .1205 AGENCY RESPONSIBILITY**

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. May 1, 1989;  
 Repealed Eff. July 1, 2012.

**25 NCAC 01D .1206 EFFECT OF LONGEVITY PAY**

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .1300 - HOLIDAY PREMIUM PAY**

<b>25 NCAC 01D .1301</b>	<b>POLICY</b>
<b>25 NCAC 01D .1302</b>	<b>CONTINUANCE OF EQUAL TIME OFF POLICY</b>

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A

**SECTION .1400 - SHIFT PREMIUM PAY**

<b>25 NCAC 01D .1401</b>	<b>PURPOSE</b>
<b>25 NCAC 01D .1402</b>	<b>APPLICATION</b>

*History Note:* Authority G.S. 126-4; S.L. 1987, c. 738, s. 9; S.L. 1988, c. 1086, s. 100;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1981;  
Temporary Amendment Eff. September 21, 1988 for a Period of 180 Days to Expire on March 20, 1989;  
Amended Eff. September 1, 2004; August 1, 2004; August 1, 1995; January 1, 1991; January 1, 1989;  
October 1, 1979;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

## **SECTION .1500 – ON-CALL/EMERGENCY CALL-BACK PAY COMPENSATION**

**25 NCAC 01D .1501 POLICY**  
**25 NCAC 01D .1502 APPLICATION**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 2004; November 1, 1988; August 1, 1984;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .1503 ADMINISTRATIVE OR EXECUTIVE EMPLOYEES**

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

**25 NCAC 01D .1504 COMPENSATORY TIME AND CASH PAYMENT: INCLUDING OVERTIME**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 2004; November 1, 1988; August 1, 1984;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

## **SECTION .1600 - FOREIGN SERVICE PAY**

**25 NCAC 01D .1601 DEFINITION OF FOREIGN SERVICE EMPLOYEE**  
**25 NCAC 01D .1602 FOREIGN SERVICE COMPENSATION**  
**25 NCAC 01D .1603 BENEFIT PLANS**

*History Note:* Authority G.S. 126-4;  
Eff. September 1, 1976;  
Amended Eff. February 1, 1989; January 1, 1989; February 1, 1983; May 1, 1980; January 1, 1978;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

## **SECTION .1700 - OVERTIME COMPENSATION**

**25 NCAC 01D .1701 MINIMUM WAGE**  
**25 NCAC 01D .1702 OVERTIME COMPENSATION**  
**25 NCAC 01D .1703 EXEMPT EMPLOYEES**  
**25 NCAC 01D .1704 SALARY**  
**25 NCAC 01D .1705 THE WORKWEEK**  
**25 NCAC 01D .1706 HOURS WORKED**  
**25 NCAC 01D .1707 SPECIAL TYPES OF HOURS WORKED**  
**25 NCAC 01D .1708 EQUAL PAY**

<b>25 NCAC 01D .1709</b>	<b>RECORDKEEPING</b>
<b>25 NCAC 01D .1710</b>	<b>ENFORCEMENT</b>
<b>25 NCAC 01D .1711</b>	<b>EXEMPTIONS</b>
<b>25 NCAC 01D .1712</b>	<b>EXECUTIVE EMPLOYEES</b>
<b>25 NCAC 01D .1713</b>	<b>ADMINISTRATIVE EMPLOYEES</b>
<b>25 NCAC 01D .1714</b>	<b>PROFESSIONAL EMPLOYEES</b>
<b>25 NCAC 01D .1715</b>	<b>SPECIAL PROVISIONS</b>

*History Note:* Authority G.S. 126-4; 126-4(5);  
 Eff. December 1, 1976;  
 Amended Eff. August 1, 1984; April 1, 1983; February 1, 1983; October 1, 1982;  
 Repealed Eff. August 1, 1985.

**SECTION .1800 - EMPLOYMENT OF MEDICAL PERSONNEL EXTENDED DUTY**

<b>25 NCAC 01D .1801</b>	<b>PURPOSE</b>
<b>25 NCAC 01D .1802</b>	<b>PAYMENT</b>

*History Note:* Authority G.S. 126-4;  
 Eff. August 1, 1978;  
 Amended Eff. August 1, 1995;  
 Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .1900 - HOURS OF WORK AND OVERTIME COMPENSATION**

<b>25 NCAC 01D .1901</b>	<b>MINIMUM WAGE</b>
<b>25 NCAC 01D .1902</b>	<b>OVERTIME COMPENSATION</b>
<b>25 NCAC 01D .1903</b>	<b>EXEMPT EMPLOYEES</b>
<b>25 NCAC 01D .1904</b>	<b>SALARY</b>
<b>25 NCAC 01D .1905</b>	<b>COMPENSATION</b>
<b>25 NCAC 01D .1906</b>	<b>HOURLY RATE OF PAY</b>
<b>25 NCAC 01D .1907</b>	<b>NON-OVERTIME WORKWEEKS</b>
<b>25 NCAC 01D .1908</b>	<b>THE WORKWEEK</b>
<b>25 NCAC 01D .1909</b>	<b>HOURS WORKED</b>
<b>25 NCAC 01D .1910</b>	<b>UNAUTHORIZED WORK</b>
<b>25 NCAC 01D .1911</b>	<b>ON CALL</b>
<b>25 NCAC 01D .1912</b>	<b>VACATION: SICK LEAVE: HOLIDAYS</b>
<b>25 NCAC 01D .1913</b>	<b>MEAL PERIOD</b>
<b>25 NCAC 01D .1914</b>	<b>GRIEVANCE TIME</b>
<b>25 NCAC 01D .1915</b>	<b>TRAINING TIME</b>
<b>25 NCAC 01D .1916</b>	<b>TRAVEL TIME</b>
<b>25 NCAC 01D .1917</b>	<b>RECORDKEEPING</b>
<b>25 NCAC 01D .1918</b>	<b>ENFORCEMENT</b>
<b>25 NCAC 01D .1919</b>	<b>EXECUTIVE: ADMINISTRATIVE: PROFESSIONAL EMPLOYEES</b>
<b>25 NCAC 01D .1920</b>	<b>EXECUTIVE EMPLOYEES</b>
<b>25 NCAC 01D .1921</b>	<b>ADMINISTRATIVE EMPLOYEES</b>
<b>25 NCAC 01D .1922</b>	<b>PROFESSIONAL EMPLOYEES</b>
<b>25 NCAC 01D .1923</b>	<b>SPECIAL PROVISIONS</b>

*History Note:* Authority G.S. 126-4;  
 Eff. August 1, 1985;  
 Repealed Eff. January 1, 1989.

<b>25 NCAC 01D .1924</b>	<b>STATE EMPLOYEES SUBJECT TO THE FAIR LABOR STANDARDS ACT</b>
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*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1989;  
Amended Eff. April 1, 2005;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .1925 OVERTIME COMPENSATION**

(a) Employees shall be paid a premium rate of time and one-half in the form of monetary compensation or time off for hours worked in excess of 40 within a work week, with exception of employees exempt from the Fair Labor Standards Act.

(b) Agency heads and supervisors shall prohibit employees from working more than a 40-hour workweek except in those cases where excess hours of work are necessary because of weather conditions, necessary seasonal activity or emergencies.

(c) The practice of overtime work is subject to review by the Office of State Human Resources. The review shall take into consideration organizational structure, scheduling of work, position complement, and personnel classifications.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1989;  
Amended Eff. March 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

**25 NCAC 01D .1926 EXEMPT EMPLOYEES**  
**25 NCAC 01D .1927 SALARY**

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1989;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .1928 COMPENSATION – NON-EXEMPT**

(a) The State of North Carolina shall, whenever possible, give compensatory time off, in lieu of monetary compensation for hours worked in excess of 40 hours per work week. The decision as to whether to give compensatory time off, rather than monetary compensation, for overtime worked is solely within the discretion of management. Compensatory time off shall be scheduled by management, although reasonable effort shall be made to accommodate the employee as to such scheduling.

(b) An employee shall be given compensatory time off on the basis of one and one-half times the amount of time worked beyond 40 hours during a week. Compensatory time may be accumulated up to a maximum of 240 hours (160 hours straight time) and shall be taken within 12 months from the date the overtime is performed. If compensatory time off is not given by the end of the 12-month period, the overtime pay shall be included in the employee's next regular paycheck. Any overtime worked above this amount shall be paid in the employee's next regular paycheck. Overtime worked shall be recorded and compensated in units of one-tenth of an hour.

This Paragraph is not applicable to persons in law enforcement or fire protection activities and in residence employees.

(c) Prior to employment, each successful candidate for state employment in a position subject to hours of work and overtime pay standards must sign a form acknowledging that it has been explained to him that it is the state's policy to give time off in lieu of monetary compensation, wherever possible, for hours worked beyond 40 in a work week. Agreement to this is a condition of employment with the state; failure or refusal to sign such agreement shall prevent employment of that person. This signed form shall be a part of the employee's personnel file; it must be kept for at least three years following that person's separation from state employment.

(d) Upon transfer to another agency or termination of employment, an employee shall be paid for unused compensatory time off at a rate of compensation not less than either the average regular rate received by such employee during the last three years of the employee's employment or the final regular rate received by such employee, whichever is higher.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1989;  
Amended Eff. March 1, 2005; December 1, 1995; March 1, 1994;



*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

**25 NCAC 01D .1929      HOURLY RATE OF PAY**

(a) An employee's hourly rate of pay is obtained by dividing the annual salary by 2080 hours (52 weeks multiplied by 40 hours per week).

(b) The rate that must be used in computing overtime is referred to as the regular hourly rate. The regular hourly rate must include all remuneration for employment paid to, or on behalf of, the employee, except payments specifically excluded by the Federal Fair Labor Standards Act.

*History Note:      Authority G.S. 126-4;  
                          Eff. January 1, 1989;  
                          Amended Eff. March 1, 2005;  
                          Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.*

**25 NCAC 01D .1930      NON-OVERTIME WORKWEEKS**

*History Note:      Authority G.S. 126-4;  
                          Eff. February 1, 1989;  
                          Repealed Eff. March 1, 2005.*

**25 NCAC 01D .1931      THE WORKWEEK**

*History Note:      Authority G.S. 126-4;  
                          Eff. January 1, 1989;  
                          Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01D .1932      HOURS WORKED**

*History Note:      Authority G.S. 126-4;  
                          Eff. February 1, 1989;  
                          Repealed Eff. March 1, 2005.*

**25 NCAC 01D .1933      UNAUTHORIZED WORK**

**25 NCAC 01D .1934      ON CALL**

*History Note:      Authority G.S. 126-4;  
                          Eff. January 1, 1989;  
                          Repealed Eff. March 1, 2005.*

**25 NCAC 01D .1935      VACATION: SICK LEAVE AND HOLIDAYS**

*History Note:      Authority G.S. 126-4;  
                          Eff. February 1, 1989;  
                          Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01D .1936      MEAL PERIOD**

*History Note:      Authority G.S. 126-4;  
                          Eff. January 1, 1989;  
                          Repealed Eff. March 1, 2005.*

**25 NCAC 01D .1937      GRIEVANCE TIME**

The time an employee spends during a regular work schedule in adjusting a grievance under the state procedure on Employee Appeals and Grievances is work time. Such time spent outside the employee's regular work schedule is work time only if the employee's attendance is required by the agency or the state.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

**25 NCAC 01D .1938 TRAINING TIME**

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1989;  
Repealed Eff. March 1, 2005.

**25 NCAC 01D .1939 TRAVEL TIME**  
**25 NCAC 01D .1940 RECORDKEEPING**  
**25 NCAC 01D .1941 EXECUTIVE: ADMINISTRATIVE AND PROFESSIONAL EMPLOYEES**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1989;  
Repealed Eff. March 1, 2005.

**25 NCAC 01D .1942 EXECUTIVE EMPLOYEES**  
**25 NCAC 01D .1943 ADMINISTRATIVE EMPLOYEES**  
**25 NCAC 01D .1944 PROFESSIONAL EMPLOYEES**

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1989;  
Repealed Eff. March 1, 2005.

**25 NCAC 01D .1945 SPECIAL PROVISIONS**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1989;  
Amended Eff. March 1, 2005; August 1, 2004;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01D .1946 OT/COMP TIME OFF OPT/LAW ENF: FIRE PROT/EMGCY RESP PERS**  
**25 NCAC 01D .1947 TOUR OF DUTY AND COMPENSABLE HOURS OF WORK**  
**25 NCAC 01D .1948 OCCASIONAL OR SPORADIC EMPLOYMENT//DIFFERENT CAPACITY**  
**25 NCAC 01D .1949 SUBSTITUTION**  
**25 NCAC 01D .1950 VOLUNTEERS**

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1989;  
Repealed Eff. March 1, 2005.

**25 NCAC 01D .1951 OVERTIME COMPENSATION PROHIBITED: EXEMPT EMPLOYEES**

*History Note:* Authority G.S. 126-4(5), (10);  
Eff. September 1, 1989;  
Amended Eff. August 1, 2004;  
Repealed Eff. March 1, 2005.

## SECTION .2000 - UNEMPLOYMENT INSURANCE

### 25 NCAC 01D .2001      **COVERAGE**

*History Note:*     *Authority G.S. 96-8(6)j; 96-8(6)i;*  
                      *Eff. January 1, 1989;*  
                      *Repealed Eff. August 8, 1995.*

### 25 NCAC 01D .2002      **POLICY**

*History Note:*     *Authority G.S. 96-8(6)j.; 96-8(6)i.;*  
                      *Eff. January 1, 1989;*  
                      *Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.*

### 25 NCAC 01D .2003      **ADMINISTRATION**

(a) The Office of State Human Resources shall design, effect, and maintain a centralized unemployment insurance cost management program, which shall have as its goal effective claims administration and the control of benefit costs. This goal shall be accomplished by improved communications and agency training on unemployment insurance issues and procedure, conscientious monitoring and administration of individual claims and benefit charges, examination of payment options, the creation and maintenance of a comprehensive unemployment insurance database, and related efforts. When it is determined advantageous and cost effective, the Office of State Human Resources may engage the services of a qualified service firm to provide claims administration support.

(b) The Office of State Human Resources shall designate an UI Coordinator, whose responsibility it shall be to coordinate the overall program. The duties of the UI Coordinator shall include:

- (1) Development and distribution of a UI Cost Management Procedures Manual.
- (2) Contract oversight to assure the delivery of services, where a third party firm is engaged to establish and carry out a centralized claims administration system.
- (3) Action as an intermediary between state agencies and the claims services firm, if such a firm is retained.
- (4) Development and delivery of agency training programs on UI administration.
- (5) Service as a technical resource to the agencies on UI matters.
- (6) Assimilation of a comprehensive UI data base, which accurately records claims activity and benefit charges to state accounts, and provides the basis for sound reports that can be used to guide management decisions on the UI Program.
- (7) Initiation of studies, recommendations, and reports relevant to UI cost management.
- (8) Recommendations concerning the design and cost effectiveness of the centralized UI Program.
- (9) Coordination with the Office of State Budget where there is a need to examine costing methods or financial aspects.
- (10) The monitoring of legislative actions concerning UI law and benefits, and service as spokesperson before legislative committees when it is within program interests.
- (11) Coordination with the Employment Security Commission on relevant questions and issues.

*History Note:*     *Authority G.S. 96-8(6)j.; 96-8(6)i.;*  
                      *Eff. January 1, 1989;*  
                      *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20,*  
                      *2015.*

### 25 NCAC 01D .2004      **AGENCY RESPONSIBILITIES**

Each agency and institution shall designate an employee, preferably with working knowledge of the unemployment insurance function, to coordinate the flow of necessary information between the agency, the Office of State Human Resources and any claims administrator retained by the Office of State Human Resources. The specific responsibilities of the Agency UI Coordinator are as follows:

- (1) Participate in the UI training opportunities offered by the Office of State Human Resources or its designated claims administration firm. Develop a working knowledge of the procedures outlined in the Procedures Manual for the centralized cost control program.
- (2) Ensure that agency hiring authorities maintain adequate documentation to provide and support the separation information required by the ESC on individual claims.
- (3) Provide detailed and timely wage and separation information, as necessary for the ESC to properly adjudicate an individual's claim for benefits, and to protect the state's interests against undue benefits.
- (4) Work with the Office of State Human Resources or its designated claims administrator to coordinate attendance of necessary witnesses and to assure the availability of documentation for UI hearings.
- (5) Communicate to the Office of State Human Resources or its designee any agency issue or action which may affect an individual's benefit entitlement.
- (6) Act as agency liaison for obtaining other information which may become relevant and valuable to the interests of the central UI cost management program.

*History Note:* Authority G.S. 96-8(6)j.; 96-8(6)i.;  
 Eff. January 1, 1989;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015.

### **SECTION .2100 - SPECIAL SALARY ADJUSTMENTS**

<b>25 NCAC 01D .2101</b>	<b>DEFINITION AND POLICY</b>
<b>25 NCAC 01D .2102</b>	<b>APPLICABILITY</b>
<b>25 NCAC 01D .2103</b>	<b>JUSTIFICATION</b>
<b>25 NCAC 01D .2104</b>	<b>RESPONSIBILITY OF THE STATE PERSONNEL DIRECTOR</b>

*History Note:* Authority G.S. 126-4;  
 Eff. March 1, 1989;  
 Repealed Eff. January 1, 1992.

<b>25 NCAC 01D .2105</b>	<b>INTRODUCTION</b>
<b>25 NCAC 01D .2106</b>	<b>PURPOSE</b>
<b>25 NCAC 01D .2107</b>	<b>POLICY</b>
<b>25 NCAC 01D .2108</b>	<b>CRITERIA</b>

*History Note:* Authority G.S. 126-4;  
 Eff. January 1, 1992;  
 Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

### **SECTION .2200 - PAYMENT OF SALARY**

<b>25 NCAC 01D .2201</b>	<b>PAYMENT OF SALARY TO EMPLOYEES</b>
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*History Note:* Authority G.S. 126-4(10);  
 Eff. November 1, 1989;  
 Recodified to 25 NCAC 01D .0113(a) Eff. December 29, 2003.

<b>25 NCAC 01D .2202</b>	<b>PAYMENT TO SEPARATED EMPLOYEES</b>
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*History Note:* Authority G.S. 126-4(10);  
 Eff. November 1, 1989;  
 Recodified to 25 NCAC 01D .011(b)-(g)3 Eff. December 29, 2003.

<b>25 NCAC 01D .2203</b>	<b>POSTING OF NOTICE</b>
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*History Note:* Authority G.S. 126-4(10);  
Eff. November 1, 1989;  
Recodified to 25 NCAC 01D .0113(h) Eff. December 29, 2003.

#### **SECTION .2300 - ACCELERATED PAY PLAN**

**25 NCAC 01D .2301 POLICY**  
**25 NCAC 01D .2302 ELIGIBILITY FOR THE PLAN**  
**25 NCAC 01D .2303 ELIGIBILITY FOR ACCELERATED PAY INCREASES**  
**25 NCAC 01D .2304 ADMINISTRATION**  
**25 NCAC 01D .2305 DOCUMENTATION**

*History Note:* Authority G.S. S.L. 1990, c. 1066, s. 37;  
Eff. January 1, 1991;  
Repealed Eff. March 1, 1996.

#### **SECTION .2400 - ON CALL COMPENSATION**

**25 NCAC 01D .2401 ELIGIBLE EMPLOYEES**  
**25 NCAC 01D .2402 RATE OF PAY/COMPENSATORY TIME**  
**25 NCAC 01D .2403 EMERGENCY CALL-BACK PAY**  
**25 NCAC 01D .2404 OVERTIME**

*History Note:* Authority G.S. 126-4; 126-4(5);  
Eff. December 1, 1993;  
Repealed Eff. August 1, 2004.

#### **SECTION .2500 - COMPREHENSIVE COMPENSATION SYSTEM**

**25 NCAC 01D .2501 CAREER GROWTH RECOGNITION AWARD**  
**25 NCAC 01D .2502 AMOUNT OF CAREER GROWTH RECOGNITION AWARD**  
**25 NCAC 01D .2503 EMPLOYEES ELIGIBLE FOR CAREER GROWTH RECOGNITION AWARD**  
**25 NCAC 01D .2504 EFFECTIVE DATE OF CAREER GROWTH RECOGNITION AWARD**  
**25 NCAC 01D .2505 COST-OF-LIVING ADJUSTMENT**  
**25 NCAC 01D .2506 AMOUNT OF COST-OF-LIVING ADJUSTMENT**  
**25 NCAC 01D .2507 EMPLOYEES ELIGIBLE FOR COST-OF-LIVING ADJUSTMENT**  
**25 NCAC 01D .2508 EFFECTIVE DATE OF COST-OF-LIVING ADJUSTMENT**  
**25 NCAC 01D .2509 PERFORMANCE BONUS**  
**25 NCAC 01D .2510 AMOUNT OF PERFORMANCE BONUS**  
**25 NCAC 01D .2511 EMPLOYEES ELIGIBLE FOR PERFORMANCE BONUS**  
**25 NCAC 01D .2512 EFFECTIVE DATE OF PERFORMANCE BONUS**  
**25 NCAC 01D .2513 BASES FOR AWARDED INCREASES**  
**25 NCAC 01D .2514 FINAL DISCIPLINARY PROCEDURE**  
**25 NCAC 01D .2515 PAY DISPUTE RESOLUTION PROCEDURE**

*History Note:* Authority G.S. 126-7;  
Eff. June 1, 1994;  
Temporary Amendment Eff. July 1, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner (Rule .2513);  
Temporary Amendment Expired (Rule .2513);  
Temporary Amendment Eff. September 1, 1996;  
Amended Eff. March 1, 2005; August 1, 1998;  
Repealed Eff. February 21, 2014 pursuant to G.S. 150B-21.7.

**25 NCAC 01D .2516 ELIGIBILITY FOR SEPTEMBER 1, 1996 LEGISLATIVE SALARY INCREASES**

*History Note:* Authority G.S. 126-4; S.L. 1995, c. 507, s. 7.14;  
Temporary Adoption Eff. September 1, 1996;  
Temporary Adoption Expired June 28, 1997.

**25 NCAC 01D .2517 ELIGIBILITY FOR JULY 1, 1997 LEGISLATIVE SALARY INCREASES**

*History Note:* Authority G.S. 126-4; S.L. 1997-443;  
Temporary Adoption Eff. October 2, 1997;  
Temporary Adoption Expired July 31, 1998.

**SECTION .2600 – IN-RANGE SALARY ADJUSTMENT**

- 25 NCAC 01D .2601 PURPOSE**
- 25 NCAC 01D .2602 AGENCY RESPONSIBILITIES**
- 25 NCAC 01D .2603 OFFICE OF STATE HUMAN RESOURCES RESPONSIBILITIES**
- 25 NCAC 01D .2604 STATE HUMAN RESOURCES COMMISSION RESPONSIBILITIES**

*History Note:* Authority G.S. 126-4;  
Eff. December 1, 1995;  
Expired Eff. January 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .2700 - SEVERANCE SALARY CONTINUATION**

**25 NCAC 01D .2701 SEVERANCE SALARY CONTINUATION POLICY**

In accordance with G.S. 126-8.5, severance salary continuation shall be paid to eligible employees as defined in 25 NCAC 01D .2702 in accordance with the rules in this Section. Severance pay shall be subject to available funding and approval by the Office of State Budget and Management.

*History Note:* Authority G.S. 126-4(10); 126-8.5;  
Eff. October 1, 1985;  
Amended Eff. October 1, 1995; September 1, 1991; November 1, 1990; November 1, 1988;  
Recodified from 25 NCAC 01D .0509 Eff. December 29, 2003;  
Amended Eff. February 1, 2016; March 1, 2009.  
Readopted Eff. April 1, 2017.

**25 NCAC 01D .2702 SEVERANCE SALARY CONTINUATION ELIGIBILITY**

(a) The following type of employee who has been reduced in force and who does not obtain employment in another position in State government or any other position that is funded in whole or in part by the State by the effective date of the separation shall be eligible for severance salary continuation:

- (1) full-time and part-time (half-time or more) permanent employees;
- (2) employees in trainee classifications with 12 or more months of continuous State service;
- (3) time-limited employees with 36 or more months of continuous State service; and
- (4) employees in exempt policymaking or exempt managerial positions as defined in G.S. 126-5(b) are eligible for severance salary continuation if the position is abolished as result of a reduction in force.

(b) Time-limited employees with less than 36 continuous months of service, probationary, and temporary employees shall not be eligible for severance salary continuation.

(c) An employee who is separated or who has received written notification of separation due to reduction in force, and who applies for or begins receiving retirement benefits based on early retirement, service retirement, long term disability, or a discontinued service retirement as provided by G.S. 126-8.5, shall not be eligible for severance salary continuation. An employee who is eligible for early or service retirement may elect to delay retirement and receive severance salary continuation.

(d) An employee who is reemployed from any retired status with the State and who is subsequently terminated as a result of reduction in force shall be eligible for severance salary continuation if the employee meets the eligibility requirements set forth in Paragraph (a) of this Rule.

(e) An employee who is receiving workers' compensation or short-term disability payments is eligible for severance salary continuation if the employee meets the eligibility requirements set forth in Paragraph (a) of the Rule.

(f) An employee on leave with or without pay shall be separated on the effective date of the reduction in force and shall be eligible to receive severance salary continuation if the employee meets the eligibility requirements set forth in Paragraph (a) of this Rule.

*History Note:* Authority G.S. 126-4(10); 126-8.5;  
Eff. February 1, 2016;  
Amended Eff. April 1, 2017.

### **25 NCAC 01D .2703 EFFECTS OF REEMPLOYMENT ON SEVERANCE PAY**

(a) An employee who is reemployed in any position with the State, or any other position that is funded in whole or in part by the State, while receiving severance salary continuation, shall not be eligible for severance salary continuation effective the date of reemployment.

(b) An eligible employee who is offered employment in any position with the State and declines to accept the employment offer, either prior to or following separation, shall not be eligible for severance salary continuation effective on the date that the offer is declined.

(c) The agency offering employment or reemployment is responsible for determining if an employee is receiving severance salary continuation payments and shall notify the separating agency of the date severance salary continuation shall be terminated.

*History Note:* Authority G.S. 126-4(10); 126-8.5;  
Eff. February 1, 2016.

### **25 NCAC 01D .2704 AMOUNT AND METHOD OF PAYMENTS FOR SEVERANCE**

(a) In accordance with G.S. 126-8.5, severance salary continuation shall be based on total State service as defined in Rule .0112 of this Subchapter and supplemented by an age adjustment factor as follows:

(1) Amount of Severance Salary Continuation:

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Years of Service	Payment
Less than 1 year	2 weeks
1 but less than 2 years	1 month
2 but less than 5 years	1 month
5 but less than 10 years	2 months
10 but less than 20 years	3 months
20 or more years	4 months

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(2) An employee qualifies for the age adjustment factor at 40 years of age. To compute the amount of the adjustment, 2.5 percent of the annual base salary shall be added for each full year over 39 years of age. However, the total age adjustment factor payment shall be limited by the service payment and cannot exceed the total service payment.

(b) Severance salary continuation shall be paid on a pay period basis.

(c) Any period covered by severance salary continuation shall not be credited as a period of State service.

(d) If an employee dies while receiving severance salary continuation, the balance of the severance salary continuation shall be made to the deceased employee's death benefit beneficiary as designated with the Teachers' and State Employees' Retirement System in a lump sum payment.

*History Note:* Authority G.S. 126-4(10); 126-8.5;  
Eff. February 1, 2016.

## 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**

- 25 NCAC 01E .1201      POLICY**
- 25 NCAC 01E .1202      ELIGIBILITY**
- 25 NCAC 01E .1203      TIME GUIDELINES**
- 25 NCAC 01E .1204      RECORDS**
- 25 NCAC 01E .1205      PARTISAN POLITICAL INVOLVEMENT**

*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**

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

*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.*

#### **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. Nothing in this Rule shall prohibit an employer, if authorized, from providing paid parental leave in amounts greater than as required by this Rule.

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

#### **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 by:
    - (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, aggregating employment at any of these employers.
  - (2) The employee has been in pay status with:
    - (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, for at least 1,040 hours, aggregating employment at any of these employers, during the previous 12-month period.
- (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.

#### **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) Eight weeks of paid leave after a parent gives birth to a child.
  - (2) Four weeks of paid leave after any other qualifying event.
- (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.

#### **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.

#### **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, 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.

**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.*

**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.*

**SUBCHAPTER 01F - POSITION ANALYSIS**

**SECTION .0100 - GENERAL PROVISIONS**

**25 NCAC 01F .0101 AUTHORITY FOR CLASSIFICATION PLAN**

*History Note:* Authority G.S. 126-4(1);  
Eff. February 1, 1976;  
Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.

**25 NCAC 01F .0102 AUTHORITY FOR ESTABLISHING QUALIFICATIONS**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. November 1, 1988.

**25 NCAC 01F .0103 ORGANIZATION**

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

**25 NCAC 01F .0104 DEFINITIONS**

**25 NCAC 01F .0105 POLICY ON ESTABLISHING MINIMUM QUALIFICATION STANDARDS**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1980; December 1, 1988;  
Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .0200 - POSITION CLASSIFICATION**

**25 NCAC 01F .0201 CLASSIFICATION METHOD**

**25 NCAC 01F .0202 CLASSIFICATION PLAN**

**25 NCAC 01F .0203 MAINTENANCE OF THE CLASSIFICATION PLAN**

**25 NCAC 01F .0204 ALLOCATION OF POSITIONS TO CLASSIFICATION PLAN**

**25 NCAC 01F .0205 TENTATIVE/FLAT-RATE PROVISIONS: TEMPORARY CLASSIFICATIONS**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1988;  
Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .0300 - POSITION ADJUSTMENTS**

**25 NCAC 01F .0301 NEW AND ADDITIONAL PERMANENT: FULL-TIME OR PART-TIME**

**25 NCAC 01F .0302 ALLOCATION OR REALLOCATION OF A VACANT POSITION**

**25 NCAC 01F .0303 REALLOCATION OF AN ESTABLISHED POSITION TO ANOTHER CLASS.**

**25 NCAC 01F .0304 TRANSFER OF POSITIONS**

**25 NCAC 01F .0305 ABOLISHMENT OF A POSITION**

**25 NCAC 01F .0306 ABOLISHMENT OF A CLASS**

**25 NCAC 01F .0307 REALLOCATION OF A POSITION**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1988;  
Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .0400 - POSITION ANALYSIS FORMS**

**25 NCAC 01F .0401 DESCRIPTION OF FORM PD-118**

**25 NCAC 01F .0402 DESCRIPTION OF FORM PD-102**

**25 NCAC 01F .0403 DESCRIPTION OF FORM PD-103**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1988;  
Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .0500 - LOCAL GOVERNMENT POSITION CLASSIFICATION SERVICES**

**25 NCAC 01F .0501 SERVICES AVAILABLE TO LOCAL GOVERNMENT**

*History Note:* Authority G.S. 126-10;  
Eff. February 1, 1976;  
Repealed Eff. November 1, 1988.

**25 NCAC 01F .0502 CHARGES**

- (a) Service charges for local government position classification services will be based upon the nature and scope of the work requested, and the anticipated salary, travel, lodging, subsistence, printing, and overhead costs necessary to complete the requested work. An individual proposal will be developed in response to each project request.
- (b) Transferable products developed to meet a general need, such as personnel policy models, record system models, job evaluation models, etc., will be offered at a fair market price.
- (c) The total funds received from all sources through charges will not exceed the actual operating costs of the service program.

*History Note:* Authority G.S. 126-10;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1988; June 1, 1981;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

**25 NCAC 01F .0503 MEMORANDUM OF AGREEMENT FOR TECHNICAL ASSISTANCE**

This memorandum of agreement for technical assistance is an agreement, signed by both the local jurisdiction and the Office of State Human Resources setting out the terms and conditions under which the Office of State Human Resources agrees to supply technical assistance in position classification to the local jurisdiction.

*History Note:* Authority G.S. 126-10;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

**SUBCHAPTER 1G - CLASSIFICATIONS**

**SECTION .0100 - GENERAL PROVISIONS**

**25 NCAC 01G .0101 SCOPE OF CHAPTER**

**25 NCAC 01G .0102 FILING OF CLASSIFICATION STANDARDS**

**25 NCAC 01G .0103 CLASSIFICATION STANDARDS**

*History Note:* Authority G.S. 126-4; 150A-58; 150A-59; 150A-62;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1979; September 1, 1976;  
Repealed Eff. December 1, 1984.

**SECTION .0200 - CLERICAL AND OFFICE SERVICES**

25 NCAC 01G .0201      **GENERAL**  
25 NCAC 01G .0202      **SUPPORTIVE OFFICE SERVICES**  
25 NCAC 01G .0203      **SPECIALIZED SUPPORTIVE CLERICAL**  
25 NCAC 01G .0204      **CLERICAL EXAMINING AND ADMINISTRATION**  
25 NCAC 01G .0205      **WAREHOUSING AND STORE SALES**  
25 NCAC 01G .0206      **CLERICAL-OFFICE MANAGEMENT OCCUPATIONS GROUP**

*History Note:*      *Authority G.S. 126-4;*  
                         *Eff. February 1, 1976;*  
                         *Amended Eff. June 1, 1983; April 1, 1983; December 1, 1982; August 1, 1982;*  
                         *Repealed Eff. December 1, 1984.*

#### **SECTION .0300 - ACCOUNTING: AUDITING AND FINANCIAL MANAGEMENT**

25 NCAC 01G .0301      **GENERAL**  
25 NCAC 01G .0302      **PURCHASING AND RELATED POSITIONS**  
25 NCAC 01G .0303      **ACCOUNTING AND AUDITING**  
25 NCAC 01G .0304      **TAXATION**  
25 NCAC 01G .0305      **BUDGETING**  
25 NCAC 01G .0306      **RATE AND FINANCIAL ANALYSIS**

*History Note:*      *Authority G.S. 126-4;*  
                         *Eff. February 1, 1976;*  
                         *Amended Eff. June 1, 1983; October 1, 1982; October 1, 1981; August 1, 1981;*  
                         *Repealed Eff. December 1, 1984.*

#### **SECTION .0400 - LEGAL: ADMINISTRATIVE MANAGEMENT: AND RELATED POSITIONS**

25 NCAC 01G .0401      **GENERAL**  
25 NCAC 01G .0402      **LEGAL**  
25 NCAC 01G .0403      **BUSINESS MANAGEMENT**  
25 NCAC 01G .0404      **GENERAL ADMINISTRATION**  
25 NCAC 01G .0405      **ADMINISTRATIVE AND EXECUTIVE**  
25 NCAC 01G .0406      **PERSONNEL MANAGEMENT AND TRAINING**  
25 NCAC 01G .0407      **EMPLOYMENT SERVICES**

*History Note:*      *Authority G.S. 126-4;*  
                         *Eff. February 1, 1976;*  
                         *Amended Eff. December 1, 1983; August 1, 1983; June 1, 1983; December 1, 1982;*  
                         *Repealed Eff. December 1, 1984.*

#### **SECTION .0500 - DATA PROCESSING POSITIONS**

25 NCAC 01G .0501      **GENERAL**  
25 NCAC 01G .0502      **ELECTRONIC DATA PROCESSING**  
25 NCAC 01G .0503      **STATISTICAL**  
25 NCAC 01G .0504      **SOCIAL AND ECONOMIC RESEARCH**  
25 NCAC 01G .0505      **NATURAL SCIENCE AND LABORATORY RESEARCH**

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

*Eff. February 1, 1976;*  
*Amended Eff. June 1, 1983; February 1, 1983; October 1, 1982; October 1, 1981;*  
*Repealed Eff. December 1, 1984.*

#### **SECTION .0600 - INFORMATIONAL AND EDUCATIONAL**

<b>25 NCAC 01G .0601</b>	<b>GENERAL</b>
<b>25 NCAC 01G .0602</b>	<b>PUBLICITY AND PROMOTION</b>
<b>25 NCAC 01G .0603</b>	<b>PROGRAM DEVELOPMENT: PROMOTION: AND INFORMATION SERVICES</b>
<b>25 NCAC 01G .0604</b>	<b>ARCHIVES AND MUSEUM</b>
<b>25 NCAC 01G .0605</b>	<b>LIBRARY</b>
<b>25 NCAC 01G .0606</b>	<b>EDUCATIONAL TELEVISION</b>
<b>25 NCAC 01G .0607</b>	<b>OCCUPATIONAL AND ADULT INSTRUCTION AND ADMINISTRATION</b>
<b>25 NCAC 01G .0608</b>	<b>ACADEMIC ADMINISTRATION AND CONSULTATIVE SERVICES</b>
<b>25 NCAC 01G .0609</b>	<b>STUDENT SUPPORT SERVICES</b>
<b>25 NCAC 01G .0610</b>	<b>SCHOOL SUPPORTIVE SERVICES</b>

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. December 1, 1983; August 1, 1983; July 1, 1983; December 1, 1982;*  
*Repealed Eff. December 1, 1984.*

#### **SECTION .0700 - HUMAN SERVICES POSITIONS**

<b>25 NCAC 01G .0701</b>	<b>GENERAL</b>
<b>25 NCAC 01G .0702</b>	<b>SOCIAL: VOCATIONAL COUNSELING: REHABILITATION: EDUCATION</b>
<b>25 NCAC 01G .0703</b>	<b>PSYCHOLOGY</b>

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. October 1, 1982; August 1, 1981; April 1, 1981; January 1, 1980;*  
*Repealed Eff. December 1, 1984.*

#### **SECTION .0800 - MEDICAL: HEALTH AND LABORATORY CLASSES**

<b>25 NCAC 01G .0801</b>	<b>GENERAL</b>
<b>25 NCAC 01G .0802</b>	<b>MEDICAL LABORATORY AND LABORATORY SERVICES</b>
<b>25 NCAC 01G .0803</b>	<b>CHEMICAL</b>
<b>25 NCAC 01G .0804</b>	<b>MEDICAL SUPPLY AND SUPPORTIVE POSITIONS</b>
<b>25 NCAC 01G .0805</b>	<b>PROFESSIONAL MEDICAL</b>
<b>25 NCAC 01G .0806</b>	<b>PROFESSIONAL NURSING</b>
<b>25 NCAC 01G .0807</b>	<b>THERAPEUTIC TREATMENT</b>
<b>25 NCAC 01G .0808</b>	<b>NUTRITION</b>
<b>25 NCAC 01G .0809</b>	<b>NON-PROFESSIONAL NURSING AND PERSONAL CARE</b>

*History Note: Filed as an Emergency Amendment Eff. February 1, 1981 for a Period of 28 Days to Expire on March 1, 1981;*  
*Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. November 1, 1979; October 1, 1979; May 1, 1979; January 1, 1979;*  
*Emergency Amendment Made Permanent Eff. March 1, 1981;*  
*Amended Eff. August 1, 1983; June 1, 1983; December 1, 1982; February 1, 1982;*  
*Repealed Eff. December 1, 1984.*



## **SECTION .0900 - LICENSING: INSPECTION AND PUBLIC SAFETY**

<b>25 NCAC 01G .0901</b>	<b>GENERAL</b>
<b>25 NCAC 01G .0902</b>	<b>SANITATION</b>
<b>25 NCAC 01G .0903</b>	<b>INDUSTRIAL AND NATURAL RESOURCES</b>
<b>25 NCAC 01G .0904</b>	<b>TRANSPORTATION INSPECTION AND LAW ENFORCEMENT</b>
<b>25 NCAC 01G .0905</b>	<b>PROTECTIVE AND INVESTIGATIVE</b>
<b>25 NCAC 01G .0906</b>	<b>CORRECTIONAL CUSTODY: PROGRAMS: DIAGNOSTIC: ADMINISTRATIVE</b>
<b>25 NCAC 01G .0907</b>	<b>EMERGENCY MANAGEMENT AND MILITARY ADMINISTRATIVE</b>

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1983; October 1, 1983; June 1, 1983; April 1, 1983;  
Repealed Eff. December 1, 1984.

## **SECTION .1000 - INSTITUTIONAL SERVICES**

<b>25 NCAC 01G .1001</b>	<b>GENERAL</b>
<b>25 NCAC 01G .1002</b>	<b>INSTITUTIONAL LABOR</b>
<b>25 NCAC 01G .1003</b>	<b>HOUSEKEEPING</b>
<b>25 NCAC 01G .1004</b>	<b>LAUNDRY AND RELATED SERVICES</b>
<b>25 NCAC 01G .1005</b>	<b>FOOD SERVICE</b>

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. June 1, 1983; August 1, 1982; June 1, 1982; August 1, 1981;  
Repealed Eff. December 1, 1984.

## **SECTION .1100 - SKILLED TRADES AND ALLIED POSITIONS**

<b>25 NCAC 01G .1101</b>	<b>GENERAL</b>
<b>25 NCAC 01G .1102</b>	<b>EQUIPMENT OPERATION TRADES</b>
<b>25 NCAC 01G .1103</b>	<b>MECHANICAL TRADES</b>
<b>25 NCAC 01G .1104</b>	<b>BUILDING TRADES</b>
<b>25 NCAC 01G .1105</b>	<b>COMMUNICATIONS AND ELECTRONICS</b>
<b>25 NCAC 01G .1106</b>	<b>TECHNICAL AND SCIENTIFIC</b>
<b>25 NCAC 01G .1107</b>	<b>PROCESSING: PRINTING AND MANUFACTURING TRADES</b>
<b>25 NCAC 01G .1108</b>	<b>PLANT OPERATIONS AND UTILITIES</b>
<b>25 NCAC 01G .1109</b>	<b>HIGHWAY MAINTENANCE</b>

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1983; October 1, 1983; June 1, 1983; December 1, 1982;  
Repealed Eff. December 1, 1984.

## **SECTION .1200 - ENGINEERING: ARCHITECTURAL: AND ALLIED POSITIONS**

<b>25 NCAC 01G .1201</b>	<b>GENERAL</b>
<b>25 NCAC 01G .1202</b>	<b>TECHNICAL AND SUPPORTIVE ENGINEERING SERVICES</b>
<b>25 NCAC 01G .1203</b>	<b>HIGHWAY ENGINEERING</b>

<b>25 NCAC 01G .1204</b>	<b>GEOLOGY AND HYDROLOGY</b>
<b>25 NCAC 01G .1205</b>	<b>STRUCTURAL: ELECTRICAL AND MECHANICAL ENGINEERING</b>
<b>25 NCAC 01G .1206</b>	<b>SANITARY ENGINEERING</b>
<b>25 NCAC 01G .1207</b>	<b>LANDSCAPE AND ARCHITECTURE</b>
<b>25 NCAC 01G .1208</b>	<b>COMMUNITY AND PROGRAM PLANNING</b>

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. December 1, 1983; October 1, 1983; June 1, 1983; February 1, 1983;  
 Repealed Eff. December 1, 1984.

### **SECTION .1300 - AGRICULTURAL AND CONSERVATION**

<b>25 NCAC 01G .1301</b>	<b>GENERAL</b>
<b>25 NCAC 01G .1302</b>	<b>UNSKILLED AND SEMI-SKILLED AGRICULTURE AND CONSERVATION</b>
<b>25 NCAC 01G .1303</b>	<b>AGRICULTURAL PROMOTION AND DISTRIBUTION</b>
<b>25 NCAC 01G .1304</b>	<b>AGRICULTURAL CONTROL AND REGULATION</b>
<b>25 NCAC 01G .1305</b>	<b>FARMING: FOOD PRODUCTION: AND PROCESSING</b>
<b>25 NCAC 01G .1306</b>	<b>WILDLIFE</b>
<b>25 NCAC 01G .1307</b>	<b>FORESTRY AND HORTICULTURE</b>

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. June 1, 1983; February 1, 1983; December 1, 1982; October 1, 1982;  
 Repealed Eff. December 1, 1984.

### **SUBCHAPTER 1H - RECRUITMENT AND SELECTION**

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

<b>25 NCAC 01H .0101</b>	<b>ORGANIZATION</b>
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*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Repealed Eff. December 1, 1978.

<b>25 NCAC 01H .0102</b>	<b>FUNCTION</b>
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*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Repealed Eff. December 1, 1985.

#### **SECTION .0200 - RECRUITMENT**

<b>25 NCAC 01H .0201</b>	<b>RECRUITMENT PROGRAMS</b>
<b>25 NCAC 01H .0202</b>	<b>RECRUITMENT PUBLICITY</b>

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. February 1, 1983; December 1, 1982; November 1, 1977;  
 Repealed Eff. December 1, 1985.

**25 NCAC 01H .0203 FILING OF INTEREST CARD AND APPLICATIONS**  
**25 NCAC 01H .0204 SCREENING OF APPLICANTS**  
**25 NCAC 01H .0205 VACANCIES AND REFERRALS**  
**25 NCAC 01H .0206 AGENCY ACTION**

*History Note: Authority G.S. 96-29; 126-4; 126-16; 128-15;*  
*Eff. November 1, 1977;*  
*Amended Eff. February 1, 1983; July 1, 1981; August 1, 1980; March 1, 1980;*  
*Repealed Eff. December 1, 1985.*

**25 NCAC 01H .0207 PROMOTION PROVISIONS**

*History Note: Authority G.S. 126-4;*  
*Eff. November 1, 1977;*  
*Repealed Eff. March 1, 1980.*

**25 NCAC 01H .0208 INADEQUATE REFERRAL LIST**  
**25 NCAC 01H .0209 INTEREST CARD PROCEDURE**  
**25 NCAC 01H .0210 SPECIAL PROVISIONS FOR COMPETITIVE SERVICE POSITIONS**  
**25 NCAC 01H .0211 ASSESSMENT PROGRAMS**

*History Note: Authority G.S. 126-4;*  
*Eff. November 1, 1977;*  
*Amended Eff. February 1, 1983; March 1, 1980; January 1, 1978;*  
*Repealed Eff. December 1, 1985.*

#### **SECTION .0300 - APPLICATION PROCESS**

**25 NCAC 01H .0301 SUBMISSION OF APPLICATIONS**  
**25 NCAC 01H .0302 DISQUALIFICATION OF APPLICANTS**  
**25 NCAC 01H .0303 APPEAL FROM DISQUALIFICATION**  
**25 NCAC 01H .0304 APPLICATION PERIOD**  
**25 NCAC 01H .0305 EMPLOYMENT PREFERENCE FOR VETERANS**  
**25 NCAC 01H .0306 EMPLOYMENT OF THE MENTALLY RETARDED**  
**25 NCAC 01H .0307 REVIEW AND EVALUATION OF APPLICATIONS**

*History Note: Authority G.S. 126-4; 128-15;*  
*Eff. February 1, 1976;*  
*Amended Eff. August 1, 1980;*  
*Repealed Eff. December 1, 1985.*

#### **SECTION .0400 - EXAMINATION PROGRAMS**

**25 NCAC 01H .0401 RESPONSIBILITY**  
**25 NCAC 01H .0402 ADMISSION TO EXAMINATIONS**  
**25 NCAC 01H .0403 DISQUALIFICATION FROM AN EXAMINATION**  
**25 NCAC 01H .0404 TYPES OF EXAMINATIONS**  
**25 NCAC 01H .0405 QUALIFYING EXAMINATION**  
**25 NCAC 01H .0406 SPECIAL EXAMINATIONS**  
**25 NCAC 01H .0407 CLASSES REQUIRING COMPETITIVE EXAMINATION**  
**25 NCAC 01H .0408 PLACE OF EXAMINATIONS**  
**25 NCAC 01H .0409 ORAL EXAMINING BOARDS**  
**25 NCAC 01H .0410 RATING EXAMINATION**

<b>25 NCAC 01H .0411</b>	<b>EXAMINATION RECORDS</b>
<b>25 NCAC 01H .0412</b>	<b>APPLICANT APPEAL OF EXAMINATION RESULTS</b>
<b>25 NCAC 01H .0413</b>	<b>PASSING POINTS</b>
<b>25 NCAC 01H .0414</b>	<b>REGISTER OF ELIGIBLES (DEFINITION)</b>
<b>25 NCAC 01H .0415</b>	<b>ESTABLISHMENT OF REGISTERS</b>
<b>25 NCAC 01H .0416</b>	<b>DURATION OF REGISTER</b>
<b>25 NCAC 01H .0417</b>	<b>INACTIVE STATUS OF ELIGIBLES ON REGISTERS</b>
<b>25 NCAC 01H .0418</b>	<b>CERTIFICATION PROCEDURES</b>
<b>25 NCAC 01H .0419</b>	<b>BASIC TYPES OF CERTIFICATION</b>
<b>25 NCAC 01H .0420</b>	<b>SPECIAL TYPES OF CERTIFICATION</b>
<b>25 NCAC 01H .0421</b>	<b>REPORTING ACTION ON CERTIFICATE</b>
<b>25 NCAC 01H .0422</b>	<b>APPOINTMENT</b>

*History Note:* Legislative Objection Lodged Eff. June 13, 1983;  
 Authority G.S. 96-29; 126-4; 126-12; 128-15;  
 Eff. February 1, 1976;  
 Amended Eff. June 1, 1983; June 1, 1981; August 1, 1980; May 1, 1980;  
 Curative Amended Eff. June 22, 1983;  
 Repealed Eff. December 1, 1985.

**25 NCAC 01H .0423 EMPLOYEES IN PROVISIONAL STATUS FOR ONE YEAR**

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

<b>25 NCAC 01H .0424</b>	<b>PROBATIONARY PERIOD AND TRIAL APPOINTMENT</b>
<b>25 NCAC 01H .0425</b>	<b>DISMISSAL DURING PROBATION</b>
<b>25 NCAC 01H .0426</b>	<b>PERSONNEL CHANGES NOT SUBJECT TO A PROBATIONARY PERIOD</b>
<b>25 NCAC 01H .0427</b>	<b>PERMANENT STATUS</b>

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. December 1, 1984; August 1, 1980; December 1, 1978;  
 Repealed Eff. December 1, 1985.

**SECTION .0500 - RECRUITMENT FORMS**

<b>25 NCAC 01H .0501</b>	<b>FORM 107</b>
<b>25 NCAC 01H .0502</b>	<b>FORM PD-1</b>

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Repealed Eff. December 1, 1985.

**SECTION .0600 - GENERAL PROVISIONS**

**25 NCAC 01H .0601 POLICY**

*History Note:* Authority G.S. 126-4(4)(10);  
 Eff. December 1, 1985;  
 Repealed Eff. November 1, 1988.

**25 NCAC 01H .0602 POSTING AND ANNOUNCEMENT OF VACANCIES**

*History Note:* Authority G.S. 96-29; 126-4(4); 126-5(d); 126-7.1;  
Eff. December 1, 1985;  
Temporary Amendment Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;  
ARRC Objection January 21, 1988;  
Curative Amended Eff. November 1, 1988;  
Amended Eff. August 1, 2000; August 3, 1992; June 1, 1992; March 1, 1990; November 1, 1989;  
Repealed Eff. February 1, 2007.

**25 NCAC 01H .0603 SPECIAL RECRUITING PROGRAMS**

*History Note:* Authority G.S. 126-4(4);  
Eff. December 1, 1985;  
Amended Eff. December 1, 1988;  
Repealed Eff. August 3, 1992.

**25 NCAC 01H .0604 APPLICANT INFORMATION AND APPLICATION**  
**25 NCAC 01H .0605 SPECIAL APPLICANT CONSIDERATIONS: AGENCY RESPONSIBILITIES**  
**25 NCAC 01H .0606 SELECTION OF APPLICANTS**  
**25 NCAC 01H .0607 MINIMUM QUALIFICATIONS**

*History Note:* Authority G.S. 96-29; 126-4(4); 128-15;  
Temporary Amendment Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988;  
Eff. December 1, 1985;  
Amended Eff. August 1, 2000; June 1, 1992; March 1, 1990; December 1, 1988; March 1, 1988;  
November 1, 1987;  
Repealed Eff. February 1, 2007.

**25 NCAC 01H .0608 EMPLOYMENT PREFERENCE FOR VETERANS**

*History Note:* Authority G.S. 126-4(4); 128-15;  
Eff. December 1, 1985;  
Repealed Eff. September 1, 1987.

**25 NCAC 01H .0609 FINAL COMMITMENTS**

*History Note:* Authority G.S. 126-4(4);  
Temporary Amendment Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988;  
Eff. December 1, 1985;  
Amended Eff. March 1, 1988;  
Repealed Eff. February 1, 2007.

**25 NCAC 01H .0610 POLICY STATEMENT/VETERANS PREFERENCE/EMPLOYMENT/RETENTION**

*History Note:* Authority G.S. 126-4(4); 128-15;  
Eff. September 1, 1987;  
Recodified to 25 NCAC 01H .1101 Eff. October 5, 2004.

**25 NCAC 01H .0611 PERIODS OF WAR**

*History Note:* Authority G.S. 126-4(4); 126-4(10); 128-15;  
Eff. September 1, 1987;  
Repealed Eff. February 1, 2007.

**25 NCAC 01H .0612 CLAIMING VETERAN'S PREFERENCE**

*History Note:* Authority G.S. 126-4(4); 126-4(10); 128-15;  
Eff. September 1, 1987;  
Recodified to 25 NCAC 01H .1102 Eff. October 5, 2004.

**25 NCAC 01H .0613 ALLEGATION OF DENIAL OF VETERAN'S PREFERENCE**

*History Note:* Authority G.S. 126-4(10); 126-4(11); 126-37; 126-38; 150B-2(2); 150B, Article 3;  
Eff. September 1, 1987;  
Recodified to 25 NCAC 01H .1103 Eff. October 5, 2004.

**25 NCAC 01H .0614 APPLICATION OF THE VETERAN'S PREFERENCE**

*History Note:* Authority G.S. 126-4(4); 126-4(10); 128-15;  
ARRC Objection July 16, 1987;  
Eff. December 1, 1987;  
ARRC Objection Removed Eff. March 16, 1989;  
Recodified to 25 NCAC 01H .1104 Eff. October 5, 2004.

**25 NCAC 01H .0615 ELIGIBILITY**

*History Note:* Authority G.S. 126-4(10); 128-15;  
ARRC Objection July 16, 1987;  
Eff. December 1, 1987;  
ARRC Objection Removed Eff. March 16, 1989;  
Recodified to 25 NCAC 01H .1105 Eff. October 5, 2004.

**25 NCAC 01H .0616 AGENCY RESPONSIBILITY**

**25 NCAC 01H .0617 EMPLOYEE'S RESPONSIBILITY**

*History Note:* Authority P.L. 101-649; G.S. 126-4(4); 8 C.F.R. Parts 109 and 274a, 1987;  
Eff. November 1, 1987;  
Amended Eff. August 3, 1992;  
Repealed Eff. February 1, 2007.

**25 NCAC 01H .0618 VERIFICATION OF CREDENTIALS**

**25 NCAC 01H .0619 COMPLETION OF APPLICATIONS**

*History Note:* Filed as a Temporary Adoption Eff. January 1, 1988 For a Period of 180 Days to Expire on June 18, 1988;  
Authority G.S. 126-4; 126-30;  
ARRC Objection February 18, 1988;  
Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

**25 NCAC 01H .0620 VERIFICATION PROCEDURES**

**25 NCAC 01H .0621 AGENCY CERTIFICATION**

**25 NCAC 01H .0622 APPLICANT DISQUALIFICATION**

**25 NCAC 01H .0623 DISCIPLINARY ACTION**

**25 NCAC 01H .0624 DISMISSAL**

*History Note:* Authority G.S. 126-4; 126-30;  
Temporary Adoption Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988;  
Eff. March 1, 1988;  
Amended Eff. August 3, 1992; June 1, 1992; November 1, 1989; December 1, 1988; March 1, 1994;  
Repealed Eff. February 1, 2007.

**25 NCAC 01H .0625      PROMOTIONAL PRIORITY CONSIDERATION FOR CURRENT EMPLOYEES**

*History Note:*      *Filed as a Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;*  
*Authority G.S. 126-1A; 126-4; 126-7.1;*  
*ARRC Objection January 21, 1988;*  
*Curative Eff. November 1, 1988;*  
*Amended Eff. March 1, 1994;*  
*Recodified to 25 NCAC 01H .0801 Eff. December 29, 2003.*

**25 NCAC 01H .0626      RELATIONSHIP TO OTHER EMPLOYMENT PRIORITY CONSIDERATIONS**

*History Note:*      *Filed as a Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;*  
*Authority G.S. 126-4; 126-7.1; 126-16;*  
*Eff. March 1, 1988;*  
*Amended Eff. June 1, 1992;*  
*Recodified to 25 NCAC 01H .0802 Eff. December 29, 2003.*

**25 NCAC 01H .0627      RIGHT OF APPEAL: DENIAL OF PRIORITY AND NON-POSTING**

*History Note:*      *Filed as a Temporary Adoption Eff. October 1, 1987 For a Period of 180 Days to Expire on March 28, 1988;*  
*Authority G.S. 126-7.1; 126-39; 150B, Article 3;*  
*Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).*

**25 NCAC 01H .0628      RESOLUTION OF CONFLICT BETWEEN EMPLOYMENT PRIORITIES**

*History Note:*      *Filed as a Temporary Adoption Eff. October 1, 1987 For a Period of 180 Days to Expire on March 28, 1988;*  
*Authority G.S. 126-1A; 126-4; 126-7.1; 126-39;*  
*Eff. March 1, 1988;*  
*Amended Eff. March 1, 1994; June 1, 1992;*  
*Repealed Eff. December 1, 1995.*

**25 NCAC 01H .0629      APPOINTMENT TO A POSITION**

An appointment may be made only if a classified and budgeted vacancy exists in the position complement authorized for the agency.

*History Note:*      *Authority G.S. 126-4;*  
*Eff. August 1, 2008;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01H .0630      RECRUITMENT AND SELECTION POLICY**

(a) State government shall meet its workforce needs through systematic recruitment programs, selection programs, and career support programs that are designed to identify, attract, and select from the most qualified applicants for State employment, and to encourage diverse representation at all occupational levels of the workforce. The recruitment and selection process shall be consistently applied, non-discriminatory and promote open and fair competition and the hiring of a diverse workforce.

(b) While most positions are filled through systematic recruitment, it is recognized that some positions in State government are exempt from various provisions of the State Human Resources Act because of the relationship between the position and the responsibility of elected or appointed officials expected to implement the public policy of the State.

While these positions are exempt from various provisions of the State Human Resources Act, they are subject to the following requirements:

- (1) If an individual applies for an exempt position, written notification that a position is exempt shall be given to the individual at the time the individual makes application for the exempt position. Written notification that the position is exempt may be contained in the vacancy announcement if the position is posted as exempt, or in a letter that either acknowledges acceptance of an application for an exempt position or contains an offer of employment for an exempt position or a notification that the position is exempt;
- (2) In addition, written notification that a position is exempt shall be given to an employee placed in an exempt position not less than 10 working days prior to the employee's first day in the exempt position; and
- (3) If an employee occupies a subject position that is subsequently designated as exempt, the agency shall provide written notification to the employee that the position has been designated exempt. The exemption shall apply to the employee 10 working days after receiving written notification.

*History Note: Authority G.S. 126-4(4)(10);  
Eff. February 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01H .0631 POSTING AND ANNOUNCEMENT OF VACANCIES**

- (a) An agency shall post its vacant positions.
- (b) Vacancies that shall be filled from within the agency workforce shall have an application period of not less than five business days and shall be posted in at least the locations required by G.S. 126-7.1(a).
- (c) Vacancies to be filled from within or outside the State government workforce are to be listed with the Office of State Human Resources and as required by G.S. 96-29. The vacancies shall have an application period of not less than five business days. For purposes of this Rule, "State government workforce" means those employees who are subject to Articles 1, 2, 5, 6, 7, 8, 13, and 14 of Chapter 126 of the North Carolina General Statutes.
- (d) Each vacancy shall be described in an announcement that includes:
  - (1) For graded classes: the position number, classification title, salary grade and range, essential functions, knowledge, skills, abilities, minimum training and experience, and any vacancy-specific qualifications as determined by the agency in accordance with 25 NCAC 01H .0635(c) the application period, and the contact information;
  - (2) For banded classes: the position number, banded class title, competency level, banded class salary range or recruitment range corresponding to the competencies and duties, salary grade equivalency, essential functions, competencies, minimum training and experience, vacancy-specific qualifications as determined by the agency in accordance with 25 NCAC 01H .0635(c), the application period, and the contact information; and
  - (3) For all vacancy listings: a closing date, unless the classification has been determined as critical. Factors used in determining critical classifications include agency turnover; number of positions in class; geographic location of the position; scarcity of individuals with the required skills; and safety, health, or quality of care for clients. The critical classifications shall be approved by the State Human Resources Commission. On those classes determined to be critical, which shall be considered open and continuous postings, agencies shall determine how long applications shall be considered active. The State Human Resources Director or his or her designee shall report the number and type of continuous postings to the State Human Resources Commission.
- (e) Posting is not required when an agency determines that it will not openly recruit. This decision based upon a business need shall be made by the agency head. This includes vacancies:
  - (1) that are committed to a budget reduction;
  - (2) used to avoid a reduction in force;
  - (3) used for disciplinary transfers or demotions;
  - (4) to be filled by transfer of an employee to avoid the threat of bodily harm;
  - (5) that are designated exempt policymaking under G.S. 126-5(d);
  - (6) that must be filled immediately to prevent work stoppage in constant demand situations, or to protect the public health, safety, or security;



- (7) to be filled by chief deputies and chief administrative assistants to elected or appointed department heads; and vacancies for positions to be filled by confidential assistants and confidential secretaries to elected or appointed department heads, chief deputies, or chief administrative assistants;
  - (8) to be filled by an eligible exempt employee who has been removed from an exempt position and is being placed back in a position subject to all provisions of the State Human Resources Act;
  - (9) to be filled by a legally binding settlement agreement;
  - (10) to be filled in accordance with a pre-existing written agency workforce plan; and
  - (11) that must be filled immediately because of a widespread outbreak of a serious communicable disease.
- (f) The Office of State Human Resources may withhold approval for an agency to fill a job vacancy as set out in G.S. 126-7.1.

*History Note:*

*Authority G.S. 96-29; 126-3(b); 126-4(4); 126-7.1; 126-14;*

*Eff. March 1, 2007;*

*Amended Eff. August 1, 2009; May 1, 2008;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;*

*Amended Eff. March 1, 2019.*

## **25 NCAC 01H .0632 APPLICANT INFORMATION AND APPLICATION**

- (a) Applicants applying for a state vacancy shall complete and submit a State Application Form (Form PD-107 or its equivalent) to the hiring authority.
- (b) In completing an Application Form, persons subject to registration under the Military Selective Service Act (50 United States Code, Appx Section 453) shall certify compliance with such registration requirements to be eligible for State employment, as required by G.S. 143B-421.1. The knowing and willful failure of a subject person to certify compliance with this Act when submitting an application for consideration, or to falsely certify compliance, is grounds for dismissal from employment.
- (c) Persons eligible for veteran's preference shall submit a DD Form 214, Certificate of Release or Discharge from Active Duty, with the application. The agency shall verify eligibility for veterans' preference.

*History Note:*

*Authority G.S. 96-29; 126-4(4); 126-4(6);*

*Eff. February 1, 2007;*

*Amended Eff. August 1, 2010; April 1, 2009;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01H .0633 SPECIAL APPLICANT CONSIDERATIONS RELATED TO PRIORITY**

Priority consideration shall be given to the following applicants:

- (1) employees with career status who have received written notification of imminent separation due to reduction in force;
- (2) employees eligible pursuant to G.S. 126-5(e) who have been removed from exempt positions, for reasons other than cause;
- (3) employees eligible pursuant to G.S. 126-5(e) who have been removed from an exempt managerial position for a violation of G.S. 126-14.2;
- (4) employees returning from workers' compensation leave;
- (5) career State employees seeking promotions; and
- (6) eligible veterans as defined in G.S. 128-15(b)(3).

*History Note:*

*Authority G.S. 126-4(4); 128-15;*

*Eff. February 1, 2007;*

*Amended Eff. April 1, 2015;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01H .0634 SELECTION OF APPLICANTS**

- (a) All agencies shall select from the pool of the most qualified persons to fill vacant positions. Employment shall be offered based upon the job-related qualifications of applicants for employment using fair and valid selection criteria and not on political affiliation or political influence.
- (b) Using fair and valid selection criteria, the agency shall review the credentials of each applicant in order to determine who possesses the minimum qualifications as defined in Rule .0635 of this Section including selective criteria. "Selective criteria" are defined as additional minimum qualifications identified by the agency. From those applicants who meet the minimum qualifications, a pool of the most qualified candidates shall be identified. The pool of most qualified candidates shall be those individuals determined to be substantially more qualified than other applicants pursuant to G.S. 126-14.2. The individual selected for the position shall be from among the most qualified applicants.
- (c) Selection procedures and methods shall be validly related to the duties and responsibilities of the vacancy to be filled.
- (d) The agency shall provide timely written notice of non-selection to all unsuccessful candidates in the most qualified pool.

*History Note:* Authority G.S. 126-4(4); 126-14.2; 126-14.3;  
Eff. February 1, 2007;  
Amended Eff. April 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

#### **25 NCAC 01H .0635 MINIMUM QUALIFICATIONS**

- (a) The employee or applicant must possess at least the minimum qualifications set forth in the class specification of the vacancy being filled. Additional minimum qualifications, if any, included on the specific vacancy announcement must also be met. The additional qualifications shall have a documented business need. Qualifications include training, experience, competencies and knowledge, skills and abilities. The minimum qualifications on the vacancy announcement shall bear a direct and logical relationship to the minimums on the class specification, class administration guidelines developed by the Office of State Human Resources, and the specific position description. This requirement shall apply in new appointments, promotions, demotions or reassignments, transfers, and reinstatements.
- (b) Qualifications necessary to perform successfully may be attained in a variety of combinations. Reasonable substitutions of formal training and job-related experience, one for the other, may be made.
- (c) Agency management is responsible for determining and defending the vacancy-specific qualifications that are in addition to minimum training and experience requirements. Such vacancy-specific qualifications shall bear a logical and job-related relationship to the minimum requirements.
- (d) The Office of State Human Resources shall make the final determination as to whether the employee or applicant meets the minimum qualifications in questionable selection situations.

*History Note:* Authority G.S. 126-4(4);  
Eff. March 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

#### **25 NCAC 01H .0636 EMPLOYMENT: E-VERIFY**

- (a) The Immigration Reform and Control Act (IRCA) requires that all U.S. employees be either United States citizens or aliens with proper work authorization from the Bureau of U.S. Citizenship and Immigration Services.
- (b) All State agencies shall, no later than the third working day after the hire, verify the employment eligibility of all employees hired after November 6, 1986. Verification shall establish both identity and employment authorization and shall follow the requirements of the IRCA, using the E-verify program that is administered by the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, Verification Division, which is hereby incorporated by reference including any subsequent amendments and editions. Information on the E-verify program may be found on the U.S. Department of Homeland Security website at <http://www.uscis.gov/e-verify>.

*History Note:* Authority G.S. 126-4(4); 8 C.F.R. Parts 109 and 274a, 1987; P.L. 101-649;  
Eff. February 1, 2007;  
Amended Eff. April 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

### **25 NCAC 01H .0637 CREDENTIALS VERIFICATION PROCEDURES**

In accordance with G.S. 126-30, for each new employee, agencies shall verify information on applications for State employment that is significantly related to the particular job responsibilities or is used to qualify or set the employee's salary, as determined by the agency. Agencies shall be responsible for obtaining written verification of applicants' post-secondary dates of enrollment, degrees awarded, professional licenses, professional registrations and professional certifications.

*History Note: Authority G.S. 126-4; 126-30;  
Eff. February 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

### **25 NCAC 01H .0638 APPLICANT DISQUALIFICATION BECAUSE OF FALSE OR MISLEADING INFORMATION ON STATE APPLICATION**

When an agency discovers prior to employment that an applicant provided false or misleading information on a State application or its equivalent in order to meet position qualifications, the applicant shall be disqualified from consideration for the position in question.

*History Note: Authority G.S. 126-4; 126-30;  
Eff. February 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

### **25 NCAC 01H .0639 DISCIPLINARY ACTION BECAUSE OF FALSE OR MISLEADING INFORMATION ON STATE APPLICATION**

When an agency discovers, after employment, that an employee provided false or misleading information on a State application, or its equivalent, or concealed employment history or other required information significantly related to job responsibilities, but not used to meet minimum qualifications, disciplinary action is required and shall be administered in accordance with the following criteria:

- (1) Disciplinary action, up to and including dismissal, shall be taken.
- (2) The agency head's decision, while discretionary, shall consider: the effect of the false, misleading or concealed information on the hiring decision, the advantage gained by the employee over other applicants, the effect of the false information on the starting salary, and the advantage gained by employee in subsequent promotion and salary increases; and
- (3) Job performance shall not be considered in such cases, nor can decisions be made on the basis of race, creed, color, religion, national origin, sex, age, disability or political affiliation.

*History Note: Authority G.S. 126-4; 126-30;  
Eff. February 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

### **25 NCAC 01H .0640 DISMISSAL BECAUSE OF FALSE OR MISLEADING INFORMATION ON STATE APPLICATION**

When an agency discovers that an employee was selected based on false or misleading work experience, education, registration, licensure or certification information on the State application, or its equivalent, in order to meet position qualifications, the employee shall be dismissed, regardless of length of service.

*History Note: Authority G.S. 126-4; 126-30;  
Eff. February 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

### **25 NCAC 01H .0641 EMPLOYMENT OF RELATIVES**

Members of an immediate family shall not be employed within the same agency if the employment results in one member supervising another member of the employee's immediate family, or if one member will occupy a position that has influence over another member's employment, promotion, salary administration, or other related management or personnel considerations. This includes employment on a permanent, temporary, or contractual basis. The term "immediate family" includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson and granddaughter. Also included is the step-, half- and in-law relationships based on the listing in this Rule. It also includes other people living in the same household, who share a relationship comparable to immediate family members, if either occupies a position that requires influence over the other's employment, promotion, salary administration, or other related management or personnel considerations.

*History Note:* Authority G.S. 126-4(4);  
Eff. April 1, 2015.

## **SECTION .0700 - PRIORITY CONSIDERATION: GENERAL PROVISIONS**

### **25 NCAC 01H .0701 GENERAL PROVISIONS**

(a) It is recognized that certain applicants for positions of State employment may receive a priority over other applicants for the position. Priority consideration in certain situations may be accorded to the following applicants:

- (1) Career State employees applying for a position that is a higher salary grade (or salary grade equivalency) as provided in 25 NCAC 01H .0800;
- (2) Career State employees who have received written notification of imminent separation due to a reduction in force;
- (3) Eligible employees in positions which are designated as exempt policymaking and who have less than 10 years of cumulative State service in subject positions as provided in 25 NCAC 01H .1000;
- (4) Eligible employees in positions which are designated as exempt managerial and who have less than 10 years of cumulative State service in subject positions and who have been removed from the exempt position for reasons other than cause but not because the employee's selection violated G.S. 126-14.2, as provided in 25 NCAC 01H .1000;
- (5) Eligible employees in positions which are designated as exempt managerial and who have less than 10 years of cumulative State service and who have been removed from the exempt managerial position because the employee's selection violated G.S. 126-14.2, as provided in 25 NCAC 01H .1000; and
- (6) Eligible veterans applying for initial employment or subsequent employment in State government, as provided in 25 NCAC 01H .1100.

(b) The priority consideration listed in Subparagraph (a)(6) of this Rule may only be asserted against substantially equal or less qualified non-veteran outside applicants or other State employees who do not fall into any of the categories listed in Subparagraphs (a)(1) – (a)(5) of this Rule.

(c) The priority consideration listed in Subparagraphs (a)(3), (a)(4) and (a)(5) of this Rule may be defeated by an employee with the priority listed in Subparagraph (a)(2) of this Rule or by a current State employee who has greater cumulative State service in positions subject to the State Human Resources Act. The selected applicant must meet the minimum qualifications, including training, experience, competencies and knowledge, skills and abilities.

*History Note:* G.S. 126-4; 126-82; 128-15;  
Eff. February 1, 2007;  
Amended Eff. June 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## **SECTION .0800 - PROMOTIONAL PRIORITY**

### **25 NCAC 01H .0801 PROMOTIONAL PRIORITY CONSIDERATION FOR CURRENT EMPLOYEES**

(a) Promotional priority consideration shall be provided when a career State employee, as defined in G.S. 126-1.1, applies for a position that is a higher salary grade (salary grade equivalency) or has a higher market rate and the eligible employee is in competition with outside applicants.

(b) If it is determined that an eligible employee and an outside applicant have "substantially equal qualifications," then the eligible employee shall receive the job offer over an outside applicant.

(c) "Substantially equal qualifications" occur when the employer cannot make a reasonable and justifiable determination that the job-related qualifications held by one applicant are significantly better suited for the position than the job-related qualifications held by another applicant.

(d) For purposes of this Rule, an outside applicant is any applicant who is not a member of the State government workforce as defined in 25 NCAC 01H .0631(c).

*History Note:* Authority G.S. 126-4; 126-7.1;  
Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;  
ARRC Objection January 21, 1988;  
Curative Eff. November 1, 1988;  
Amended Eff. March 1, 1994;  
Recodified from 25 NCAC 01H .0625 Eff. December 29, 2003;  
Amended Eff. February 1, 2016; February 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## **25 NCAC 01H .0802 RELATIONSHIP TO OTHER EMPLOYMENT PRIORITY CONSIDERATIONS**

*History Note:* Authority G.S. 126-4; 126-7.1; 126-16;  
Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;  
Eff. March 1, 1988;  
Amended Eff. June 1, 1992;  
Recodified from 25 NCAC 01H .0626 Eff. December 29, 2003;  
Amended Eff. February 1, 2007;  
Repealed Eff. February 1, 2016.

### **SECTION .0900 - REDUCTION-IN-FORCE - PRIORITY REEMPLOYMENT**

#### **25 NCAC 01H .0901 REDUCTION IN FORCE APPLICATION AND APPEAL**

(a) The rules in this Section apply to employees notified of or separated due to a reduction in force.

(b) Priority consideration shall be provided to career State employees who have received written notification of imminent separation due to reduction in force. An employee who is separated from a time-limited position is not eligible for priority consideration unless the time-limited appointment extends beyond three years.

(c) A career State employee, as defined in G.S. 126-1.1, with priority consideration who has reason to believe priority consideration was denied in violation of G.S. 126 in a selection decision, and who chooses to appeal shall appeal through the agency grievance process as set forth in G.S. 126-34.01 and the Office of Administrative Hearings contested case process as set forth in G.S. 126-34.02.

*History Note:* Authority G.S. 126-1A; 126-5(c)(2); 126-5(d)(1); 126-7.1;  
Eff. March 1, 1987;  
Amended Eff. December 1, 1995; March 1, 1994; June 1, 1992; March 1, 1991;  
Recodified from 25 NCAC 01D .0510 Eff. December 29, 2003;  
Amended Eff. February 1, 2007;  
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. August 20, 2016.

#### **25 NCAC 01H .0902 REQUIREMENTS FOR REDUCTION IN FORCE PRIORITY CONSIDERATION**

Upon written notification of imminent separation through reduction in force (RIF), a career State employee shall receive priority consideration for positions at an equal or lower salary grade (or salary grade equivalency) for a period of 12 months pursuant to G.S. 126-7.1, unless the priority has been satisfied in accordance with the rules of this Section. The following conditions apply:

- (1) For employees receiving notification of imminent separation from trainee or flat rate positions, the salary grade for which priority is to be afforded shall be determined as follows: For employees in flat rate positions, the salary grade shall be the grade that has as its maximum a rate nearest to the flat rate salary of the eligible employee. For eligible employees in trainee status, the salary grade shall be the salary grade of the full class;
- (2) For employees receiving notification of imminent separation through reduction in force while actively possessing priority consideration from a previous reduction in force shall retain the initial priority for the remainder of the 12-month priority period. A new priority consideration period shall then begin at the salary grade (or salary grade equivalency), or salary rate of the position held at the most recent notification of separation and shall expire 12 months from the most recent notification date;
- (3) If after receiving formal notice of imminent reduction in force, an employee retires or applies for retirement prior to the separation date, an employee shall have no right to priority consideration;
- (4) Employees notified of separation from permanent full-time positions shall have priority consideration for permanent full-time and permanent part-time positions. Employees notified of separation from permanent part-time positions shall have priority consideration for permanent part-time positions only;
- (5) Employees who have priority consideration at the time of application for a vacant position, and who apply during the designated agency recruitment period, shall be continued as priority applicants until the selection process is complete;
- (6) If an employee with priority consideration applies for a position but declines an interview or offer of the position, the employee loses priority if the position is at a salary grade (or salary grade equivalency), market rate, or salary rate equal to or greater than that held at the time of notification;
- (7) If an employee with priority consideration is placed in another position prior to the separation due to reduction in force, the employee does not lose priority if the position is at a lower salary grade (or salary grade equivalency), market rate, or salary rate less than that held at the time of notification and if the position is at the same appointment status;
- (8) An employee with priority consideration may accept a temporary position at any level and retain priority consideration;
- (9) When priority has been granted for a lower salary grade (or salary grade equivalency) or lower market rate or lower salary rate than that held at the time of notification, the employee retains priority for higher salary grades (or salary grade equivalencies) or higher market rate up to and including that held at the time of the notification of separation;
- (10) An employee with priority consideration may accept employment outside State government or in a State position not subject to the State Human Resources Act and retain the priority consideration through the 12-month priority period;
- (11) Priority consideration for an eligible employee is terminated when:
  - (a) an employee accepts a permanent or time-limited position with the State at the same salary rate or higher rate than the salary rate at the time of notification of separation;
  - (b) an employee accepts a permanent or time-limited position with the State equal to or greater than the employee's salary grade (or salary grade equivalency) of the full-time or part-time position held at the time of notification, in accord with Item (4) of this Rule;
  - (c) an employee accepts a career banded position with the same or higher market rate than that held at the time of notification;
  - (d) an employee has received 12 months of priority consideration; or
  - (e) an employee applies for retirement or retires from State employment.
- (12) Priority consideration for employees notified of or separated through reduction in force shall not include priority to any exempt positions;
- (13) When an employee with priority consideration accepts a position at a lower salary rate or lower employee's salary grade (or salary grade equivalency) and is subsequently terminated by disciplinary action, any remaining priority consideration ceases; and
- (14) An employee with priority consideration shall serve a new probationary period when there is a break in service, as defined in 25 NCAC 01D .0114.

*History Note: Authority G.S. 126-4(6); 126-4(10); 126-7.1;  
 Eff. March 1, 1987;  
 Amended Eff. December 1, 1995; April 1, 1993; June 1, 1992; January 1, 1990;*

*Recodified from 25 NCAC 01D .0511 Eff. December 29, 2003;*  
*Amended Eff. February 1, 2007;*  
*Temporary Amendment Eff. May 23, 2014;*  
*Amended Eff. February 1, 2016; April 1, 2015;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01H .0903 REEMPLOYMENT AFTER PRIORITY EXPIRATION**

*History Note: Authority G.S. 126-4(6),(10);*  
*Eff. March 1, 1987;*  
*Recodified from 25 NCAC 01D .0514 Eff. December 29, 2003;*  
*Repealed Eff. February 1, 2007.*

**25 NCAC 01H .0904 AGENCY AND EMPLOYEE RESPONSIBILITIES**

- (a) The employing agency shall notify the employee of imminent separation in accordance with G.S. 126-7.1(b) and inform the employee of the priority consideration to be afforded.
- (b) The agency shall notify the Office of State Human Resources when:
- (1) an employee is officially notified of reduction in force;
  - (2) an eligible employee accepts a position that satisfies the priority consideration;
  - (3) an eligible employee refuses an interview or an offer that would satisfy the priority consideration; or
  - (4) other conditions that would satisfy or terminate an eligible employee's priority consideration under Rule .0902 of this Section are discovered.

*History Note: Authority G.S. 126-4(6),(10); 126-7.1;*  
*Eff. March 1, 1987;*  
*Amended Eff. December 1, 1995; June 1, 1992; November 1, 1988;*  
*Recodified from 25 NCAC 01D .0515 Eff. December 29, 2003;*  
*Amended Eff. November 1, 2011; February 1, 2007;*  
*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. August 20, 2016.*

**25 NCAC 01H .0905 OFFICE OF STATE HUMAN RESOURCES RESPONSIBILITIES**

The Office of State Human Resources shall maintain a list of employees notified of reduction in force that shall serve as a reference for agencies in determining priority consideration for reemployment.

*History Note: Authority G.S. 126-4(6),(10);*  
*Eff. March 1, 1987;*  
*Recodified from 25 NCAC 01D .0516 Eff. December 29, 2003;*  
*Amended Eff. November 1, 2011; February 1, 2007;*  
*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. August 20, 2016.*

**SECTION .1000 – EXEMPT PRIORITY CONSIDERATION**

**25 NCAC 01H .1001 EXEMPT PRIORITY REEMPLOYMENT CONSIDERATION – POLICY AND SCOPE**

- (a) The rules in this Section apply to employees hired on or before August 20, 2013 and removed from:
- (1) Exempt policymaking positions for reasons other than just cause; and
  - (2) Exempt managerial positions for reasons other than just cause.

(b) A career State employee as defined in G.S. 126-1.1 with less than 10 years cumulative service in subject positions prior to placement in an exempt policymaking or exempt managerial position, who is removed from an exempt policymaking or exempt managerial position for reasons other than just cause, shall receive a one-time reemployment priority. This reemployment priority shall be exercised by the employee in writing on the application for employment within one year following the date of the employee's separation. The employee shall be offered any available subject position for which the employee has applied and is qualified as set forth in the job vacancy announcement when the position applied for is equal to or below the salary grade (or salary grade equivalency) of the most recent subject position held prior to placement in the exempt policymaking or exempt managerial position unless an offer has been made to, and accepted by, a person qualified for mandated reassignment under G.S. 126-5(e)(2) or G.S. 126-5(e)(4) or an employee notified of or separated by a reduction in force, or a current State employee with greater cumulative State service subject to the State Human Resources Act.

(c) A career State employee as defined in G.S. 126-1.1 who had more than 2 but less than 10 years of cumulative service in a subject position who moves from one exempt policymaking or exempt managerial position to another exempt policymaking or exempt managerial position without a break in service, who is removed from the last exempt position for reasons other than just cause, shall receive a one-time reemployment priority. This reemployment priority shall be exercised by the employee within one year following the date of the employee's separation. The employee shall be offered any available subject position for which the employee has applied and is qualified as set forth in the job vacancy announcement, when the position applied for is equal to or below the salary grade (or salary grade equivalency) of the most recent subject position held prior to placement in the exempt managerial position unless an offer has been accepted by a person qualified for mandated reassignment under G.S. 126-5(e)(2) or G.S. 126-5(e)(4) or an employee notified of or separated by a reduction in force, or a current State employee with greater cumulative State service subject to the State Human Resources Act.

(d) The reemployment priority considerations described in Paragraphs (b) and (c) of this Rule shall expire when an employee refuses an interview or offer for a position for which the employee has applied, regardless of the position's salary grade (or salary grade equivalency), or when an employee accepts a position with the State for which he or she has applied.

(e) If an employee does not receive notice as described in Rule .0630(b) of this Subchapter, the employee shall remain subject to the State Human Resources Act until 10 working days after the employee receives written notification of the exempt status. If an otherwise eligible employee is removed from the position designated as exempt, the employee shall receive reemployment priority consideration to a position at the same salary grade (or salary grade equivalency) as the most recent subject position.

*History Note:* Authority G.S. 126-1.1; 126-5;  
Eff. March 1, 1987;  
Amended Eff. June 1, 1994; June 1, 1992; November 1, 1988;  
Recodified from 25 NCAC 01D .0512 Eff. December 29, 2003;  
Amended Eff. February 1, 2007;  
Temporary Amendment Eff. May 23, 2014;  
Temporary Amendment Expired March 13, 2015;  
Amended Eff. August 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## **25 NCAC 01H .1002 CUMULATIVE STATE SERVICE**

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Recodified from 25 NCAC 01D .0513 Eff. December 29, 2003;  
Repealed Eff. February 1, 2007.

## **25 NCAC 01H .1003 AGENCY RESPONSIBILITIES**

The employing agency shall inform the employee in writing of the priority reemployment consideration to be afforded by Rule .1001(b) and (c) of this Section no later than the time of separation.

*History Note:* Authority G.S. 126-4(4); 126-5;



*Eff. February 1, 2007;*  
*Amended Eff. August 1, 2015; November 1, 2011;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01H .1004 OFFICE OF STATE HUMAN RESOURCES RESPONSIBILITIES**  
**25 NCAC 01H .1005 MANDATORY RIGHT TO A POSITION**

*History Note: Authority G.S. 126-1.1; 126-4(6),(10); 126-5;*  
*Eff. February 1, 2007;*  
*Amended Eff. November 1, 2011;*  
*Repealed Eff. August 1, 2015.*

**SECTION .1100 – VETERANS' PREFERENCE**

**25 NCAC 01H .1101 VETERANS' PREFERENCE POLICY STATEMENT**

Eligible veterans shall be granted preference in employment with every state agency in accordance with Article 13 of G.S. 126.

*History Note: Authority G.S. 126-4(4); 128-15;*  
*Eff. September 1, 1987;*  
*Recodified from 25 NCAC 01H .0610 Eff. October 5, 2004;*  
*Amended Eff. February 1, 2007;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01H .1102 CLAIMING VETERANS' PREFERENCE**

In order to claim veterans' preference, all eligible persons shall submit a DD Form 214, Certificate of Release or Discharge from Active Duty, along with a State Application for Employment (PD-107 or its equivalent) to the appointing authority. Appointing authorities are responsible for verifying eligibility and may request additional documentation as is necessary to ascertain eligibility. Eligible veterans shall meet the minimum qualifications, as defined in 25 NCAC 01H .0635, for the position.

*History Note: Authority G.S. 126-4(4); 126-4(10); 128-15;*  
*Eff. September 1, 1987;*  
*Recodified from 25 NCAC 01H .0612 Eff. October, 5, 2004;*  
*Amended Eff. June 1, 2008; February 1, 2007;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01H .1103 DENIAL OF VETERANS' PREFERENCE**

*History Note: Authority G.S. 126-4(10); 126-4(11); 128-15; 150B, Article 3; S.L. 2013-382, s. 6.1;*  
*Eff. September 1, 1987;*  
*Recodified from 25 NCAC 01H .0613 Eff. October 5, 2004;*  
*Amended Eff. June 1, 2008; February 1, 2007; February 17, 2014;*  
*Temporary Amendment Eff. February 28, 2014;*  
*Repealed Eff. May 1, 2015.*

**25 NCAC 01H .1104 APPLICATION OF THE VETERANS' PREFERENCE**

(a) Veterans' preference shall be accorded eligible veterans, as defined in 25 NCAC 01H .1105, by giving additional credit as follows:

- (1) In initial employment, subsequent employment, promotion, reassignment, and horizontal transfer procedures, where numerically scored examinations are used in determining the relative ranking of candidates, 10 points shall be awarded to eligible veterans.

- (2) In initial employment, subsequent employment, promotion, reassignment, and horizontal transfer procedures where structured interview, assessment center, in-basket, or any other procedure, not numerically scored, is used to qualitatively assess the relative ranking of candidates, the veteran who has met the minimum qualification requirements for the vacancy, and who has less than four years of related military experience beyond that necessary to minimally qualify, shall also receive additional experience credit for up to four years of unrelated military service. The spouse or dependent shall not receive additional experience credit for the veteran's unrelated military service. To determine the amount of additional experience credit to be granted for unrelated military service, first determine the amount of related military service possessed by the eligible veteran beyond that required to meet the minimum qualifications, then apply the following:
- (A) If the total of such experience equals or exceeds four years, the additional credit for unrelated military service does not apply.
  - (B) If the total of such experience is less than four years, the veteran shall receive direct experience credit for unrelated military service in an amount not to exceed the difference between the eligible veteran's related military service and the four-year maximum credit that may be granted.
- (3) In reduction-in-force situations, when calculating length of service, the eligible veteran shall be accorded one year of State service for each year or fraction thereof of military service, up to a maximum of five years credit. This additional credit does not count as total state service.

(b) After applying the preference to candidates from outside the State government structure, upon initial employment or subsequent employment as outlined in Subparagraph (a)(1) or (2) of this Rule, the eligible veteran shall be hired when the veteran's overall qualifications are substantially equal to the non-veterans in the applicant pool as provided in 25 NCAC 01H .0701(b). Substantially equal qualifications occur when the employing agency cannot make a reasonable determination that the qualifications held by one or more applicants are significantly better suited for the position than the qualifications held by another applicant.

(c) The spouse, surviving spouse or surviving dependent of that veteran may claim veterans' preference without regard to whether such preference has been claimed previously by the veteran.

(d) For promotion, reassignment and horizontal transfer, after applying the preference to veterans who are current State employees as explained under Subparagraph (a)(1) or (2) of this Rule, the eligible veteran receives no further preference and competes with all other applicants who have substantially equal qualifications.

*History Note: Authority G.S. 126-4(4); 126-4(10); 128-15; ARRC Objection July 16, 1987; Eff. December 1, 1987; ARRC Objection Removed Eff. March 16, 1989; Recodified from 25 NCAC 01H .0614 Eff. October 5, 2004; Amended Eff. June 1, 2008; February 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01H .1105 ELIGIBILITY**

Persons eligible for veteran's preference shall have served in the Armed Forces of the United States on active duty, for reasons other than training, during periods of war, and shall have been discharged under other than dishonorable conditions. This particularly includes disabled veterans. Also eligible are spouses of disabled veterans, and the surviving spouse or dependent of a veteran who died on active duty during periods of war either directly or indirectly as a result of such service. Eligibility for veteran's preference shall further extend to veterans who suffer disabling injuries through service-related reasons during peacetime, to the spouses of such veterans, and to the surviving spouse or dependent of a veteran who died through service-related reasons during peacetime.

*History Note: Authority G.S. 126-4(10); 128-15; ARRC Objection July 16, 1987; Eff. December 1, 1987; ARRC Objection Removed Eff. March 16, 1989; Recodified from 25 NCAC 01H .0615 Eff. October 5, 2004;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **SUBCHAPTER 1I - SERVICE TO LOCAL GOVERNMENT**

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

#### **25 NCAC 01I .0101      AUTHORITY FOR PERSONNEL POLICIES**

*History Note:      Authority G.S. 126-4; 126-7; 126-8;  
Eff. February 1, 1976;  
Repealed Eff. November 1, 1988.*

#### **25 NCAC 01I .0102      AUTHORITY FOR CLASSIFICATION PLAN**

*History Note:      Authority G.S. 126-3; 126-4(1); 126-5(a);  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989;  
Repealed Eff. August 3, 1992.*

#### **25 NCAC 01I .0103      AUTHORITY FOR RECRUITMENT AND EVALUATION**

#### **25 NCAC 01I .0104      AUTHORITY FOR OTHER SERVICES TO LOCAL GOVERNMENT**

*History Note:      Authority G.S. 126-3; 126-4; 126-10;  
Eff. February 1, 1976;  
Repealed Eff. November 1, 1988.*

#### **25 NCAC 01I .0105      ORGANIZATION**

*History Note:      Authority G.S. 126-4; 126-5;  
Eff. February 1, 1976;  
Repealed Eff. December 1, 1978.*

### **SECTION .0200 - LOCAL GOVERNMENT EMPLOYMENT POLICIES**

#### **25 NCAC 01I .0201      APPLICABILITY**

#### **25 NCAC 01I .0202      COVERAGE**

#### **25 NCAC 01I .0203      EQUAL EMPLOYMENT OPPORTUNITY**

#### **25 NCAC 01I .0204      EMPLOYMENT OF RELATIVES**

#### **25 NCAC 01I .0205      CONFLICTING EMPLOYMENT**

#### **25 NCAC 01I .0206      PERSONNEL RECORDS AND REPORTS**

*History Note:      Authority G.S. 126-1; 126-4; 126-11; 126-12; 126-16; 126-36; 126-36.1; 153-A-98; 168A-3;  
Title VII of the 1964 Civil Rights Act as amended in 1972; Federal Standards for a Merit  
System of Personnel Administration; 5 U.S.C. 1501-1508; P.L. 95-256;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989; January 1, 1989; August 1, 1988; December 1, 1980;  
Repealed Eff. August 3, 1992.*

### **SECTION .0300 - LOCAL GOVERNMENT POSITION ANALYSIS**

**25 NCAC 01I .0301      AUTHORITY FOR ESTABLISHING QUALIFICATIONS**

*History Note:*    *Authority G.S. 126-4;*  
                      *Eff. February 1, 1976;*  
                      *Repealed Eff. November 1, 1988.*

- 25 NCAC 01I .0302      ORGANIZATION**
- 25 NCAC 01I .0303      DEFINITIONS**
- 25 NCAC 01I .0304      POLICY ON ESTABLISHING MINIMUM QUALIFICATION STANDARDS**
- 25 NCAC 01I .0305      CLASSIFICATION METHOD**
- 25 NCAC 01I .0306      CLASSIFICATION PLAN**
- 25 NCAC 01I .0307      MAINTENANCE OF THE CLASSIFICATION PLAN**
- 25 NCAC 01I .0308      ALLOCATION OF POSITIONS TO CLASSIFICATION PLAN**
- 25 NCAC 01I .0309      TENTATIVE AND FLAT-RATE PROVISIONS FOR TEMPORARY CLASS.**
- 25 NCAC 01I .0310      NEW AND ADDITIONAL PERMANENT: FULL OR PART-TIME POSITIONS**
- 25 NCAC 01I .0311      ALLOCATION OR REALLOCATION OF A VACANT POSITION**
- 25 NCAC 01I .0312      REALLOCATION OF AN ESTABLISHED POSITION TO ANOTHER CLASS.**
- 25 NCAC 01I .0313      EFFECTIVE DATE OF REALLOCATION**
- 25 NCAC 01I .0314      TRANSFER OF POSITIONS**
- 25 NCAC 01I .0315      ABOLISHMENT OF A POSITION**
- 25 NCAC 01I .0316      ABOLISHMENT OF A CLASS**

*History Note:*    *Authority G.S. 126-4;*  
                      *Eff. February 1, 1976;*  
                      *Amended Eff. January 1, 1989; August 1, 1980;*  
                      *Repealed Eff. August 3, 1992.*

**SECTION .0400 - LOCAL GOVERNMENT POSITION CLASSIFICATION SERVICES**

- 25 NCAC 01I .0401      CHARGES**
- 25 NCAC 01I .0402      MEMORANDUM OF AGREEMENT FOR TECHNICAL ASSISTANCE**

*History Note:*    *Authority G.S. 126-10;*  
                      *Eff. February 1, 1976;*  
                      *Amended Eff. January 1, 1989; April 1, 1981;*  
                      *Repealed Eff. August 3, 1992.*

**SECTION .0500 - POSITIONS IN LOCAL GOVERNMENT**

- 25 NCAC 01I .0501      CLASSIFICATIONS**
- 25 NCAC 01I .0502      FILING OF CLASSIFICATION STANDARDS**
- 25 NCAC 01I .0503      CLASSIFICATION STANDARDS**
- 25 NCAC 01I .0504      LEGAL: ADMINISTRATIVE MANAGEMENT: AND RELATED CLASSES**
- 25 NCAC 01I .0505      DATA PROCESSING CLASSES**
- 25 NCAC 01I .0506      INFORMATIONAL AND EDUCATIONAL CLASSES**
- 25 NCAC 01I .0507      HUMAN SERVICES CLASSES**

*History Note:*    *Authority G.S. 126-4;*  
                      *Eff. February 1, 1976;*  
                      *Amended Eff. January 1, 1989; June 1, 1983; April 1, 1983; April 1, 1982;*  
                      *Repealed Eff. August 3, 1992.*

- 25 NCAC 01I .0508      MEDICAL: HEALTH: AND LABORATORY CLASSES**

**25 NCAC 01I .0509 LICENSING: INSPECTION: AND PUBLIC SAFETY CLASSES**  
**25 NCAC 01I .0510 SKILLED TRADES AND ALLIED CLASSES**  
**25 NCAC 01I .0511 ENGINEERING: ARCHITECTURAL: AND ALLIED CLASSES**

*History Note:* Authority G.S. 126-4;  
Eff. March 1, 1979;  
Amended Eff. October 1, 1980;  
Repealed Eff. August 3, 1992.

#### **SECTION .0600 - RECRUITMENT AND SELECTION**

**25 NCAC 01I .0601 RECRUITMENT**  
**25 NCAC 01I .0602 POSTING AND ANNOUNCEMENT OF VACANCIES**  
**25 NCAC 01I .0603 APPLICANT INFORMATION AND APPLICATION**  
**25 NCAC 01I .0604 EMPLOYMENT OF RELATIVES**  
**25 NCAC 01I .0605 VETERAN'S PREFERENCE**  
**25 NCAC 01I .0606 SELECTION**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1989; February 1, 1986; August 1, 1980;  
Repealed Eff. August 3, 1992.

**25 NCAC 01I .0607 TYPES OF EXAMINATION**  
**25 NCAC 01I .0608 ORAL EXAMINING BOARDS**  
**25 NCAC 01I .0609 RATING EXAMINATION**  
**25 NCAC 01I .0610 VETERANS' PREFERENCE**  
**25 NCAC 01I .0611 EXAMINATION RECORDS**  
**25 NCAC 01I .0612 APPLICANT APPEAL OF EXAMINATION RESULTS**  
**25 NCAC 01I .0613 REGISTERS OF ELIGIBLES**

*History Note:* Authority G.S. 126-4; Federal Standards for a Merit System of Personnel Administration;  
Eff. February 1, 1976;  
Repealed Eff. February 1, 1986.

**25 NCAC 01I .0614 SELECTIVE PLACEMENT PROGRAM**

*History Note:* Authority G.S. 126-4; Federal Standards for a Merit System of Personnel Administration;  
Eff. August 1, 1980;  
Repealed Eff. February 1, 1986.

#### **SECTION .0700 - APPOINTMENT AND SEPARATION**

**25 NCAC 01I .0701 APPOINTMENT**  
**25 NCAC 01I .0702 TYPES OF APPOINTMENTS AND DURATION**  
**25 NCAC 01I .0703 TRANSFER: PROMOTION: DEMOTION: AND SEPARATION**  
**25 NCAC 01I .0704 TRANSFER**  
**25 NCAC 01I .0705 PROMOTION**

*History Note:* Legislative Objection Lodged Eff. June 13, 1983;  
Filed as an Emergency Amendment (g) Eff. February 10, 1981, for a period of 111 Days to Expire on  
June 1, 1981;  
Authority G.S. 126-4;  
Eff. February 1, 1976;

*Amended Eff. January 1, 1989; February 1, 1986; August 1, 1980;  
Repealed Eff. August 3, 1992.*

**25 NCAC 01I .0706      DEMOTION/REASSIGNMENT**  
**25 NCAC 01I .0707      SEPARATION**  
**25 NCAC 01I .0708      VETERANS**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1986;  
                         Amended Eff. May 1, 1989; January 1, 1989;  
                         Repealed Eff. August 3, 1992.*

#### **SECTION .0800 - PROBATIONARY PERIOD AND PERMANENT STATUS**

**25 NCAC 01I .0801      POLICY**  
**25 NCAC 01I .0802      PROBATIONARY PERIOD**  
**25 NCAC 01I .0803      PERMANENT STATUS**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. December 1, 1984; June 1, 1983; August 1, 1980; January 1, 1979;  
                         Repealed Eff. February 1, 1986.*

#### **SECTION .0900 - INTERNAL PERFORMANCE PAY DISPUTE RESOLUTION PROCEDURES**

**25 NCAC 01J .0901      A PROCEDURE SPECIFICALLY DESIGNED ONLY PERFORMANCE PAY  
DISPUTES**  
**25 NCAC 01J .0902      REVIEW/PERFORMANCE PAY DISPUTES USING THE GRIEVANCE  
PROCEDURE**  
**25 NCAC 01J .0903      DEFINITIONS**

*History Note:      Authority G.S. 126-4; 126-25;  
                         Eff. January 1, 1990;  
                         Amended Eff. November 1, 1990;  
                         Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.*

#### **SECTION .0900 - TRANSFER: PROMOTION: DEMOTION AND SEPARATION**

**25 NCAC 01I .0901      TRANSFER**  
**25 NCAC 01I .0902      PROMOTION**  
**25 NCAC 01I .0903      DEMOTION**  
**25 NCAC 01I .0904      SEPARATION**  
**25 NCAC 01I .0905      REINSTATEMENT**  
**25 NCAC 01I .0906      VETERANS**

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. June 1, 1983; October 1, 1981; December 1, 1980; January 1, 1979;  
                         Repealed Eff. February 1, 1986.*

#### **SECTION .1000 - COMPENSATION**

**25 NCAC 01I .1001      COMPENSATION PLAN**  
**25 NCAC 01I .1002      ESTABLISHMENT OF SALARY SCHEDULE**

*History Note:*    Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. May 1, 1977;  
                         Repealed Eff. August 3, 1992.

**25 NCAC 01I .1003      LOCAL SALARY SCHEDULE**  
**25 NCAC 01I .1004      APPENDIX TO LOCAL SALARY SCHEDULE**

*History Note:*    Authority G.S. 126-4;  
                         Eff. September 1, 1976;  
                         Repealed Eff. July 1, 1977.

**25 NCAC 01I .1005      ADMINISTRATION OF SALARY SCHEDULE**

*History Note:*    Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. January 1, 1989; May 1, 1977;  
                         Repealed Eff. August 3, 1992.

**25 NCAC 01I .1006      AVAILABILITY OF FUNDS**

*History Note:*    Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Repealed Eff. May 1, 1977.

**25 NCAC 01I .1007      SALARY RATES**

*History Note:*    Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. January 1, 1989; May 1, 1977;  
                         Repealed Eff. August 3, 1992.

**25 NCAC 01I .1008      SALARY REDUCTION BASED ON PERFORMANCE**

*History Note:*    Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Repealed Eff. May 1, 1977.

**25 NCAC 01I .1009      PAY STATUS**  
**25 NCAC 01I .1010      ADDITIONAL COMPENSATION**  
**25 NCAC 01I .1011      OTHER PAY**

*History Note:*    Authority G.S. 126-4; 126-5; 126-9;  
                         Eff. February 1, 1976;  
                         Amended Eff. January 1, 1989; May 1, 1977;  
                         Repealed Eff. August 3, 1992.

**25 NCAC 01I .1012      ASSIGNMENT OF CLASSES WITHIN SALARY SCHEDULE**  
**25 NCAC 01I .1013      PROCEDURE FOR SUBMISSION AND APPROVAL**

*History Note:*    Authority G.S. 126-4;  
                         Eff. May 1, 1977;

*Amended Eff. January 1, 1989;*  
*Repealed Eff. August 3, 1992.*

## **SECTION .1100 - HOURS OF WORK AND OVERTIME PAY**

### **25 NCAC 01I .1101 FAIR LABOR STANDARDS ACT**

*History Note: Authority Fair Labor Standards Act;*  
*Eff. February 1, 1976;*  
*Repealed Eff. October 1, 1976.*

### **25 NCAC 01I .1102 EXEMPTIONS**

*History Note: Authority Fair Labor Standards Act;*  
*Eff. February 1, 1976;*  
*Repealed Eff. November 1, 1979.*

### **25 NCAC 01I .1103 HOURS OF WORK AND OVERTIME COMPENSATION**

*History Note: Authority G.S. 126-4;*  
*Eff. November 1, 1979;*  
*Amended Eff. August 1, 1985;*  
*Repealed Eff. August 3, 1992.*

## **SECTION .1200 - ATTENDANCE AND LEAVE**

### **25 NCAC 01I .1201 POLICY**

### **25 NCAC 01I .1202 HOURS OF WORK**

### **25 NCAC 01I .1203 VACATION LEAVE**

### **25 NCAC 01I .1204 SICK LEAVE**

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. June 1, 1983; January 1, 1983; May 1, 1980; May 1, 1979;*  
*Repealed Eff. August 3, 1992.*

### **25 NCAC 01I .1205 PETTY LEAVE**

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

### **25 NCAC 01I .1206 MILITARY LEAVE WITH PAY**

### **25 NCAC 01I .1207 CIVIL LEAVE**

### **25 NCAC 01I .1208 EDUCATIONAL LEAVE**

### **25 NCAC 01I .1209 LEAVE WITHOUT PAY**

### **25 NCAC 01I .1210 SPECIAL LEAVE WITHOUT PAY**

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. January 1, 1989; June 1, 1983; June 1, 1982; December 1, 1980;*  
*Repealed Eff. August 3, 1992.*



**SECTION .1300 - DISCIPLINARY ACTION: SUSPENSION AND DISMISSAL**

<b>25 NCAC 01I .1301</b>	<b>POLICY</b>
<b>25 NCAC 01I .1302</b>	<b>PERFORMANCE OF DUTIES</b>
<b>25 NCAC 01I .1303</b>	<b>PERSONAL CONDUCT</b>
<b>25 NCAC 01I .1304</b>	<b>SUSPENSION</b>
<b>25 NCAC 01I .1305</b>	<b>RIGHT OF APPEAL</b>
<b>25 NCAC 01I .1306</b>	<b>REFERENCE</b>

*History Note:* Authority G.S. 126-4; 126-35; 126-37;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1977;  
Repealed Eff. December 1, 1984.

<b>25 NCAC 01I .1307</b>	<b>APPEALS</b>
<b>25 NCAC 01I .1308</b>	<b>CAUSES</b>
<b>25 NCAC 01I .1309</b>	<b>DISMISSAL: CAUSES RELATING TO PERFORMANCE OF DUTIES</b>
<b>25 NCAC 01I .1310</b>	<b>DISMISSAL</b>
<b>25 NCAC 01I .1311</b>	<b>DISMISSAL: CAUSES RELATING TO PERSONAL CONDUCT</b>
<b>25 NCAC 01I .1312</b>	<b>SUSPENSION</b>
<b>25 NCAC 01I .1313</b>	<b>DEMOTION</b>
<b>25 NCAC 01I .1314</b>	<b>SPECIAL PROVISIONS: CREDENTIALS</b>

*History Note:* Authority G.S. 126-4; 126-35; 126-37; 126-38; Chapter 150B, Article 3,;  
Eff. December 1, 1984;  
Amended Eff. September 1, 1989; January 1, 1989; February 1, 1989; August 1, 1985;  
Repealed Eff. November 1, 1990.

**25 NCAC 01I .1315 LOCAL AGENCIES SUBJECT TO SAME RULES AS STATE AGENCIES**

*History Note:* Authority G.S. 126-4; 126-35; 126-37;  
Eff. November 1, 1990;  
Repealed Eff. August 3, 1992.

**SECTION .1400 - ACTIONS BY LOCAL GOVERNING BODY**

**25 NCAC 01I .1401 SALARY SCHEDULE ESTABLISHMENT**

*History Note:* Authority G.S. 126-11; 126-9;  
Eff. February 1, 1976;  
Repealed Eff. July 1, 1977.

**25 NCAC 01I .1402 ESTABLISHING EQUIVALENT PERSONNEL SYSTEM**

*History Note:* Authority G.S. 126-11;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1983;  
Repealed August 3, 1992.

**25 NCAC 01I .1403 CERTIFICATION: PERSONNEL ADMINISTRATION SYSTEM**

*History Note:* Authority G.S. 126-4; Federal Standards for a Merit System of Personnel Administration;  
Eff. August 1, 1980;

*Repealed Eff. August 3, 1992.*

**25 NCAC 01I .1404      REQUIREMENTS FOR EQUIVALENT PERSONNEL SYSTEM**

*History Note:      Authority G.S. 126-11; Federal Standards for A Merit System of Personnel Administration;  
Eff. February 1, 1981;  
Amended Eff. October 1, 1983; June 1, 1983;  
Repealed Eff. November 1, 1988.*

<b>25 NCAC 01I .1405</b>	<b>MERIT PRINCIPLE I: RECRUITMENT: SELECTION: ADVANCEMENT</b>
<b>25 NCAC 01I .1406</b>	<b>MERIT PRINCIPLE II: CLASSIFICATION: COMPENSATION</b>
<b>25 NCAC 01I .1407</b>	<b>MERIT PRINCIPLE III: TRAINING</b>
<b>25 NCAC 01I .1408</b>	<b>MERIT PRINCIPLE IV</b>
<b>25 NCAC 01I .1409</b>	<b>MERIT PRINCIPLE V</b>
<b>25 NCAC 01I .1410</b>	<b>MERIT PRINCIPLE VI: POLITICAL ACTIVITY</b>
<b>25 NCAC 01I .1411</b>	<b>PROCEDURE FOR SUBMISSION</b>
<b>25 NCAC 01I .1412</b>	<b>AREAS NOT COVERED BY THE DELEGATION AGREEMENT</b>
<b>25 NCAC 01I .1413</b>	<b>ONGOING CONDITIONS OF THE DELEGATION AGREEMENT</b>

*History Note:      Authority G.S. 126-11; Federal Standards for a Merit System of Personnel Administration;  
Eff. October 1, 1983;  
Amended Eff. January 1, 1989;  
Repealed Eff. August 3, 1992.*

**SECTION .1500 - FORMS**

<b>25 NCAC 01I .1501</b>	<b>FORM PD-107</b>
<b>25 NCAC 01I .1502</b>	<b>FORM PD-1</b>
<b>25 NCAC 01I .1503</b>	<b>FORMS PD-100 HR AND PD-100 CD</b>
<b>25 NCAC 01I .1504</b>	<b>FORM PD-119 HR</b>
<b>25 NCAC 01I .1505</b>	<b>FORM PD-3</b>
<b>25 NCAC 01I .1506</b>	<b>FORM PD-118</b>
<b>25 NCAC 01I .1507</b>	<b>FORM PD-102</b>
<b>25 NCAC 01I .1508</b>	<b>FORM PD-103</b>

*History Note:      Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989;  
Repealed Eff. August 3, 1992.*

**SECTION .1600 - PERSONNEL ADVISORY SERVICE TO LOCAL GOVERNMENT**

<b>25 NCAC 01I .1601</b>	<b>PERSONNEL ADVISORY SERVICE TO LOCAL GOVERNMENT</b>
<b>25 NCAC 01I .1602</b>	<b>DESCRIPTION OF REQUEST FOR TECHNICAL ASSISTANCE</b>

*History Note:      Authority G.S. 126-10;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989; April 1, 1981;  
Repealed Eff. August 3, 1992.*

**25 NCAC 01I .1603      CHARGES**

*History Note:      Authority G.S. 126-10;*

*Eff. August 1, 1977;*  
*Amended Eff. April 1, 1981;*  
*Repealed Eff. August 3, 1992.*

## **SECTION .1700 - LOCAL GOVERNMENT EMPLOYMENT POLICIES**

### **25 NCAC 01I .1701      APPLICABILITY**

State law (N.C.G.S. Chapter 126, "The State Human Resources Act") provides for the establishment of a system of personnel administration applicable to certain local employees paid entirely or in part from federal funds. Local governing boards are authorized by G.S. 126 to establish personnel systems which will fully comply with the applicable federal standards and then may remove such employees from the state system to their own system.

*History Note:      Authority G.S. 126-1; 126-11;*  
*Eff. August 3, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*  
*2016.*

### **25 NCAC 01I .1702      EMPLOYMENT OF RELATIVES**

(a) The term "immediate family" includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson and granddaughter. Also included are the step-, half- and in-law relationships based on the listing in this Rule.

(b) Members of an immediate family shall not be employed within the same agency if the employment results in one member supervising another member of the employee's immediate family, or if one member will occupy a position that has influence over another member's employment, promotion, salary administration, or other related management or personnel considerations. This includes employment on a permanent, temporary, or contractual basis.

*History Note:      Authority G.S. 126-4;*  
*Eff. August 3, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*  
*2016;*  
*Amended Eff. September 1, 2019.*

### **25 NCAC 01I .1703      CONFLICTING EMPLOYMENT**

No employee shall hold any office or have other employment which may conflict with his employment in an agency which is subject to the State Human Resources Act. Determination of conflict shall be made by the agency director.

*History Note:      Authority G.S. 126-4;*  
*Eff. August 3, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,*  
*2016.*

### **25 NCAC 01I .1704      PERSONNEL RECORDS AND REPORTS**

Such personnel records as are necessary for the proper administration of a personnel service system and related programs will be maintained. Periodic reports will be prepared as necessary to indicate compliance with applicable state and local requirements and the federal and state standards:

- (1) Personnel Records. Each agency shall maintain a service record for each employee including name, position title, organization unit, all changes in status, performance evaluations and other information considered pertinent.
- (2) Payroll Records. An accurate copy of the payroll of each local social services, public health, mental health and civil preparedness unit shall be submitted to the agency, personnel and/or budget offices within two weeks following each payroll period. The payroll information shall be used in reviewing conformity by local units to establish rules and regulations.

*History Note:      Authority G.S. 126-4; 153-A-98; Standards for a Merit System of Personnel Administration;*  
*Eff. August 3, 1992;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **SECTION .1800 - GENERAL PROVISIONS**

### **25 NCAC 01I .1801 AUTHORITY FOR CLASSIFICATION PLAN**

- (a) The State Human Resources Director is authorized to allocate and reallocate individual positions consistent with the basic established classification and pay plan.
- (b) The State Human Resources Director is authorized to modify the classification plan for local government positions subject to Chapter 126 of the North Carolina General Statutes pending final approval of the State Human Resources Commission and the Governor.

*History Note: Authority G.S. 126-3; 126-4(1); 126-5(a);  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

### **25 NCAC 01I .1802 POLICY ON ESTABLISHING MINIMUM QUALIFICATION STANDARDS**

- (a) It shall be the policy of the state to establish job-related minimum qualification standards wherever they are practical for each class of work in the position classification plan. The standards will be based on the required skills, knowledges and abilities common to each classification. The qualification standards and job-related skills, knowledges and abilities shall serve as guides for the selection and placement of individuals.
- (b) The training and experience statements serve as indicators of the possession of identical skills, knowledges and abilities and as guides to primary sources of recruitment; reasonable substitutions of formal education and job-related experience, one for the other, will be made. The State Human Resources Commission recognizes that a specific quantity of formal education or number of years experience does not always guarantee possession of the identified skills, knowledges and abilities for every position in a class. Qualifications necessary to perform successfully may be attained in a variety of combinations. Management is responsible for determining specific job-related qualifications that are an addition to minimum standards. Management shall be responsible for any adverse effects resulting from the use of selection standards that have not been established or approved by the State Human Resources Director.
- (c) The State Human Resources Director is authorized to modify training and experience requirements for established classifications consistent with this policy and to report such changes to the Board.

*History Note: Authority G.S. 126-4;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

### **25 NCAC 01I .1803 CLASSIFICATION METHOD**

*History Note: Authority G.S. 126-4;  
Eff. August 3, 1992;  
Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.*

### **25 NCAC 01I .1804 ALLOCATION OF POSITIONS TO CLASSIFICATION PLAN**

Every covered position in local government shall be allocated to an appropriate class in the classification plan. The allocation of a position is its assignment to a class containing all positions which are sufficiently similar in duty assignments to justify common treatment in selection, compensation and other employment processes. A class may consist of a single unique position or of many like positions.

*History Note: Authority G.S. 126-4;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01I .1805 PROVISIONS FOR TENTATIVE TEMPORARY CLASSIFICATION**

The State Human Resources Director is authorized to establish temporary classifications with tentative pay grades when insufficient market compensation information is available to make permanent classification and pay recommendations to the State Human Resources Commission. When sufficient market compensation information is available, the Director will make a recommendation to the State Human Resources Commission that will incorporate the temporary classification and pay into the permanent classification plan and pay plan. Such temporary classifications shall be administered according to all applicable rules approved by the State Human Resources Commission.

*History Note: Authority G.S. 126-3(8);126-4;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
Amended Eff. September 1, 2019.*

## **25 NCAC 01I .1806 NEW AND ADDITIONAL PERMANENT: FULL OR PART-TIME POSITIONS**

The duties of a budgeted position must be defined and the position must be assigned to an official classification in the salary plan.

*History Note: Authority G.S. 126-4;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **SECTION .1900 - RECRUITMENT AND SELECTION**

### **25 NCAC 01I .1901 RECRUITMENT**

*History Note: Authority G.S. 126-4;  
Eff. August 3, 1992;  
Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.*

### **25 NCAC 01I .1902 POSTING AND ANNOUNCEMENT OF VACANCIES**

- (a) Vacant positions to be filled shall be posted by the agency having the vacancy.
- (b) Vacancies that will be filled from within the agency workforce shall have an application period of not less than seven calendar days. These vacancies will be posted in an area known to employees in an announcement that includes, at minimum the title, salary range, duties, knowledge and skill requirements, minimum training and experience standard, closing date, and contact person for each position to be filled. Posting is not required when an agency head determines it will not openly recruit based upon a business need for vacancies:
  - (1) that are committed to a budget reduction;
  - (2) used to avoid a reduction in force;
  - (3) used for disciplinary transfers or demotions;
  - (4) to be filled by transfer of an employee to avoid the threat of bodily harm;
  - (5) that must be filled immediately to prevent work stoppage in constant demand situations, or to protect the public health, safety, or security;
  - (6) to be filled by a legally binding settlement agreement;
  - (7) to be filled in accordance with a pre-existing written agency workforce plan; or
  - (8) that must be filled immediately because of a widespread outbreak of a serious communicable disease.
- (c) Any vacancy for which an agency wishes to consider outside applicants or outside applicants concurrently with the internal workforce may be listed with the local NCWorks Career Center of the Division of Employment Security. Listings shall include the announcement information specified in Paragraph (b) of this Rule and vacancies so listed shall have an application period of not less than seven calendar days.
- (d) If an agency makes an effort to fill a vacancy from within, and is unsuccessful, the listing with the Division of Employment Security may take place when the decision is made to recruit outside of the agency. A vacancy that an agency will not fill for any reason shall not be posted; if conditions change, it shall then be treated as a new vacancy.

*History Note:* Authority G.S. 96-29; 126-3(b); 126-4(4); 126-7.1; 126-14;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,  
2016;  
Amended Eff. September 1, 2019.

#### **25 NCAC 01I .1903 APPLICANT INFORMATION AND APPLICATION**

- (a) Persons applying for a local vacancy must complete and submit the application form designated by the hiring authority. Local agencies are not required to accept applications for a position that is not vacant.
- (b) Each agency shall be responsible for evaluating the accuracy of statements made in an application and may seek job-related evidence of the applicant's suitability for employment.
- (c) An applicant shall be disqualified if he or she:
  - (1) lacks any of the preliminary qualifications established for the class of the position being applied for;
  - (2) has made a false statement of material fact in the application process;
  - (3) fails to submit a completed application within the prescribed time limits;
  - (4) lacks the physical or mental ability to perform the essential functions of the position even with reasonable accommodation.

*History Note:* Authority G.S. 126-4;  
Eff. September 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20,  
2016;  
Amended Eff. September 1, 2019.

#### **25 NCAC 01I .1904 VETERAN'S PREFERENCE**

*History Note:* Authority G.S. 126-4;  
Eff. August 3, 1992;  
Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.

#### **25 NCAC 01I .1905 SELECTION**

- (a) Selection of Applicants:
  - (1) As set forth in G.S. 126-14, using fair and valid selection criteria, the agency shall review the credentials of each applicant in order to determine who possesses the minimum qualifications including selective criteria. "Selective criteria" shall be defined as additional minimum qualifications identified by the agency. From those applicants who meet the minimum qualifications, a pool of the most qualified candidates shall be identified by the agency. The pool of most qualified candidates shall be those individuals determined to be substantially more qualified than other applicants. The individual selected for the position shall be from among the most qualified applicants.
  - (2) Selection procedures and methods shall be validly related to the duties and responsibilities of the vacancy to be filled.
  - (3) Agencies shall select from the pool of the most qualified persons to fill vacant positions.
  - (4) The agency shall provide written notice of non-selection to all unsuccessful candidates in the most qualified pool.
- (b) Minimum Qualifications:
  - (1) The employee or applicant must possess at least the minimum qualifications set forth in the class specification of the vacancy being filled. Any additional minimum qualifications included on the specific vacancy announcement must also be met. The additional qualifications shall have a documented business need. Qualifications include training, experience, competencies, and knowledge, skills, and abilities. The minimum qualifications on the vacancy announcement shall bear a relationship to the minimums on the class specification and the specific position description.
  - (2) Qualifications may be attained in a variety of combinations. Substitutions of formal training and job-related experience, one for the other, may be made by the local government agency.

- (3) Agency management shall be responsible for determining and defending the vacancy-specific qualifications that are in addition to minimum training and experience requirements. Such vacancy-specific qualifications shall bear a related relationship to the minimum requirements.
- (4) At the request of the agency, the Office of State Human Resources shall make the final determination as to whether the employee or applicant meets the minimum qualifications.

*History Note:* Authority G.S. 126-4;  
 Eff. August 3, 1992;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
 Amended Eff. September 1, 2019.

## **SECTION .2000 - APPOINTMENT AND SEPARATION**

### **25 NCAC 01I .2001 APPOINTMENT**

*History Note:* Authority G.S. 126-4;  
 Eff. August 3, 1992;  
 Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.

### **25 NCAC 01I .2002 TYPES OF APPOINTMENTS AND DURATION**

(a) Probationary Appointment: The probationary period is an essential extension of the selection process and provides the time for effective adjustment of the new employee or elimination of those whose performance will not meet acceptable standards. Probationary appointments are administered as follows:

- (1) The agency shall require a probationary period for:
  - (A) Individuals receiving original appointments to permanent positions;
  - (B) Employees accepting a position in a different agency in the same county or in another county that is subject to G.S. Chapter 126. This applies to those who have already achieved career status; and
  - (C) Individuals being rehired following a 31 day break in service may be required to serve a probationary period as set out in Subparagraph (2).
- (2) Individuals being rehired may be required to serve a probationary period if:
  - (A) the essential duties and responsibilities of the position into which the employee is being rehired are significantly different from those of the position held at the time the employee left; or
  - (B) in the judgment of the employing agency, a new probationary period is justified based on previous employment history and the specific reasons for the new probationary period are communicated to the employee in the job offer.
- (3) Employees with career status who serve a new probationary period as set out in Part (a)(1)(B) of this Rule shall be returned to career status upon successful completion of the new probationary period;
- (4) The length of the probationary period shall not be less than three nor more than nine months of either full-time or part-time employment. The length is dependant upon the complexity of the position and the rapidity of progress made by the particular individual in the position. If the desired level of performance is not achieved within nine months after appointment, the employee shall be separated from service unless in trainee status; an employee with a trainee appointment is expected to make a satisfactory progress, but is not permanent until he has completed the training period;
- (5) At any time during a probationary period an employee may be separated from service for causes related to performance of duties or for personal conduct detrimental to the agency without right of appeal or hearing. The employee must be given notice of dismissal, including reasons; and
- (6) Employment in a temporary appointment may be credited toward the probationary period at the discretion of the appointing authority. Employment in an intermittent or emergency appointment shall not be credited toward the probationary period.

(b) Trainee Appointment: A trainee appointment may be made to a position in any class for which the specification includes special provisions for a trainee progression leading to a regular appointment. Trainee appointments are administered as follows:

- (1) An individual who possesses the acceptable training and experience for the class may not be appointed as a trainee;
- (2) The specification for each class in which a trainee appointment is authorized will define the minimum qualifications for the trainee appointment and the minimum qualifications for a regular probationary appointment. It is expected that the individual will progress through supervised experience to a minimum level of satisfactory performance in the position during a period of time indicated by the difference between the amounts of experience required for the two types of appointments. This limit does not include time spent on educational leave or additional time required to participate in a work-study program designed to meet educational requirements for the class. An employee may not remain on a trainee appointment beyond the time he meets the educational and experience requirements for the class. After the employee has successfully completed all educational and experience requirements he shall be given probationary or permanent status in the position or shall be separated. If the period of the trainee appointment equals or exceeds nine months, the employee must be given permanent status or be separated at the completion of the trainee period;
- (3) If an employee with permanent status in another class accepts a trainee appointment, the permanent status will be waived for the duration of the trainee appointment. The employee can regain permanent status either through successful completion of the trainee appointment, by reinstatement to the class in which he previously held status, or by transfer to a position in a class for which he/she would have been eligible based on previous permanent status; and
- (4) A former employee who does not meet the minimum requirements of the class to which he is being appointed shall be given a trainee appointment. All requirements for the trainee appointment must be satisfied prior to attaining permanent status.

(c) Permanent Appointment. A permanent appointment is an appointment to a permanently established position when the incumbent is expected to be retained on a permanent basis. Permanent appointments follow the satisfactory completion of a probationary or trainee appointment, or may be made upon reinstatement of a qualified employee. Permanent appointments do not confer career status. Career status is achieved only when the conditions set out in G.S. 126-1.1 are met. Continuous service creditable toward career status shall be transferred when an employee accepts a position in an agency subject to the State Human Resources Act in the same county or in another county.

(d) Time-Limited Appointment. A time-limited appointment may be made to:

- (1) a permanent position that is vacant due to the incumbent's leave of absence and when the replacement employee's services will be needed for a period of one year or less; or
- (2) to a permanent position that has an established duration of no more than two years. Such appointment shall not be made for less than six months. If at the end of the two year time-limited appointment, the work is expected to continue and the position becomes permanent, the employee shall be given a permanent appointment. A time-limited appointment is distinguished from a temporary appointment by the greater length of time, and from the regular permanent appointment by its limited duration.

(e) Temporary Appointment. A temporary appointment may be made to a permanent or temporary position. The appointment shall be limited to a maximum duration of 12 months.

(f) Pre-Vocational Student Appointment. This appointment is to be used to enable students to gain practical knowledge of their particular occupational area of interest. A suitable plan for training under close supervision must be developed for the individual. In the case of a co-operative, work study, internship, or similar appointment, the time schedule for work must be determined. The basis of eligibility and selection for such an appointment shall be outlined in a formal plan developed by the participating agencies for each type and level of student involvement. Upon successful completion of their training, individuals may be considered for any vacant position for which qualified.

(g) Emergency Appointment: An emergency appointment may be made when an emergency situation exists requiring the services of an employee before it is possible to identify a qualified applicant through the regular selection process. Emergency appointments are administered as follows:

- (1) When it is determined that an emergency appointment is necessary, all other requirements for appointments will be waived;
- (2) An emergency appointment may be made for a period of up to 60 work days (consecutive or non-consecutive), or a total of 480 hours; and in pay status.
- (3) Any one individual may not receive successive emergency appointments with the same department or agency. At least three calendar months must elapse after the conclusion of the emergency appointment before that department or agency can give the same individual another emergency appointment.

(h) Appointment of Incumbents in Newly-Covered Programs:



- (1) Upon extension of State Human Resources Act requirements to a program, position, or group of positions, the incumbent(s) may be appointed with permanent status in his classifications under any of the following circumstances:
  - (A) The employee is qualified for reinstatement on the basis of previous permanent status in a comparable position; or
  - (B) The employee has at least three months of satisfactory service in the program or agency, as certified by the appointing authority, and the appointing authority recommends that the employee be granted permanent status;
- (2) If the agency fails to grant permanent status within nine months from the initial coverage then the incumbent must be terminated. Employees given trainee appointments will be given permanent status consistent with other trainee appointments; and
- (3) Incumbents who have less than three months of service with the agency shall be continued with no status until they are granted permanent status or terminated as required in this Rule. Employees with more than three months but less than nine months services in the agency may be continued without status until nine months have elapsed. At the end of nine months, however, the incumbent must be granted permanent status or terminated.

(i) **Work-Against Appointment.** When qualified applicants are unavailable and there is no trainee provision for the classification of the vacancy, the appointing authority may appoint an employee below the level of the regular classification in a work-against situation. A work-against appointment is for the purpose of allowing the employee to gain the qualifications needed for the full class through on-the-job experience. The appointee must meet the minimum training and experience standard of the class to which initially appointed. A work-against appointment may not be made when applicants are available who meet the training and experience requirements for the full class, and for the position in question.

*History Note: Authority G.S. 126-4.  
Eff. August 3, 1992;  
Amended Eff. May 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01I .2003 PROMOTION**

- (a) Promotion is an advancement from one position to another with a higher salary grade.
- (b) Selection for promotion shall be based upon demonstrated capacity and quality of services. If a promotion results from movement to another position, the candidate must possess the minimum training and experience for the classification. If the promotion results from the present position being reallocated to a higher classification, the employee may be promoted by the local government agency through waiver of the stated training and experience requirements.
- (c) An employee in a work-against appointment cannot be promoted, upon reallocation of his or her position, by waiver of training and experience requirements until he or she has served at least one year in the work-against class or until qualified for the new class. The incumbent in a work-against situation must be promoted as soon as he or she meets the qualifications for the higher class or the position must be reallocated to the lower class.
- (d) An employee in probationary or trainee status may be promoted to another position in a higher classification if the person is qualified for such an appointment. The employee's probationary period shall continue for the duration defined in G.S. 126-1.1.
- (e) An employee in probationary status occupying a position at the time it is reallocated upward may be promoted to the new class if the person possesses the minimum training and experience requirements; if not qualified, the employee shall remain at the former level working against the higher classification or be separated. If promoted during the probationary period, the employee shall continue in probationary status until the duration defined in G.S. 126-1.1 has been satisfied, beginning with the initial probationary appointment.

*History Note: Authority G.S. 126-4;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
Amended Eff. September 1, 2019.*

## **25 NCAC 01I .2004 DEMOTION OR REASSIGNMENT**

Demotion or reassignment is a change in status resulting from assignment of a position to a lower classification level. It may result from the choice of the employee, reallocation of a position, inefficiency in performance, unacceptable conduct, reduction-in-force, or better utilization of individual resources. If the change results from inefficiency in performance or as a disciplinary action, the action is considered a demotion. If the change results from a mutually agreed upon arrangement, the action is considered a reassignment. When an employee in permanent, probationary or trainee status is demoted, it is expected that he will possess the minimum qualifications required for the new class at the respective level of appointment.

*History Note: Authority G.S. 126-4;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01I .2005 SEPARATION**

Separation occurs when an employee leaves the payroll for reasons indicated in this Rule or because of death. Employees who have acquired permanent status are not subject to involuntary separation or suspension except for cause or reduction-in-force. The following are types of separation:

- (1) Resignation or Retirement. An employee may terminate his services with the agency by submitting a resignation or request for retirement to the appointing authority at least two weeks prior to his last day of work;
- (2) Dismissal. Dismissal is involuntary separation for cause, and shall be made in accordance with the provisions of 25 NCAC 01I.2300 Disciplinary Action: Suspension, Dismissal and Appeals;
- (3) Reduction-in-Force. For reasons of curtailment of work, reorganization, or lack of funds the appointing authority may separate employees. Retention of employees in classes affected shall be based on systematic consideration of type of appointment, length of service, and relative efficiency. No permanent employee shall be separated while there are emergency, intermittent, temporary, probationary, or trainee employees in their first six months of the trainee progression serving in the same or related class, unless the permanent employee is not willing to transfer to the position held by the non-permanent employee, or the permanent employee does not have the knowledge and skills required to perform the work of the alternate position within a reasonable period of orientation and training given any new employee. A permanent employee who was separated by reduction-in-force may be reinstated at any time in the future that suitable employment becomes available. The employer may choose to offer employment with a probationary appointment. The employee must meet the current minimum education and experience standard for the class to which he is being appointed;
- (4) Voluntary Resignation Without Notice. An employee who is absent from work and does not contact the employer for three consecutive workdays may be separated from employment as a voluntary resignation. Such separations create no right of grievance or appeal pursuant to the State Human Resources Act (G.S. Chapter 126). A factor to be considered when determining whether the employee should be deemed to have voluntarily resigned is the employee's culpability in failing to contact his or her employer; and
- (5) Separation Due to Unavailability When Leave is Exhausted. An employee may be separated on the basis of unavailability when the employee becomes or remains unavailable for work after all applicable leave credits and benefits have been exhausted and agency management does not grant a leave without pay. Prior to separation the employing agency shall notify the employee in writing of the proposed separation, the efforts undertaken to avoid separation and why the efforts were unsuccessful. The employing agency must also give the employee a letter of separation stating the specific reasons for the separation and setting forth the employee's right of appeal. Such a separation is an involuntary separation, and not a disciplinary dismissal as described in G.S. 126-35, and may be grieved or appealed. The burden of proof on the agency in the event of a grievance is not just cause as that term exists in G.S. 126-35. Rather, the agency's burden is to prove that the employee was unavailable, that reasonable efforts were undertaken to avoid separation, and the reason the efforts were unsuccessful.
- (6) Definitions:
  - (a) Unavailability is defined as the employee's inability to return to all of the position's essential duties and work schedule due to a medical condition or the vagueness of a medical prognosis;

- or the employee and the agency cannot reach agreement on a return to work arrangement that meets both the needs of the agency and the employee's medical condition; and
- (b) Applicable leave credits is defined as the sick, vacation and bonus leave the employee chose to exhaust prior to going on leave without pay.

*History Note:* Authority G.S. 126-4;  
Eff. August 3, 1992;  
Amended Eff. January 1, 2007; September 1, 2004; December 1, 1994;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## SECTION .2100 - COMPENSATION

### 25 NCAC 01I .2101 COMPENSATION PLAN

(a) The compensation plan shall include a schedule of salary ranges and rules for salary administration. Within basic policies and rules established by the State Human Resources Commission, local jurisdictions may establish and administer compensation plans which provide a level of pay based upon financial ability, fiscal policy, and local prevailing rates.

(b) A compensation plan shall be maintained which provides a salary rate structure or structures adequate to appropriately compensate all positions subject to the State Human Resources Act. This structure may be revised in composition, or the total structure moved upward or downward, in response to labor market trends and to legislative actions affecting salaries; such action is dependent on the availability of funds.

*History Note:* Authority G.S. 126-4;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

### 25 NCAC 01I .2102 ESTABLISHMENT OF SALARY SCHEDULE

(a) Local jurisdictions shall establish and administer salary schedules which meet basic approval requirements of the State Human Resources Commission as follows:

- (1) The schedule must consist of series of salary ranges with minimum, maximum, and intermediate rates of pay.
- (2) There must be a vertical increase between consecutive salary ranges within the schedule.

(b) The State Human Resources Director shall make available salary schedule models which meet these basic criteria and make available staff resources to advise and consult with local jurisdictions in the development of acceptable schedules. Boards of county commissioners or municipal governing boards may adopt and use a model or, as an alternative, may submit a modified schedule for review and approval by the State Human Resources Commission. Schedules may be modified in order to provide a structure deemed more suitable to local fiscal policy and financial ability so long as the other basic requirements are met. Modified schedules shall be accompanied by data and statements of explanation supporting the need for the modification because of local financial ability and fiscal policy.

(c) Proposed local salary schedules shall be designated or submitted to the State Human Resources Director by the beginning date of each fiscal year, and at the time of significant change during interim periods. In submitting, the following requirements shall prevail:

- (1) For the programs of a single county, the board of county commissioners shall establish and submit a proposed salary schedule.
- (2) When a municipality is performing a subject activity, the governing board of the municipality shall establish and submit the proposed schedule.
- (3) When two or more counties are combined into a district or area for the performance of an activity, the boards of county commissioners of the counties must jointly establish and submit a proposed schedule; the district or area schedule is established independently of the salary schedule for any of the individual counties.

(d) An approved salary schedule must be in effect within a jurisdiction at all times. The approved schedule shall be applicable to both existing classes and to classes which may be established during its effective period.

*History Note:* Authority G.S. 126-4;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## **25 NCAC 01I .2103 SALARY RATES**

(a) New Appointments. The entrance salary rate for an employee shall be at the minimum of the range or at a salary rate within the salary range assigned to the class unless an employee is hired in a trainee appointment. Discretion should be exercised by boards of county commissioners or their designees on new appointments salaries above the minimum of the range to avoid creating salary inequities within the jurisdiction.

(b) Promotion. When a promotion occurs, the employee's salary shall be increased, if it is below the new minimum, to at least the minimum rate of the salary range assigned to the class to which the employee is promoted. If an employee's current salary is already above the new minimum salary rate, his salary may be adjusted upward or left unchanged at the discretion of local management, provided that the adjusted salary does not exceed the maximum of the assigned salary range. If the salary falls between steps in the salary range, it may be adjusted to the next higher step in the range.

(c) Demotion. When an employee's current salary falls above the maximum of the range for the lower class, his salary may remain the same until general schedule adjustments or range revisions bring it back within the lower range or may the salary be reduced to any step in the lower salary range, as long as the reduced salary does not fall below the minimum salary rate of that range. If the employee's current salary falls between steps in the lower range, it may be reduced to the next lower step.

(d) Salary Adjustments; Salary Plan Revisions. When the salary rates in the salary plan are changed or a class is moved to a higher or lower salary grade, the following adjustments shall be made in incumbents' salary rates:

- (1) When it is an upward revision and the employee's current salary is less than the minimum salary rate of the salary range for the classification, the employee's salary shall be adjusted to at least the minimum of the range. If the employee's salary is already at or above the new minimum of the range, management may elect to increase the salary to another step within the range. An employee's salary may not, however, exceed the maximum of the range.
- (2) If there is a downward revision, management may elect to reduce each employee's salary rate by a corresponding amount or allow the salary rates to remain the same.

(e) Trainee Adjustments. During a trainee appointment an evaluation of the individual's performance and progress on the job is to be made at frequent intervals. As a general guide, salary increases are provided at specified intervals. These increases are not automatic, and are not necessarily limited to the full elapse of specified intervals. Salary adjustments may be either advanced or delayed depending upon the progress of the employee. In cases where salary adjustments have been advanced, the trainee's salary will not be adjusted to the minimum of the range for the regular classification until the employee meets all education and experience requirements for the appointment. Adjustments are to be given upon recommendations by the appointing authority and the supervisor that the employee has earned an increase. When the employee with a trainee appointment has successfully completed the training and experience requirements for the classification, he must be given a regular appointment to that classification and his salary increased at least to the minimum of the salary range.

(f) An employee's salary cannot be raised by merit increases to exceed the maximum salary rate of the salary range assignment to his class.

*History Note:* Authority G.S. 126-4;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## **25 NCAC 01I .2104 PAY STATUS**

*History Note:* Authority G.S. 126-4;  
Eff. August 3, 1992;  
Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.

## **25 NCAC 01I .2105 OTHER PAY**

*History Note:* Authority G.S. 126-4; 126-5; 126-9;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
Repealed Eff. September 1, 2019.

#### **25 NCAC 01I .2106 ASSIGNMENT OF CLASSES WITHIN SALARY SCHEDULE**

(a) Within an approved salary schedule, local jurisdictions may determine salary range assignments for competitive service classes. The following basic requirements shall be adhered to in making salary range assignments:

- (1) The use of appropriate class relationships based upon differences in the difficulty and responsibility of the work. In this regard, the relative difference between and among classes in a class series, and between significantly related classes within an occupational grouping, must be maintained as reflected by the official classification plan. Exception requests may occasionally arise as a matter of local fiscal policy. Such requests, accompanied by supporting data and staff recommendation, will be presented to the State Human Resources Commission for approval;
- (2) Each class will retain the same salary range assignment in its use in all subject programs of the jurisdiction;
- (3) The current salary of each employee, except under specific circumstances included in the approved rules for salary administration, must fall between the minimum and maximum steps of the salary range of the class to which his position is assigned;
- (4) A final factor to be used in making salary range assignments is consideration of the local financial ability and fiscal policy.

(b) It is not the intent of these provisions that the individual salaries of competent employees be threatened.

(c) The State Human Resources Director shall provide information and guidance on questions of class relationships, labor market influence, fiscal policy considerations, and other matters pertinent to the determination of equitable and competitive salary range assignment.

(d) Salary Plan for Employees of the Area Authority. The area mental health program authority shall establish a salary plan which shall set the salaries for employees of the area authority. The salary plan shall be in compliance with Chapter 126 of the General Statutes. In a multi-county area mental health program, the salary plan shall not exceed the highest paying salary plan of any member county. In a single county area, the salary plan shall not exceed the county's salary plan. The salary plan limitations set forth in this Section may be exceeded only if the area authority and board or boards of county commissioners, as the case may be, jointly agree to exceed these limitations.

*History Note:* Authority G.S. 126-4;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

#### **25 NCAC 01I .2107 PROCEDURES FOR SUBMISSION AND APPROVAL**

(a) By the beginning date of each fiscal year and at times of any change during interim periods, a designated or modified salary schedule, and a list of salary range assignments to classes will be submitted to the State Human Resources Director. The State Human Resources Director shall review the proposed schedule and salary range assignments, determine that approval requirements have been met and certify jurisdictions meeting these requirements to the State Human Resources Commission. The State Human Resources Commission will then review and either grant or withhold approval of the proposed plan in each case. In cases where opposition to a proposed plan is unresolved locally, the State Human Resources Commission will hear the opposing arguments in public session prior to making a final decision.

(b) An approved salary schedule and salary range assignment plan must be in effect within a jurisdiction at all times.

*History Note:* Authority G.S. 126-4; 122C-156(a);  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

#### **25 NCAC 01I .2108 COMPENSATION OF AREA MENTAL HEALTH DIRECTORS**

(a) The salary of an Area Mental Health Director shall be established by the area board of the Local Management Entity and shall be within the salary range recommended for Area Mental Health Directors by the Office of State Human Resources and approved by the State Human Resources Commission.

(b) Each director's salary shall be based upon labor market data from counties within the Local Management Entity. The salary may not be less than the minimum of the range, nor more than the maximum of the range established for Area Mental Health Directors under this Rule.

(c) Area boards may request an adjustment to the salary range for Area Mental Health Directors from the State Human Resources Commission in accordance with G.S. 122C-121(a1).

*History Note:* Authority G.S. 126-4; 122C-156(a);  
Eff. May 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## **SECTION .2200 - HOURS OF WORK AND OVERTIME COMPENSATION**

### **25 NCAC 01I .2201 HOURS OF WORK AND OVERTIME COMPENSATION**

*History Note:* Authority G.S. 126-4;  
Eff. August 3, 1992;  
Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.

## **SECTION .2300 - DISCIPLINARY ACTION: SUSPENSION, DISMISSAL AND APPEALS**

### **25 NCAC 01I .2301 JUST CAUSE FOR DISCIPLINARY ACTION**

(a) Any employee, regardless of occupation, position, or profession may be warned, demoted, suspended or dismissed by the appointing authority. Such actions may be taken against employees with career status as defined in G.S. 126-1.1 only for just cause. The degree and type of action taken shall be based upon the judgment of the appointing authority in accordance with the provisions of this Rule. When just cause exists the only disciplinary actions provided for under this Section are:

- (1) Written warning;
- (2) Disciplinary suspension without pay;
- (3) Demotion; and
- (4) Dismissal.

(b) At any time during the period prior to achieving career status, including during the probationary period, an employee may be separated from service for causes related to performance of duties or for personal conduct detrimental to the agency without right of appeal or hearing. The employee must be given notice of dismissal, including reasons. Such notice may be, but is not required to be, in writing.

(c) There are two bases for the discipline or dismissal of employees under the statutory standard of "just cause" as set out in G.S. 126-35. These two bases are:

- (1) Discipline or dismissal imposed on the basis of unsatisfactory job performance, including grossly inefficient job performance.
- (2) Discipline or dismissal imposed on the basis of unacceptable personal conduct.

(d) Either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct, as defined in 25 NCAC 01I .2302(a); .2303(a); and .2304(b), constitutes just cause for discipline or dismissal. The categories are not mutually exclusive, as certain actions by employees may fall into both categories, depending upon the facts of each case. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

(e) The imposition of any disciplinary action shall comply with the procedural requirements of this Section.

*History Note:* Authority G.S. 126-4; 126-35;  
Eff. August 3, 1992;  
Amended Eff. June 1, 2008; December 1, 1995; August 2, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## **25 NCAC 01I .2302 DISMISSAL FOR UNSATISFACTORY PERFORMANCE OF DUTIES**

- (a) Unsatisfactory Job Performance is work-related performance that fails to meet job requirements as specified in the job description, work plan, or as directed by the management of the work unit or agency.
- (b) Agencies shall apply this Rule consistent with the requirements of 25 NCAC 01J .0605.
- (c) In order to be dismissed for a current incident of unsatisfactory job performance, an employee must first receive at least two prior disciplinary actions. First, one or more written warnings, followed by a warning or other disciplinary action that notifies the employee that failure to make the required performance improvements may result in dismissal.
- (d) Prior to the decision to dismiss an employee, the agency director or designated management representative must conduct a pre-disciplinary conference with the employee in accordance with the procedural requirements of Rule .2308 of this Section.
- (e) An employee who is dismissed must receive written notice of the specific reasons for the dismissal as well as notice of any applicable appeal rights.
- (f) Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-disciplinary conference constitute procedural violations with remedies as provided for in 25 NCAC 01J .1316. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

*History Note: Authority G.S. 126-4; 126-35;  
Eff. August 3, 1992;  
Amended Eff. April 1, 2001; December 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
Amended Eff. September 1, 2019.*

## **25 NCAC 01I .2303 DISMISSAL FOR GROSSLY INEFFICIENT JOB PERFORMANCE**

- (a) Grossly inefficient job performance is a type of unacceptable personal conduct and means the employee fails to perform job requirements as specified in the job description, work plan, or as directed by the management of the work unit or agency and that failure results in:
  - (1) death or serious harm or the creation of the potential for death or serious harm, to a client(s), an employee(s), members of the public or to a person(s) over whom the employee has responsibility; or
  - (2) the loss of or damage to agency property or funds that result in a serious impact on the agency or work unit.
- (b) Dismissal on the basis of grossly inefficient job performance shall be administered in the same manner as unacceptable personal conduct detrimental to State service consistent with G.S. 126-35(a). Employees may be dismissed on the basis of an incident of grossly inefficient job performance without any prior disciplinary action.
- (c) Prior to dismissal of an employee with career status on the basis of grossly inefficient job performance, there shall be a pre-disciplinary conference between the employee and the agency director or designated management representative. The pre-disciplinary conference shall be held in accordance with Rule .2308 of this Section.
- (d) Dismissal for grossly inefficient job performance requires written notification to the employee. The written notification shall include specific reasons for the dismissal and notice of the employee's right of appeal.
- (e) Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-disciplinary conference constitute procedural violations with remedies as provided for in 25 NCAC 01J .1316. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

*History Note: Authority G.S. 126-4(7a); 126-35;  
Eff. August 3, 1992;  
Amended Eff. April 1, 2001; December 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
Amended Eff. September 1, 2019.*

## **25 NCAC 01I .2304 DISMISSAL FOR UNACCEPTABLE PERSONAL CONDUCT**

- (a) Employees may be dismissed for a current incident of unacceptable personal conduct without any prior active disciplinary actions. For unacceptable personal conduct, any level of discipline may be imposed without warning.

- (b) Unacceptable personal conduct means:
- (1) conduct on or off the job that is related to the employee's job duties and responsibilities for which no reasonable person should expect to receive prior warning;
  - (2) conduct that constitutes violation of State or federal law;
  - (3) conviction of a felony that is detrimental to or impacts the employee's service to the agency;
  - (4) the willful violation of work rules;
  - (5) conduct unbecoming an employee that is detrimental to the agency's service;
  - (6) the abuse of client(s), patient(s), or a person(s) over whom the employee has charge or to whom the employee has a responsibility, or of an animal owned or in the custody of the agency;
  - (7) falsification of an employment application or other employment documentation;
  - (8) insubordination that is the willful failure or refusal to carry out an order from an authorized supervisor;
  - (9) absence from work after all authorized leave credits and benefits have been exhausted; or
  - (10) failure to maintain or obtain credentials or certifications.
- (c) Prior to dismissal of an employee with career status on the basis of unacceptable personal conduct, there shall be a pre-disciplinary conference between the employee and the agency director or designated management representative. This pre-disciplinary conference shall be held in accordance with the provisions of 25 NCAC 01I .2308.
- (d) Dismissals for unacceptable personal conduct require written notification to the employee. The written notification shall include specific reasons for the dismissal and notice of the employee's right of appeal.
- (e) Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-disciplinary conference constitute procedural violations with remedies as provided for in 25 NCAC 01J .1316. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

*History Note:* Authority G.S. 126-4; 126-35;  
Eff. August 3, 1992;  
Amended Eff. April 1, 2001; December 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
Amended Eff. September 1, 2019.

#### **25 NCAC 01I .2305 WRITTEN WARNING**

The supervisor shall monitor the performance of work assignments and assure that employees do not engage in unacceptable personal conduct. All types of performance-related job inadequacies may constitute unsatisfactory job performance under this Section. When the supervisor determines that disciplinary action is appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee shall receive. The supervisor may elect to issue a written warning for grossly inefficient job performance or unacceptable personal conduct. The written warning shall:

- (1) Inform the employee that this is a written warning, and not some other non-disciplinary process such as counseling;
- (2) Inform the employee of the specific issues that are the basis for the warning;
- (3) Tell the employee what specific corrections, if applicable, must be made to address these specific issues;
- (4) Tell the employee the time frame allowed for making the required corrections. Immediate correction is required for grossly inefficient job performance or unacceptable personal conduct;
- (5) Tell the employee the consequences of failing to make the required corrections; and
- (6) Tell the employee of any appeal rights provided by agency policy.

*History Note:* Authority G.S. 126-4;  
Eff. August 3, 1992;  
Amended Eff. December 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
Amended Eff. September 1, 2019.

#### **25 NCAC 01I .2306 DISCIPLINARY SUSPENSION WITHOUT PAY**



- (a) An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance after the receipt of at least one prior disciplinary action or without any prior warning for causes relating to any form of unacceptable personal conduct or grossly inefficient job performance pursuant to Rule .2301 of this Section. A disciplinary suspension without pay for an employee who is subject to the overtime compensation provisions of the Fair Labor Standards Act (FLSA) must be for at least one full work day, but not more than two full work weeks. Prior to placing any employee on disciplinary suspension without pay, the agency director or designated management representative shall conduct a pre-disciplinary conference with the employee in accordance with the procedural requirements of this Section. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's appeal rights.
- (b) An agency has the option of imposing the same periods of disciplinary suspension without pay upon all employees as long as the period is the same as for employees exempt from the overtime provisions of the FLSA as set forth in this Section.

*History Note: Authority G.S. 126-4(6); 126-35;  
Eff. August 3, 1992;  
Amended Eff. April 1, 2001; December 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
Amended Eff. September 1, 2019.*

#### **25 NCAC 01I .2307 DEMOTION**

- (a) Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct.
- (1) Unsatisfactory Job Performance. An employee may be demoted for unsatisfactory job performance after the employee has received at least one prior disciplinary action.
  - (2) Grossly Inefficient Job Performance. An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.
  - (3) Unacceptable Personal Conduct. An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.
  - (4) An employee who is demoted shall receive written notice of the specific reasons for the demotion, as well as notice of any applicable appeal rights.
- (b) Disciplinary demotions may be accomplished in three ways:
- (1) The employee may be demoted to a lower pay grade with a reduction in salary rate as long as the new salary rate does not exceed the maximum of the salary range for the new lower pay grade;
  - (2) The employee may be demoted to a lower pay grade without a reduction in salary rate as long as the new salary rate does not exceed the maximum of the salary rate for the new lower pay grade; or
  - (3) The employee may be demoted while retaining the same pay grade with a reduction in salary rate. In no event shall an employee's salary rate be reduced to less than the minimum salary rate for the applicable pay grade.
- (c) Prior to the decision to demote an employee for disciplinary reasons, the agency director or a management representative shall conduct a pre-disciplinary conference with the employee in accordance with the procedural requirements of Rule .2308 of this Section.

*History Note: Authority G.S. 126-4; 126-35;  
Eff. August 3, 1992;  
Amended Eff. April 1, 2001; December 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
Amended Eff. September 1, 2019.*

#### **25 NCAC 01I .2308 PROCEDURAL REQUIREMENTS**

The following procedural requirements must be followed to issue disciplinary action under this Section:

- (1) WRITTEN WARNING-to issue a written warning to an employee a supervisor must issue the employee a written warning, detailing the matters referenced in 25 NCAC 01I .2305, and including any applicable appeal rights.

- (2) **DISCIPLINARY SUSPENSION WITHOUT PAY**-to place an employee on disciplinary suspension without pay, the agency director or designated management representative must comply with the following procedural requirements:
- (a) In matters of unsatisfactory job performance, insure that the employee has received at least one prior disciplinary action. In matters of grossly inefficient job performance or unacceptable personal conduct no prior disciplinary actions are required so an employee may be suspended without pay for a current incident of grossly inefficient job performance or unacceptable personal conduct;
  - (b) Schedule and conduct a pre-suspension conference. Advance oral or written notice of the disciplinary conference must be given to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice shall be as much as is practical under the circumstances;
  - (c) Furnish the employee a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension;
  - (d) Advise the employee of any applicable appeal rights in the document affecting the suspension.
- (3) **DEMOTION** – to demote an employee the agency director or designated management representative must comply with the following procedural requirements:
- (a) In matters of unsatisfactory job performance, insure that the employee has received at least one prior disciplinary action;
  - (b) In matters of grossly inefficient job performance or unacceptable personal conduct, there is no requirement for previous disciplinary action, so an employee may be demoted for a current incident of grossly inefficient job performance or unacceptable personal conduct without any prior disciplinary action;
  - (c) Give an advance oral or written notice of the pre-disciplinary conference to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice shall be as much as is practical under the circumstances;
  - (d) Give an employee who is demoted written notice of the specific acts or omissions that are the reasons for the demotion;
  - (e) Advise the employee of how and to what extent the demotion will affect the employee's salary rate or pay grade; and
  - (f) Advise the employee of any applicable appeal rights in the document affecting the demotion.
- (4) **DISMISSAL**-Before an employee may be dismissed, an agency must comply with the following procedural requirements:
- (a) The supervisor recommending dismissal shall discuss the recommendation with the agency director or designated management representative who shall conduct a pre-dismissal conference with the employee. The person conducting the pre-dismissal conference must have the authority to decide what, if any, disciplinary action shall be imposed on the employee.
  - (b) The supervisor or designated management representative shall schedule a pre-dismissal conference with the employee.
  - (c) Give an advance oral or written notice of the pre-disciplinary conference to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice shall be as much as is practical under the circumstances.
  - (d) The agency director or designated management representative shall conduct a pre-dismissal conference with the employee, limiting attendance to the employee and the person conducting the conference; a second management representative may be present at management's discretion. The purpose of the pre-dismissal conference is to review the recommendation for dismissal with the affected employee and to listen to and to consider any information put forth by the employee, in order to insure that a dismissal decision is sound and not based on misinformation or mistake. Security personnel may be present when, in the discretion of the person conducting the conference, a need for security exists. No attorney representing either side may attend the conference.
  - (e) In the conference, management shall give the employee oral or written notice of the recommendation for dismissal, including specific reasons for the proposed dismissal and a

summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal action and to offer information or arguments in support of the employee's position. Every effort shall be made by management to assure that the employee has a full opportunity during the conference to set forth any available information in opposition to the recommendation to dismiss prior to the end of the conference. This opportunity does not include the option to present witnesses.

- (f) Following the conference, management shall review and consider the response of the employee and reach a decision on the proposed recommendation. If management's decision is to dismiss the employee, a written letter of dismissal containing the specific reasons for dismissal, the effective date of the dismissal and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. To minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information, the decision to dismiss shall not be communicated to the employee in accordance with the Sub-item, prior to the beginning of the next business day following the conclusion of the pre-dismissal conference or after the end of the second business day following the completion of the pre-dismissal conference.
- (g) The effective date of a dismissal for unsatisfactory job performance shall be determined by management. An employee with permanent status who is dismissed for unsatisfactory job performance may, at management's discretion, be given up to two weeks working notice of his dismissal. Instead of providing up to two weeks working notice and at the discretion of management an employee may be given up to two weeks pay in lieu of working notice. Such working notice or pay in lieu of notice is applicable only to dismissal for unsatisfactory job performance. The effective date of the dismissal shall not be earlier than the letter of dismissal nor more than 14 calendar days after the notice of dismissal.

*History Note: Authority G.S. 126-35; 126-36; 126-38; 150B, Article 3; 150B-23; Eff. August 3, 1992; Amended Eff. April 1, 2001; December 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01I .2309 SPECIAL PROVISIONS**

(a) **GRANDFATHER PROVISIONS** - The following Grandfather provisions establish the force and effect of disciplinary actions in existence on December 1, 1995.

- (1) Oral warnings - any oral warning existing on December 1, 1995 is deemed void and has no further force or effect upon the disciplinary status of any employee.
- (2) All other disciplinary actions existing on December 1, 1995 shall remain in full force and effect as if the warnings or other disciplinary actions had been imposed under this Section. No written warning or other disciplinary action imposed prior to December 1, 1995 shall be deemed inactive by operation of the provisions of this Section until more than 18 months after December 1, 1995 or until the disciplinary action is deemed inactive in accordance with 25 NCAC 1I .2309(b), whichever occurs first.
- (3) Extension of Disciplinary Actions - any written warning or disciplinary action imposed prior to December 1, 1995 may be extended in accordance with the provision of this Section as if the warning or disciplinary action had been imposed after December 1, 1995. No unresolved written warning or disciplinary action issued prior to December 1, 1995 shall become inactive if within 18 months of December 1, 1995, another disciplinary action or warning is imposed on the employee. Notice of the extension of the active status of a disciplinary action may be given at any time within 18 months of the effective date of the disciplinary action.
- (4) Resolution of disciplinary actions under prior agency - any warning or disciplinary action existing on December 1, 1995 shall be deemed inactive if it would have been resolved under the agency procedure existing prior to December 1, 1995.

(b) **INACTIVE DISCIPLINARY ACTION** - Any disciplinary action issued after December 1, 1995, is deemed inactive for the purpose of this Section in the event that:

- (1) the manager or supervisor notes in the employee's personnel file that the reason for the disciplinary action has been resolved or corrected; or
- (2) 18 months have passed since the warning or disciplinary action, the employee does not have another active warning or disciplinary action which occurred within the last 18 months and the agency has not, prior to the expiration of the 18 month period, issued to the employee written notice, including reasons, of the extension of the period.

(c) **PLACEMENT ON INVESTIGATION** - Investigation status is used to temporarily remove an employee from work status. Placement on investigation with pay does not constitute a disciplinary action as defined in this Section or in G.S. 126-35. Management must notify an employee in writing of the reasons for investigatory placement not later than the second scheduled work day after the beginning of the placement. An investigatory placement with pay may last no longer than 30 calendar days without written notice of extension by the agency director. When an extension beyond the 30-day period is required, the agency must advise the employee in writing of the extension, the length of the extension, and the specific 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 imposed, the agency must either take appropriate disciplinary action on the basis of the findings upon investigation or return the employee to active work status. Under no circumstances is it permissible to 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. It is permissible to place an employee in investigation status with pay 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; or
- (3) To avoid disruption of the work place or to protect the safety of persons or property.

(d) **CREDENTIALS** - By statute, and rule, some duties assigned to positions may be performed only by persons who are duly licensed, registered or certified as required by the relevant provision. All such requirements and restrictions are specified in the statement of essential qualifications or recruitment standards for classifications established by the State Human Resources Commission or in the position description for the position.

- (1) Employees in such classifications are responsible for obtaining and maintaining current, valid credentials as required by law. Failure to obtain or maintain the legally required credentials constitutes a basis for immediate dismissal without prior warning, consistent with dismissal for unacceptable personal conduct or grossly inefficient job performance. An employee who is dismissed for failure to obtain or maintain credentials shall be dismissed under the procedural requirements applicable to dismissals for unacceptable personal conduct or grossly inefficient job performance.
- (2) Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment with an agency, disciplinary action shall be administered as follows:
  - (A) If an employee was determined to be qualified and was selected for a position based upon falsified work experience, education, registration, licensure, or certification information that was a requirement for the position, the employee must be dismissed in accordance with 25 NCAC 11 .2304.
  - (B) In all other cases of post-hiring discovery of false or misleading information, disciplinary action shall be taken, but the severity of the disciplinary action shall be at the discretion of the agency head.
  - (C) When credential or work history falsification is discovered before employment with an agency, the applicant shall be disqualified from consideration for the position in question.

(e) **OTHER SPECIAL PROVISIONS** -

- (1) Every disciplinary action shall include notification to the employee in writing of any applicable appeal rights.
- (2) Warnings, extension of disciplinary actions and periods of placement on investigation, and placement on investigation with pay are not grievable unless an agency specifically provides for such a grievance in its agency grievance procedure. Allegations of a violation of G.S. 153A-98, 130A-42, 122C-158 shall be processed in compliance with procedures established in accordance with these statutory requirements.
- (3) An agency shall furnish to an employee, as an attachment to the written documentation of a grievable disciplinary action, a copy of the agency grievance procedure.

*History Note:* Authority G.S. 126-4; 126-35;  
Eff. December 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## **25 NCAC 01I .2310 APPEALS**

(a) An employee with career status as defined in G.S. 126-1.1 who has been demoted, suspended, or dismissed shall have 15 calendar days from the date of his or her receipt of written notice of the action to file an appeal pursuant to his or her agency grievance procedure. If an employee does not appeal his or her demotion, suspension, or dismissal through the agency grievance procedure within 15 calendar days, then the employee shall have no right to file a contested case with the Office of Administrative Hearings under G.S. 126-35.

(b) If an employee appeals his or her demotion, suspension, or dismissal through the agency grievance procedure, then the written notice of the action shall not constitute the final agency decision, but the final agency decision shall be the decision made at the conclusion of the employee's appeal through the agency grievance procedure.

(c) Grievances that allege discrimination, harassment, or retaliation shall follow the agency grievance procedure. Employees who do not follow the agency grievance procedure shall have no right to file a contested case with the Office of Administrative Hearings.

(d) If the employee has completed the agency grievance process and is not satisfied with the final agency decision, or is unable to obtain a final agency decision within 90 days from the date the grievance was filed, the employee may file a petition for contested case hearing in the Office of Administrative Hearings. A petition for contested case hearing must be filed within 30 calendar days after the grievant receives the final agency decision.

*History Note:* Authority G.S. 126-1.1; 126-34.02; 126-35;  
Eff. December 1, 1995;  
Amended Eff. July 18, 2002;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016;  
Amended Eff. September 1, 2019.

## **SECTION .2400 - BASIC REQUIREMENTS FOR A "SUBSTANTIALLY EQUIVALENT" PERSONNEL SYSTEM**

### **25 NCAC 01I .2401 SYSTEM PORTION I: RECRUITMENT, SELECTION, AND ADVANCEMENT**

General Requirement. Recruiting, selecting and advancing employees will be on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

- (1) Recruitment:
  - (a) Requirement. There must be a planned and organized recruiting program, carried out in a manner that assures open competition.
  - (b) Requirement. Special emphasis will be placed on efforts to attract minorities, women, the disabled, or other groups that are substantially underrepresented in the jurisdiction work force to help assure they will be among the candidates from whom appointments are made.
- (2) Selection:
  - (a) Requirement. The selection of applicants for vacant positions will be through open competition.
  - (b) Requirement. Selection procedures will be job related.
  - (c) Requirement. Job related minimum requirements for entrance to a class will be established wherever practical, and will be met by all candidates examined, appointed or promoted.
  - (d) Requirement. Prior to receiving a permanent appointment, each employee will satisfactorily complete a reasonable, time limited probationary period.
- (3) Career Advancement Requirement. Policies and program affecting and effecting promotions will consider all eligible employees within the jurisdiction and adequately assure that all persons promoted are qualified.

*History Note:* Authority G.S. 126-11;

*Eff. August 3, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01I .2402      SYSTEM PORTION II: CLASSIFICATION/COMPENSATION**

General Requirement. A current, equitable, and adequate position classification and compensation plan will be provided.

- (1) Position Classification Requirement. Job Evaluation (syn. classification) plans will be based upon a soundly applied, professionally accepted job evaluation methodology which establishes the relative strength of related positions through consideration of the difficulty, responsibility, and other requirements of the work. System components and all relationships determined along with accompanying rationale will be fully documented.
- (2) Compensation:
  - (a) Requirement. The compensation plan will, within labor market constraints, have as its principal basis the class relationships (syn. skill level relationships, job relationships, work level relationship, etc.) discerned by the classification process.
  - (b) Requirement. Within the limits of local financial ability and fiscal policy, the level of compensation assigned to each class of the plan will, in conjunction with Subparagraph (2)(a) of this Rule, adequately consider the competitive labor market within the geographical area of recruitment.
  - (c) Requirement. Logical and equitable practices will be established which guide salary administration in positions and employees actions within the jurisdiction.

*History Note: Authority G.S. 126-11;*  
*Eff. August 3, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01I .2403      SYSTEM PORTION III: TRAINING**

General Requirement. Employees will be trained as needed to assure high quality performance.

*History Note: Authority G.S. 126-11;*  
*Eff. August 3, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01I .2404      SYSTEM PORTION IV: EMPLOYEE RELATIONS**

(a) In order to be declared substantially equivalent in the area of employee relations, a county shall adopt a policy that includes the following policy provisions:

- (1) A provision that employees shall not be disciplined, including dismissed, except for just cause.
- (2) A provision that allows for action, including dismissal, on the basis of unsatisfactory job performance or unacceptable personal conduct.
- (3) A provision that the policy shall be available to all employees.
- (4) A provision that the county shall train all supervisors and managers in the appropriate use of the employee relations policy.

(b) In order to be declared substantially equivalent in the area of employee relations, a county shall adopt a grievance procedure that includes all of the following:

- (1) A provision that extends coverage to at least all county employees subject to North Carolina General Statutes Chapter 126.
- (2) A provision that all employees who have completed a probationary period shall have access to the grievance procedure on at least these issues:
  - (A) Just cause to impose disciplinary demotion in pay or position, disciplinary suspension without pay or dismissal;
  - (B) Allegations of discrimination based on race, sex (including allegations of sexual harassment), religion, age, national origin, handicapping condition, creed or color in hiring, promotion, any disciplinary action, compensation, transfer or training.

- (3) A provision for a hearing before an impartial hearing officer, or a hearing panel appointed by the County Manager and the Human Resources Director. No person who reports directly to the County Manager or who works in the Human Resources area may be a hearing officer or may serve on the hearing panel.
- (4) A provision for a public hearing with the ability of each party to be represented by attorney. The hearing officer or hearing panel shall have the authority to compel attendance at such hearing. The hearing shall be recorded so that a record may be prepared and forwarded to Superior Court.
- (5) A provision that the hearing officer or hearing panel shall make a recommendation to the local appointing authority. The local appointing authority shall make a final, binding decision in the grievance.
- (6) A provision that the final decision shall state in writing that if the employee/grievant disagrees with the decision of the local appointing authority, appeal from that decision may be made to the Superior Court of the county.
- (7) Specific time limits on management responses and decisions, and a provision that if management fails to comply with the time limits of the procedure, that the employee may unilaterally choose to advance to the next step in the procedure.

(c) All provisions of this Section shall be complied with in order for substantial equivalent status to be granted by the Commission.

(d) The Office of State Human Resources shall provide technical assistance and advice to any county wishing to apply for substantial equivalent status in employee relations.

(e) Any county that was approved for substantial equivalent status in the area of employee relations prior October 1, 2006 shall re-apply for approval before October 1, 2007. Failure to apply within that period shall automatically terminate that county's substantial equivalent status in employee relations. Any county that was approved for substantial equivalent status in the area of employee relations prior to October 1, 2006, shall remain substantially equivalent until October 1, 2007, or until approved for substantial equivalent status based on this Section.

(f) The State Human Resources Commission may waive any condition set out in this section and approve a county's request for substantial equivalent status based on a recommendation from the Office of State Human Resources. Such recommendation shall specify that waiver would result in a more effective system of employee relations. Factors to be considered by the Commission in granting a waiver include the following: compliance with the condition would increase the time involved for employees in the overall grievance procedure; the presence of sufficient limits on management's ability to increase the time involved in the grievance procedure; and the assistance from the county available to employees to proceed through the grievance procedure.

*History Note:* Authority G.S. 126-11;  
Eff. August 3, 1992;  
Amended Eff. November 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## **25 NCAC 01I .2405 SYSTEM PORTION V: EQUAL EMPLOYMENT OPPTY/AFFIRMATIVE ACTION**

*History Note:* Authority G.S. 126-11;  
Eff. August 3, 1992;  
Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.

## **25 NCAC 01I .2406 SYSTEM PORTION VI: POLITICAL ACTIVITY**

General Requirement. Employees will be protected against coercion for partisan political purposes, and will be prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

*History Note:* Authority G.S. 126-11;  
Eff. August 3, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

## **25 NCAC 01I .2407      CONDITION OF PRIVILEGE**

A substantially equivalent personnel system exemption, approved by the State Human Resources Commission under NCGS 126-11, is a condition of privilege; a local government jurisdiction may operate its own system of personnel administration for all employees of the jurisdiction, including those subject to the State Human Resources Act. This privilege shall be continued by the State Human Resources Commission so long as the local system remains substantially equivalent to the Basic Requirements for a Substantially Equivalent Personnel System. The Office of State Human Resources, in its staff capacity to the State Human Resources Commission, shall act on the Commission's behalf in evaluating the ongoing equivalency status of exempted systems.

*History Note:      Authority G.S. 126-11;  
                          Eff. October 10, 1992;  
                          Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01I .2408      ONGOING EXPECTATIONS**

In order that the Office of State Human Resources shall have access to the information and materials necessary to an informed judgment of whether an exempted, local personnel system remains substantially equivalent, local jurisdictions desiring to maintain exempted systems shall comply with the following requirements:

- (1)      Recertification. Recertification of the commitment by a Board of County Commissioners of authority to maintain a system or portion of a system of personnel administration in accordance with the Basic Requirements for a Substantially Equivalent Personnel System may be necessary, at the discretion of the State Human Resources Commission, in the following instances:
  - (a)      Upon significant change in the membership of the Board of Commissioners or Area Authority.
  - (b)      Upon passage of significant new legislation or policy which will apply to the local system or system portion.
  - (c)      Upon major reorganization, restructuring, or downsizing of the personnel system of the county or Area Authority.
- (2)      Staffing.
  - (a)      The Board of County Commissioners or Area Authority shall provide for the ongoing presence of a qualified staff for all exempted portions of the local personnel system.
  - (b)      The staffing complement assigned to the personnel system by the Board of County Commissioners or Area Authority shall at all times remain adequate to assure that the day-to-day operational demands of the personnel management system are met in an efficient and expedient manner, and to assure that administrative and technical requirements for maintaining the personnel system in professionally sound order are well served.
  - (c)      Each jurisdiction which has been granted a substantially equivalent personnel system exemption shall annually, or upon major interim change, file with the Office of State Human Resources an organizational chart which accurately depicts the complement and organizational structure of the staff currently assigned to the operation of the personnel function.
- (3)      Filling of System Documentation. Each jurisdiction which has been granted a substantially equivalent personnel system exemption by the State Human Resources Commission shall annually, or upon substantial interim change, file with the Office of State Human Resources:
  - (a)      All personnel policies currently pertaining to exempt portions of the local system, which have been adopted by the Board of County Commissioners, County Manager, Area Authority, or Area Director.
  - (b)      Documentation which in material and substance fully illustrates the design, method, and process currently being employed in the administration of exempted portions of the local personnel system. If there has been no substantial change in personnel policies or technical method within an annual period, the County Manager or Personnel Director shall so certify in a letter to the Local Government Coordinator, Substantially Equivalent Systems, Office of State Human Resources.



- (c) Jurisdictions with exempted systems shall cooperatively respond to related requests by the Office of State Human Resources for additional information which is deemed essential to a complete and accurate understanding of the design and process of a local system.
- (4) Records and Reports. Personnel records shall be created and maintained as necessary to serve the operational requirements of exempted portions of the local personnel system, and to maintain an auditable history of position and employee actions processed.

*History Note:* Authority G.S. 126-11;  
Eff. October 10, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

**25 NCAC 01I .2409      OSP ASSISTANCE**

The Office of State Human Resources is available to provide counsel and technical assistance on matters of substantial equivalency at any time. Such assistance shall be provided within the limits of available staff and administrative resources. Consultation and informal, cooperative interchange is particularly encouraged prior to major revisions in policy or technical process.

*History Note:* Authority G.S. 126-11;  
Eff. October 10, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

**25 NCAC 01I .2410      SYSTEM ADVANCEMENTS**

*History Note:* Authority G.S. 126-11;  
Eff. October 10, 1992;  
Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.

**SUBCHAPTER 1J - EMPLOYEE RELATIONS**

**SECTION .0100 - EMPLOYEE RELATIONS SECTION**

**25 NCAC 01J .0101      AUTHORITY**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1977;  
Repealed Eff. August 1, 1978.

**25 NCAC 01J .0102      ORGANIZATION**

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

**SECTION .0200 - EMPLOYEE SUGGESTION SYSTEM**

- 25 NCAC 01J .0201      EMPLOYEE AWARDS**
- 25 NCAC 01J .0202      STATE EMPLOYEE AWARDS COMMITTEE**
- 25 NCAC 01J .0203      RESPONSIBILITY OF COMMITTEE**
- 25 NCAC 01J .0204      EXECUTIVE SECRETARY**

<b>25 NCAC 01J .0205</b>	<b>COMMITTEE RECORDS</b>
<b>25 NCAC 01J .0206</b>	<b>DEPARTMENTAL AWARDS COMMITTEES</b>
<b>25 NCAC 01J .0207</b>	<b>ESTABLISHMENT</b>
<b>25 NCAC 01J .0208</b>	<b>RESPONSIBILITY</b>
<b>25 NCAC 01J .0209</b>	<b>DEPARTMENTAL RECORDS</b>
<b>25 NCAC 01J .0210</b>	<b>PARTICIPANTS</b>
<b>25 NCAC 01J .0211</b>	<b>AWARDS</b>
<b>25 NCAC 01J .0212</b>	<b>HOW TO SUBMIT A SUGGESTION</b>
<b>25 NCAC 01J .0213</b>	<b>PROCEDURE FOR PROCESSING SUGGESTIONS</b>
<b>25 NCAC 01J .0214</b>	<b>NON-MONETARY AWARDS</b>
<b>25 NCAC 01J .0215</b>	<b>CASH AWARDS</b>
<b>25 NCAC 01J .0216</b>	<b>LEGISLATIVE ACTION</b>
<b>25 NCAC 01J .0217</b>	<b>INVENTIONS</b>
<b>25 NCAC 01J .0218</b>	<b>LIMITS ON ADDITIONAL COMPENSATION</b>
<b>25 NCAC 01J .0219</b>	<b>IDENTICAL OR SIMILAR SUGGESTIONS</b>
<b>25 NCAC 01J .0220</b>	<b>TERMINATION OF EMPLOYEE STATUS</b>

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

#### **SECTION .0300 - AFFIRMATIVE ACTION PLANS**

<b>25 NCAC 01J .0301</b>	<b>ROLE OF EMPLOYEE RELATIONS</b>
<b>25 NCAC 01J .0302</b>	<b>POLICY MONITORING PROCEDURES OF AFFIRMATIVE ACTION</b>
<b>25 NCAC 01J .0303</b>	<b>FILING OF AFFIRMATIVE ACTION PLANS</b>
<b>25 NCAC 01J .0304</b>	<b>REPORTING OF PLANS</b>
<b>25 NCAC 01J .0305</b>	<b>MONITORING AND ASSISTANCE</b>
<b>25 NCAC 01J .0306</b>	<b>DATA COMPILATION: ETHNIC CENSUS SURVEYS</b>
<b>25 NCAC 01J .0307</b>	<b>QUARTERLY EVALUATION</b>
<b>25 NCAC 01J .0308</b>	<b>AFFIRMATIVE ACTION FORMS</b>
<b>25 NCAC 01J .0309</b>	<b>ETHNIC CENSUS SURVEY FORMS</b>

*History Note:* Authority G.S. 126-16;  
Eff. February 1, 1976;  
Repealed Eff. October 1, 1977.

#### **SECTION .0400 - EMPLOYEE RECOGNITION PROGRAMS**

<b>25 NCAC 01J .0401</b>	<b>STATE PERSONNEL RESPONSIBILITY</b>
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*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1995;  
Recodified to 25 NCAC 01C .0901 Eff. December 29, 2003.

<b>25 NCAC 01J .0402</b>	<b>POLICY: SERVICE AWARDS PROGRAM</b>
<b>25 NCAC 01J .0403</b>	<b>TYPES OF AWARDS</b>

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989;  
Repealed Eff. December 1, 1995.

**25 NCAC 01J .0404      AGENCY RESPONSIBILITY**

*History Note:*    Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. December 1, 1995;  
                         Recodified to 25 NCAC 01C .0902 Eff. December 29, 2003.

**25 NCAC 01J .0405      EXEMPT EMPLOYEES**

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

**25 NCAC 01J .0406      ELIGIBILITY REQUIREMENTS**

*History Note:*    Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
                         Authority G.S. 126-4(10);  
                         Eff. February 1, 1976;  
                         Amended Eff. December 1, 1995; May 1, 1989; March 1, 1989; July 1, 1983;  
                         Recodified to 25 NCAC 01C .0903 Eff. December 29, 2003.

**25 NCAC 01J .0407      ADDITIONAL CREDIT**

**25 NCAC 01J .0408      OTHER PROVISIONS**

*History Note:*    Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
                         Authority G.S. 126-4(10);  
                         Eff. February 1, 1976;  
                         Amended Eff. July 1, 1989; May 1, 1989; March 1, 1989; January 1, 1989;  
                         Repealed Eff. December 1, 1995.

**25 NCAC 01J .0409      SELECTING THE SERVICE EMBLEMS**

**25 NCAC 01J .0410      PURCHASING**

**25 NCAC 01J .0411      RECORDS**

**25 NCAC 01J .0412      FUNDS**

**25 NCAC 01J .0413      GUARANTEE**

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

**25 NCAC 01J .0501      GENERAL PROVISIONS**

**25 NCAC 01J .0502      AGENCY RESPONSIBILITIES**

**25 NCAC 01J .0503      MINIMUM PROCEDURAL REQUIREMENTS**

**25 NCAC 01J .0504      ALTERNATIVE DISPUTE RESOLUTION**

**25 NCAC 01J .0505      MINIMUM PROCEDURAL REQUIREMENTS - ALTERNATIVE DISPUTE RESOLUTION (ADR)**

**25 NCAC 01J .0506      DISCRIMINATION**

*History Note:*    Authority G.S. 126-1A (until July 1, 1996) then 126-1.1; 126-4(9); 126-4(10); 126-4(17); 126-7.2; 126-16; 126-25; 126-34; 126-34.1; 126-34.2; 126-35; 126-36; 126-37; 126-38; 126-39; 150B-23;  
                         Eff. February 1, 1976;  
                         Amended Eff. August 1, 2000;  
                         Temporary Amendment Eff. February 18, 1999;

*Amended Eff. December 1, 1995; May 1, 1989; April 1, 1989; February 1, 1989; July 1, 1988; December 1, 1985; October 1, 1985; October 1, 1980; October 1, 1977;*  
*Repealed Eff. March 1, 2005.*

**25 NCAC 01J .0507 LEAVE IN CONNECTION WITH GRIEVANCES**  
**25 NCAC 01J .0508 SPC APPROVAL OF ADR AGREEMENT**

*History Note: Authority G.S. 126-4(9); 126-4(17); 126-34.2; 126-35; 150B-23;*  
*Eff. December 1, 1985;*  
*Amended Eff. December 1, 1995; April 1, 1989;*  
*Repealed Eff. March 1, 2005.*

**25 NCAC 01J .0509 AGENCY GRIEVANCE REPORTS**  
**25 NCAC 01J .0510 FINAL AGENCY ACTION**  
**25 NCAC 01J .0511 GRANDFATHER CLAUSE**

*History Note: Authority G.S. 126-4(9); 126-7.2; 126-35; 126-37; 126-38; 150B-23(a);*  
*Eff. December 1, 1995;*  
*Repealed Eff. March 1, 2005.*

**SECTION .0600 - DISCIPLINARY ACTION: SUSPENSION AND DISMISSAL**

**25 NCAC 01J .0601 PERMANENT EMPLOYEES**  
**25 NCAC 01J .0602 WRITTEN STATEMENT**

*History Note: Authority G.S. 126-35; 126-39;*  
*Eff. February 1, 1976;*  
*Amended Eff. October 1, 1977;*  
*Repealed Eff. October 1, 1984.*

**25 NCAC 01J .0603 APPEALS**

- (a) A career employee who has been demoted, suspended, or dismissed shall have 15 calendar days from the date of his or her receipt of written notice of such action to file an appeal with his department/university grievance procedure. If an employee does not appeal his or her dismissal through the agency grievance procedure within 15 days, then the employee shall have no right to file a contested case with the Office of Administrative Hearings under G.S. 126-34.02.
- (b) If an employee appeals his or her dismissal through the agency grievance procedure, then the initial dismissal letter shall not constitute the final agency decision, but the final agency decision shall be the decision made at the conclusion of the employee's appeal through the agency grievance procedure.
- (c) Grievances that allege discrimination, harassment, or retaliation shall follow the agency grievance process. Employees with grievances alleging discrimination, harassment, or retaliation who do not follow the agency grievance process shall have no right to file a contested case with the Office of Administrative Hearings.

*History Note: Authority G.S. 126-1A; 126-34.01; 126-34.02; 126-35; 150B, Article 3; 150B-23;*  
*Eff. February 1, 1976;*  
*Amended Eff. March 1, 1994; April 1, 1989; December 1, 1984; October 1, 1984;*  
*Temporary Amendment Eff. February 18, 1999;*  
*Amended Eff. February 1, 2011; July 18, 2002;*  
*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. August 20, 2016.*

**25 NCAC 01J .0604 JUST CAUSE FOR DISCIPLINARY ACTION**

(a) Any employee, regardless of occupation, position or profession may be warned, demoted, suspended or dismissed by the appointing authority. Such actions may be taken against career employees as defined by the State Human Resources Act, only for just cause. The provisions of this section apply only to employees who have attained career status. The degree and type of action taken shall be based upon the sound and considered judgment of the appointing authority in accordance with the provisions of this Rule. When just cause exists the only disciplinary actions provided for under this Section are:

- (1) Written warning;
- (2) Disciplinary suspension without pay;
- (3) Demotion; and
- (4) Dismissal.

(b) There are two bases for the discipline or dismissal of employees under the statutory standard for "just cause" as set out in G.S. 126-35. These two bases are:

- (1) Discipline or dismissal imposed on the basis of unsatisfactory job performance, including grossly inefficient job performance.
- (2) Discipline or dismissal imposed on the basis of unacceptable personal conduct.

(c) Either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct as defined in 25 NCAC 1J. 0614 of this Section constitute just cause for discipline or dismissal. The categories are not mutually exclusive, as certain actions by employees may fall into both categories, depending upon the facts of each case. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

(d) The imposition of any disciplinary action shall comply with the procedural requirements of this Section.

*History Note: Authority G.S. 126-1A; 126-35;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1995; March 1, 1994; August 2, 1993; October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

#### **25 NCAC 01J .0605 DISMISSAL FOR UNSATISFACTORY PERFORMANCE OF DUTIES**

(a) The intent of this Section is to assist and promote improved employee performance, rather than to punish. This Rule covers all types of performance-related inadequacies. This Section does not require that successive disciplinary actions all concern the same type of unsatisfactory performance. Disciplinary actions related to personal conduct may be included in the successive system for performance-related dismissal provided that the employee receives at least the number of disciplinary actions, regardless of the basis of the disciplinary actions, required for dismissal on the basis of inadequate performance. Disciplinary actions administered under this Section are intended to bring about a permanent improvement in job performance. Should the required improvement later deteriorate, or other inadequacies occur, the supervisor may deal with this new unsatisfactory performance with further disciplinary action.

(b) In order to be dismissed for a current incident of unsatisfactory job performance an employee must first receive at least two prior disciplinary actions: First, one or more written warnings followed by a warning or other disciplinary action which notifies the employee that failure to make the required performance improvements may result in dismissal.

(c) Prior to the decision to dismiss an employee, a management representative must conduct a pre-dismissal conference with the employee in accordance with the procedural requirements of this Section.

(d) An employee who is dismissed must receive written notice of the specific reasons for the dismissal, as well as notice of any applicable appeal rights.

(e) Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a predissmissal conference constitute procedural violations with remedies as provided for in 25 NCAC 1B .0432. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

*History Note: Authority G.S. 126-4; 126-35;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1995; July 1, 1989; January 1, 1989; December 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

#### **25 NCAC 01J .0606 DISMISSAL FOR GROSSLY INEFFICIENT JOB PERFORMANCE**

(a) Dismissal on the basis of grossly inefficient job performance is administered in the same manner as for unacceptable personal conduct. Employees may be dismissed on the basis of a current incident of grossly inefficient job performance without any prior disciplinary action.

(b) Prior to dismissal of a career employee on the basis of grossly inefficient job performance, there shall be a pre-dismissal conference between the employee and the person recommending dismissal. This conference shall be held in accordance with the provisions of 25 NCAC 1J. 0613.

(c) Dismissals for grossly inefficient job performance require written notification to the employee. Such notification must include specific reasons for the dismissal and notice of the employee's right of appeal.

(d) Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-dismissal conference constitute procedural violations with remedies as provided for in 25 NCAC 1B .0432. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

*History Note:* Authority G.S. 126-4(7a);  
Eff. February 1, 1976;  
Amended Eff. October 1, 1995; September 1, 1991; March 1, 1990; November 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

#### **25 NCAC 01J .0607      EXAMPLES OF RELATING TO PERFORMANCE OF DUTIES**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. October 1, 1984.

#### **25 NCAC 01J .0608      DISMISSAL FOR PERSONAL CONDUCT**

(a) Employees may be dismissed for a current incident of unacceptable personal conduct, without any prior disciplinary action.

(b) Prior to dismissal of a career employee on the basis of unacceptable personal conduct, there shall be a pre-dismissal conference between the employee and the person recommending dismissal. This conference shall be held in accordance with the provisions of 25 NCAC 1J .0613.

(c) Dismissals for unacceptable personal conduct require written notification to the employee. Such notification must include specific reasons for the dismissal and notice of the employee's right of appeal.

(d) Failure to give specific written reasons for the dismissal, failure to give written notice of applicable appeal rights, or failure to conduct a pre-dismissal conference constitute procedural violations with remedies as provided for in 25 NCAC 1B .0432. Time limits for filing a grievance do not start until the employee receives written notice of any applicable appeal rights.

*History Note:* Authority G.S. 126-1A; 126-4; 126-35;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1995; March 1, 1994; July 1, 1989; August 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

#### **25 NCAC 01J .0609      EXAMPLES OF CAUSES RELATING TO PERSONAL CONDUCT**

*History Note:* Authority G.S. 126-4; 126-35;  
Eff. February 1, 1976;  
Repealed Eff. October 1, 1984.

#### **25 NCAC 01J .0610      WRITTEN WARNING**

(a) The supervisor shall monitor and promote the satisfactory performance of work assignments and assure that employees do not engage in unacceptable personal conduct. All types of performance-related job inadequacies may constitute unsatisfactory job performance under this Section. Unacceptable personal conduct may be work-related or non-work-related conduct and may be intentional or unintentional. When the supervisor determines that disciplinary action is

appropriate for unsatisfactory job performance, a written warning is the first type of disciplinary action that an employee shall receive. The supervisor may elect to issue a written warning for grossly inefficient job performance or unacceptable personal conduct. The written warning shall:

- (1) inform the employee that this is a written warning, and not some other non-disciplinary process such as counseling;
  - (2) inform the employee of the specific issues that are the basis for the warning;
  - (3) tell the employee what specific improvements, if applicable, shall be made to address these specific issues;
  - (4) tell the employee the time frame allowed for making the required improvements or corrections. Absent a specified time frame, 60 days is the time frame allowed for correcting unsatisfactory job performance and immediate correction is required for grossly inefficient job performance or unacceptable personal conduct; and
  - (5) tell the employee the consequences of failing to make the required improvements or corrections;
- (b) A written warning shall be issued in accordance with the procedural requirements of this Section.

*History Note: Authority G.S. 126-4; 126-34.02;  
Eff. February 1, 1976;  
Amended Eff. October 1, 1995; November 1, 1990; January 1, 1989; September 1, 1988;  
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. August 20, 2016.*

#### **25 NCAC 01J .0611 DISCIPLINARY SUSPENSION WITHOUT PAY**

An employee may be suspended without pay for disciplinary purposes for unsatisfactory job performance after the receipt of at least one prior disciplinary action or for causes relating to any form of unacceptable personal conduct or grossly inefficient job performance. A disciplinary suspension without pay for an employee who is subject to the overtime compensation provisions of the Fair Labor Standards Act (FLSA) must be for at least one full work day, but not more than two work weeks. The length of a disciplinary suspension without pay for an employee who is exempt from the overtime compensation provisions of the FLSA must be for at least one full work week, but not more than two full work weeks. Prior to placing any employee on disciplinary suspension without pay, a management representative shall conduct a pre-suspension conference with the employee in accordance with the procedural requirements of this Section. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's appeal rights.

An agency or university has the option of imposing the same periods of disciplinary suspension without pay upon all employees as long as the period is the same as for employees exempt from the overtime provisions of the FLSA as set forth in this Section.

*History Note: Authority G.S. 126-4(6); 126-35;  
Eff. October 1, 1984;  
Amended Eff. October 1, 1995; January 1, 1989; September 1, 1988;  
Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge Beecher Gray declared rule 25 NCAC 01J .0611 void as applied in Michael A. Kelly, Steven Wayne Mobley v. NC Department of Environment and Natural Resources (04 OSP 1572; 04 OSP 1573; Affirmed 664 S.E.2d 625);  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

#### **25 NCAC 01J .0612 DEMOTION**

(a) Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory or grossly inefficient job performance or unacceptable personal conduct.

- (1) **Unsatisfactory Job Performance.** An employee may be demoted for unsatisfactory job performance after the employee has received at least one prior disciplinary action.
- (2) **Grossly Inefficient Job Performance.** An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.

- (3) Personal Conduct. An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.
  - (4) An employee who is demoted must receive written notice of the specific reasons for the demotion, as well as notice of any applicable appeal rights.
- (b) Disciplinary demotions may be accomplished in three ways:
- (1) The employee may be demoted to a lower pay grade with a reduction in salary rate as long as the new salary rate does not exceed the maximum of the salary schedule for the new lower pay grade;
  - (2) The employee may be demoted to a lower pay grade without a reduction in salary rate as long as the salary rate does not exceed the maximum of the salary schedule for the new lower pay grade; or
  - (3) The employee may be demoted while retaining the same pay grade with a reduction in salary rate. In no event shall an employee's salary rate be reduced to less than the minimum salary rate for the applicable pay grade or the special entry rate, if in effect.
- (c) Prior to the decision to demote an employee for disciplinary reasons, a management representative must conduct a pre-demotion conference with the employee in accordance with the procedural requirements of this Section.

*History Note: Authority G.S. 126-4(6);  
 Eff. October 1, 1984;  
 Amended Eff. October 1, 1995; January 1, 1989;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01J .0613 PROCEDURAL REQUIREMENTS**

The following procedural requirements shall be followed to issue disciplinary action under this Section:

- (1) **WRITTEN WARNING** - to issue a written warning to an employee, a supervisor shall issue the employee a written warning, detailing the matters referenced in Rule .0610(a)(1) - (5) of this Section and including any applicable appeal rights.
- (2) **DISCIPLINARY SUSPENSION WITHOUT PAY** - to place an employee on disciplinary suspension without pay, a supervisor shall comply with the following procedural requirements:
  - (a) In matters of unsatisfactory job performance, insure that the employee has received at least one prior disciplinary action. In matters of grossly inefficient job performance or unacceptable personal conduct there are no pre-conditions so an employee may be suspended without pay for a current incident of grossly inefficient performance or unacceptable misconduct;
  - (b) Schedule and conduct a pre-suspension conference. Advance oral or written notice of the appropriate pre-disciplinary conference shall be given to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice shall be as much as is practical under the circumstances;
  - (c) Furnish the employee a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension;
  - (d) Advise the employee of any applicable appeal rights in the document effecting the suspension.
- (3) **DEMOTION** - to demote an employee, a supervisor shall comply with the following procedural requirements:
  - (a) In matters of unsatisfactory job performance, insure that the employee has received at least one prior disciplinary action;
  - (b) In matters of grossly inefficient job performance or unacceptable personal conduct, there is no requirement for previous disciplinary action, so an employee may be demoted for a current incident of grossly inefficient job performance or unacceptable personal conduct without any prior disciplinary action;
  - (c) Advance oral or written notice of the appropriate pre-disciplinary conference shall be given to the employee of the time, location, and the issue for which discipline has been recommended. The amount of advance notice shall be as much as is practical under the circumstances;
  - (d) An employee who is demoted shall receive written notice of the specific acts or omissions that are the reasons for the demotion;



- (e) An employee shall be advised of how and to what extent the demotion will affect the employee's salary rate or pay grade; and
  - (f) The employee shall also be advised of any applicable appeal rights in the document effecting the demotion.
- (4) DISMISSAL - Before an employee may be dismissed, a supervisor shall comply with the following procedural requirements:
- (a) The Supervisor recommending dismissal shall discuss the recommendation with appropriate agency management and receive management's authorization to hold a pre-dismissal conference with the employee. The person conducting the pre-dismissal conference shall have the authority to recommend or to decide what, if any disciplinary action shall be imposed on the employee;
  - (b) The Supervisor or designated management representative shall schedule a pre-dismissal conference with the employee;
  - (c) Advance written notice of the pre-dismissal conference shall be given to the employee of the time, location, and the issue for which dismissal has been recommended. The amount of advance notice shall be as much as is practical under the circumstances;
  - (d) The Supervisor or designated management representative shall conduct a pre-dismissal conference with the employee, limiting attendance to the employee and the person conducting the conference; a second management representative may be present at management's discretion. The purpose of the pre-dismissal conference shall be to review the recommendation for dismissal with the affected employee and to listen to and to consider any information put forth by the employee, in order to insure that a dismissal decision is sound and not based on misinformation or mistake. Security personnel may be present when, in the discretion of the person conducting the conference, a need for security exists. No attorneys representing either side may attend the conference;
  - (e) In the conference, the Supervisor shall give the employee oral or written notice of the recommendation for dismissal, including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal, to refute information supporting the recommended dismissal action and to offer information or arguments in support of the employee's position. Every effort shall be made by the Supervisor or the designated management representative to assure that the employee has had a full opportunity to set forth any available information in opposition to the recommendation to dismiss prior to the end of the conference. This opportunity shall not include the right to present witnesses;
  - (f) Following the conference, management shall review and consider the response of the employee and reach a decision on the proposed recommendation. If management's decision is to dismiss the employee, a written letter of dismissal containing the specific reasons for dismissal, the effective date of the dismissal and the employee's appeal rights shall be issued to the employee in person or by certified mail, return receipt requested, to the last known address of the employee. To minimize the risk of dismissal upon erroneous information, and to allow time following the conference for management to review all necessary information, the decision to dismiss should not be communicated to the employee in accordance with this Paragraph, prior to the beginning of the next business day following the conclusion of the pre-dismissal conference or after the end of the second business day following the completion of the pre-dismissal conference;
  - (g) The effective date of a dismissal for unsatisfactory job performance shall be determined by management. A career employee who is dismissed for unsatisfactory job performance may, at management's discretion, be given up to two weeks' working notice of his dismissal. Instead of providing up to two weeks' working notice and at the discretion of management, an employee may be given up to two weeks' pay in lieu of the working notice. Such working notice or pay in lieu of notice is applicable only to dismissals for unsatisfactory job performance. The effective date of the dismissal shall not be earlier than the letter of dismissal nor more than 14 calendar days after the notice of dismissal; and
  - (h) If an employee is dismissed and appeals his dismissal through the agency grievance procedure, the final agency decision shall set forth the specific acts or omissions that are the

basis of the employee's dismissal. In addition, the employee shall be informed in the final agency decision letter that the final agency decision letter is a public record and that the agency is required by law to release it pursuant to any public record requests.

*History Note: Authority G.S. 126-4; 126-35;  
Eff. October 1, 1995;  
Temporary Amendment Eff. February 12, 1996;  
Amended Eff. August 1, 1996;  
Temporary Amendment Expired November 26, 1996;  
Amended Eff. February 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

## **25 NCAC 01J .0614 DEFINITIONS**

As used in this Subchapter:

- (1) Current Unresolved Incident means conduct or performance that:
  - (a) constitutes a violation of this Section; and
  - (b) for which no disciplinary action has been previously imposed or issued by agency or university management.
- (2) Disciplinary Demotion means a personnel action taken, without employee agreement, to discipline the employee, which results in:
  - (a) reduction in salary within the employee's current classification;
  - (b) an assignment to a position in a lower salary grade without a corresponding loss of salary; or
  - (c) an assignment to a position in a lower salary grade with a corresponding loss of salary.
- (3) Disciplinary Suspension Without Pay means the removal of an employee from work for disciplinary purposes without paying the employee.
- (4) Dismissal means the involuntary termination or ending of the employment of an employee for disciplinary purposes or failure to obtain or maintain necessary credentials.
- (5) Gross Inefficiency (Grossly Inefficient Job Performance) means a type of unsatisfactory job performance that occurs in instances in which the employee: fails to satisfactorily perform job requirements as specified in the job description, work plan, or as directed by the management of the work unit or agency; and, that failure results in
  - (a) the creation of the potential for death or serious bodily injury to an employee(s) or to members of the public or to a person(s) over whom the employee has responsibility; or
  - (b) the loss of or damage to state property or funds that result in a serious impact on the State or work unit.
- (6) Inactive Disciplinary Action means any disciplinary action issued after October 1, 1995 is deemed inactive for the purpose of this Section if:
  - (a) the manager or supervisor notes in the employee's personnel file that the reason for the disciplinary action has been resolved or corrected;
  - (b) the purpose for a performance-based disciplinary action has been achieved, as evidenced by a summary performance rating of level 3 (Good) or other official designation of performance at an acceptable level or better and at least a level 3 or better in the performance area cited in the warning or disciplinary action, following the disciplinary warning or action; or
  - (c) 18 months have passed since the warning or disciplinary action, the employee does not have another active warning or disciplinary action which occurred within the last 18 months.
- (7) Insubordination means the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning.
- (8) Unacceptable Personal Conduct means:
  - (a) conduct for which no reasonable person should expect to receive prior warning;
  - (b) job-related conduct which constitutes a violation of state or federal law;
  - (c) conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the State;
  - (d) the willful violation of known or written work rules;

- (e) conduct unbecoming a state employee that is detrimental to state service;
  - (f) the abuse of client(s), patient(s), student(s) or a person(s) over whom the employee has charge or to whom the employee has a responsibility or an animal owned by the State;
  - (g) absence from work after all authorized leave credits and benefits have been exhausted; or
  - (h) falsification of a state application or in other employment documentation.
- (9) Unsatisfactory Job Performance means work-related performance that fails to satisfactorily meet job requirements as specified in the relevant job description, work plan, or as directed by the management of the work unit or agency.

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

## **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.*

## **25 NCAC 01J .0616 CREDENTIALS**

(a) Classifications or positions required to be licensed, registered, or certified in accordance with North Carolina General Statutes shall be specified in the statement of essential qualifications or recruitment standards for classifications approved by the State Human Resources Commission. Employees in such classifications or positions shall obtain and maintain current, valid credentials.

(b) Failure to obtain or maintain the required credentials constitutes a basis for dismissal without prior warning, consistent with dismissal for unacceptable personal conduct or grossly inefficient job performance. An employee who is dismissed for failure to obtain or maintain credentials shall be dismissed under the procedural requirements applicable to dismissals for unacceptable personal conduct or grossly inefficient job performance.

(c) Falsification of employment credentials or other documentation in connection with securing employment constitutes just cause for disciplinary action. When credential or work history falsification is discovered after employment with a state agency, disciplinary action shall be administered as follows:

- (1) If an employee was determined to be qualified and was selected for a position based upon falsified work experience, education, registration, licensure, or certification information that was a requirement for the position, the employee shall be dismissed in accordance with Rule .0608 of this Section.
- (2) In all other cases of post-hiring discovery of false or misleading information, disciplinary action shall be taken, but the severity of the disciplinary action shall be at the discretion of the agency head.

(d) When credential or work history falsification is discovered before employment with a state agency, the applicant shall be disqualified from consideration for the position in question.

*History Note:* Authority G.S. 126-4; 126-35;  
Eff. April 1, 2015.

#### **25 NCAC 01J .0617 DISCRIMINATION AND RETALIATION**

Neither race, religion, color, national origin, sex, age, political affiliation, disability, or genetic information shall be considered in making any decisions about any term or condition of employment for any employees or applicants. Nor shall the fact that an employee or applicant has complained about discrimination or participated in a hearing, proceeding, or investigation of discrimination be considered when making any decisions about any term or condition of employment.

*History Note:* Authority G.S. 126-16; 126-17; 126-13.02;  
Temporary Adoption Eff. February 28, 2014;  
Temporary Adoption Expired December 12, 2014;  
Eff. April 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

#### **25 NCAC 01J .0618 APPEAL OF DENIAL OF VETERAN'S PREFERENCE**

*History Note:* Authority S.L. 2013-382, s. 6.1;  
Temporary Adoption Eff. February 28, 2014;  
Temporary Adoption Expired December 12, 2014.

### **SECTION .0700 - WELLNESS IMPROVEMENT FOR STATE EMPLOYEES POLICY**

**25 NCAC 01J .0701 PURPOSE**  
**25 NCAC 01J .0702 POLICY**  
**25 NCAC 01J .0703 ADMINISTRATION**

*History Note:* Authority G.S. 126-4(10);  
Eff. February 1, 1986;  
Amended Eff. July 1, 1989; January 1, 1989;  
Repealed Eff. January 1, 2004.

### **SECTION .0800 - GOVERNOR'S AWARD FOR EXCELLENCE**

**25 NCAC 01J .0801 PURPOSE**  
**25 NCAC 01J .0802 AWARDS COMMITTEE**

*History Note:* Authority G.S. 126-4(15);  
Eff. January 1, 1989;

*Amended Eff. December 1, 1995; August 2, 1993.  
Repealed Eff. October 1, 2006.*

**25 NCAC 01J .0803      NOMINATIONS**  
**25 NCAC 01J .0804      AWARDS CATEGORIES**

*History Note:      Authority G.S. 126-4(15);  
                         Eff. January 1, 1989;  
                         Repealed Eff. December 1, 1995.*

**25 NCAC 01J .0805      AGENCY, DEPARTMENT OR UNIVERSITY RESPONSIBILITY**

*History Note:      Authority G.S. 126-4(15);  
                         Eff. January 1, 1989;  
                         Amended Eff. December 1, 1995;  
                         Repealed Eff. October 1, 2006.*

**25 NCAC 01J .0806      NUMBER OF NOMINATIONS**

*History Note:      Authority G.S. 126-4(15);  
                         Eff. January 1, 1989;  
                         Repealed Eff. December 1, 1995.*

**25 NCAC 01J .0807      CRITERIA FOR SELECTION**

*History Note:      Authority G.S. 126-4(15);  
                         Eff. February 1, 1989;  
                         Repealed Eff. December 1, 1995.*

**25 NCAC 01J .0808      TYPE OF AWARD**  
**25 NCAC 01J .0809      PROCEDURES**

*History Note:      Authority G.S. 126-4(15);  
                         Eff. January 1, 1989;  
                         Repealed Eff. December 1, 1995.*

**SECTION .0900 - INTERNAL PERFORMANCE PAY DISPUTE RESOLUTION PROCEDURES**

**25 NCAC 01J .0901      A PROCEDURE SPECIFICALLY DESIGNED ONLY PERFORMANCE PAY  
DISPUTES**  
**25 NCAC 01J .0902      REVIEW/PERFORMANCE PAY DISPUTES USING THE GRIEVANCE  
PROCEDURE**  
**25 NCAC 01J .0903      DEFINITIONS**

*History Note:      Authority G.S. 126-4; 126-25;  
                         Eff. January 1, 1990;  
                         Amended Eff. November 1, 1990;  
                         Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.*

**SECTION .1000 - STATE EMPLOYEES' ASSISTANCE PROGRAM**

**25 NCAC 01J .1001      PURPOSE**  
**25 NCAC 01J .1002      POLICY**  
**25 NCAC 01J .1003      ORGANIZATION OF PROGRAM**  
**25 NCAC 01J .1004      SERVICES OFFERED TO AGENCIES, UNIVERSITIES AND EMPLOYEES**

*History Note:* Authority G.S. 126-4(10);  
Eff. June 1, 1992;  
Repealed Eff. August 1, 2004.

**25 NCAC 01J .1005 ELIGIBILITY FOR SERVICES**

*History Note:* Authority G.S. 126-4(10); 126-10;  
Eff. August 3, 1992;  
Repealed Eff. August 1, 2004.

- 25 NCAC 01J .1006 SELF REFERRAL**
- 25 NCAC 01J .1007 SUPERVISORY REFERRAL**
- 25 NCAC 01J .1008 MANAGEMENT DIRECTED REFERRAL**
- 25 NCAC 01J .1009 CONFIDENTIALITY**
- 25 NCAC 01J .1010 RESPONSIBILITIES OF THE EMPLOYEE ASSISTANCE PROGRAM**
- 25 NCAC 01J .1011 RESPONSIBILITIES OF AGENCIES/UNIVERSITIES**

*History Note:* Authority G.S. 126-4(10);  
Eff. June 1, 1992;  
Repealed Eff. August 1, 2004.

**25 NCAC 01J .1012 PURPOSE**

*History Note:* Authority G.S. 126-4(10);  
Eff. August 1, 2004;  
Expired Eff. September 1, 2016 pursuant to G.S. 150B-21.3A.

**SECTION .1100 - UNLAWFUL WORKPLACE HARRASSMENT**

**25 NCAC 01J .1101 UNLAWFUL WORKPLACE HARASSMENT AND RETALIATION**

(a) Purpose. The purpose of this Rule is to establish that the State of North Carolina prohibits in any form unlawful workplace harassment, including sexual harassment or retaliation based on opposition to unlawful workplace harassment of state employees or applicants. Every agency with employees subject to the State Human Resources Act shall develop strategies to ensure that work sites are free of unlawful workplace harassment, sexual harassment discrimination and retaliation.

(b) As used in this Rule:

- (1) "unlawful workplace harassment" means unsolicited and unwelcome speech or conduct based upon race, religion, color, national origin, sex, age, disability, genetic information, or political affiliation that creates a hostile work environment or under circumstances involving quid pro quo."
- (2) "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct when:
  - (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
  - (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and
  - (C) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- (3) "retaliation" means adverse action taken against an individual for filing a discrimination charge; testifying; or participating in any way in an investigation, proceeding, or lawsuit related to discriminatory employment practices based on race, religion, color, national origin, sex, age, disability, political affiliation or genetic information; or because of opposition to employment practices in violation of the unlawful workplace harassment policy.

(c) Policy. No state employee shall engage in conduct that falls under the definition of unlawful workplace harassment, sexual harassment or retaliation, and no personnel employment decisions shall be made on the basis of race, sex, religion, national origin, age, color, disability, political affiliation, or genetic information.

(d) All employees are guaranteed the right to work in an environment free from unlawful workplace harassment and retaliation.

(e) Coverage of this Rule includes:

- (1) applicants,
- (2) former employees, and
- (3) full-time and part-time employees with either a permanent, probationary, trainee, time-limited, or temporary appointment.

(f) Agency Workplace Harassment Prevention Strategies. Each agency head shall develop strategies to prevent unlawful workplace harassment, sexual harassment, or retaliation. These strategies shall include:

- (1) a commitment by the agency to the prohibition of unlawful workplace harassment, sexual harassment or retaliation;
- (2) training and other methods to prevent harassing or retaliating actions; and
- (3) a process for disseminating information prohibiting unlawful workplace harassment and retaliation to all agency employees.

Workplace harassment prevention strategies shall be included as part of the agency Equal Employment Opportunity (EEO) plan.

*History Note:* Authority G.S. 126-4; 126-16; 126-17; 126-34.01; 126-34.02; 126-36; Eff. December 1, 1980; Amended Eff. November 1, 1988; April 1, 1983; Temporary Amendment Eff. February 18, 1999; Amended Eff. July 18, 2002; Recodified from 25 NCAC 01C .0214 Eff. December 29, 2003; Amended Eff. June 1, 2012; 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. August 20, 2016.

## **SECTION .1200 – EMPLOYEE GRIEVANCES**

<b>25 NCAC 01J .1201</b>	<b>GENERAL PROVISIONS</b>
<b>25 NCAC 01J .1202</b>	<b>AGENCY RESPONSIBILITIES</b>
<b>25 NCAC 01J .1203</b>	<b>AGENCY GRIEVANCE REPORTS</b>
<b>25 NCAC 01J .1204</b>	<b>DISCRIMINATION AND RETALIATION / SPECIAL PROVISIONS</b>
<b>25 NCAC 01J .1205</b>	<b>UNLAWFUL WORKPLACE HARASSMENT</b>
<b>25 NCAC 01J .1206</b>	<b>TIME LIMITS</b>
<b>25 NCAC 01J .1207</b>	<b>FINAL AGENCY ACTION</b>
<b>25 NCAC 01J .1208</b>	<b>LEAVE IN CONNECTION WITH GRIEVANCES</b>

*History Note:* Authority G.S. 126-1.1; 126-4(9); 126-4(11); 126-4(17); 126-7.2; 126-16; 126-17; 126-25; 126-34.01; 126-34.02; 126-35; 150B-23(a); Eff. March 1, 2005; Temporary Repeal Eff. May 23, 2014; Repealed Eff. April 1, 2015.

## **SECTION .1300 - EMPLOYEE APPEALS AND GRIEVANCE PROCESS**

<b>25 NCAC 01J .1301</b>	<b>MINIMUM PROCEDURAL REQUIREMENTS</b>
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*History Note:* Authority G.S. 126-4(9); 126-4(10); 126-4(17); 126-7.2; 126-16; 126-34.01; 126-34.02; 126-35; 150B-23;

*Eff. March 1, 2005;*  
*Temporary Repeal Eff. May 23, 2014;*  
*Repealed Eff. April 1, 2015.*

**25 NCAC 01J .1302 GENERAL AGENCY GRIEVANCE PROCEDURE REQUIREMENTS**

- (a) All agencies and universities shall adopt an Employee Grievance Policy, which shall be approved by the State Human Resources Commission, based on the standards in Paragraph (d) of this Rule.
- (b) Grievances filed that are not in accordance with Subparagraph (d)(5) of this Rule shall be dismissed.
- (c) A grievant who has an unexcused failure to attend the Step 1 - Mediation or Step 2 - Hearing as scheduled forfeits the right to proceed with the grievance process.
- (d) An agency or university grievance process shall include the following:
- (1) a list of who may file a grievance;
  - (2) a list of grounds for filing a grievance under the internal grievance process;
  - (3) a list of grounds for which contested cases may be brought to the Office of Administrative Hearings after the conclusion of the grievance process in accordance with G.S. 126-34.02;
  - (4) an informal process for attempting to resolve a grievable issue prior to the employee's filing a formal grievance;
  - (5) a 30-day timeframe in which grievable issues must be raised in both the informal and formal grievance process, except for grievances covered by Rule .0603 of this Subchapter;
  - (6) a 90-day timeframe in which the agency or university must complete the entire informal process and the process shall describe each step of the formal grievance process;
  - (7) mediation shall serve as Step 1 of the formal grievance process. A description of the mediation process and timeframe to be followed in Step 1 shall state that a mediation agreement is legally binding and that if impasse occurs, the agency shall inform the grievant of the Step 2 grievance process and timeframe for filing;
  - (8) a hearing shall serve as Step 2 of the formal grievance process. A description of the hearing process and timeframe to be followed in Step 2 shall be provided, including that a grievant has the opportunity to present the grievance orally to a hearing officer or hearing panel. The hearing officer or hearing panel chair shall draft a proposed recommendation with findings of fact for a Final Agency Decision;
  - (9) the process and timeframe for the proposed recommendation to be submitted to the Office of State Human Resources for review and approval;
  - (10) information about any applicable appeal rights to the Office of Administrative Hearings shall be included in the Final Agency Decision;
  - (11) the responsibilities of all parties involved in the grievance process to include: grievant, respondent, hearing officer or hearing panel and chair, agency and university Human Resource Office, Equal Employment Officer, Affirmative Action Officer, Agency Head and designee, and the Director of the Office of State Human Resources and designees; and
  - (12) the manner in which changes in the grievance policies shall be communicated to employees.

*History Note: Authority G.S. 126-34.01; 126-34.02;*  
*Temporary Adoption Eff. May 23, 2014;*  
*Eff. April 1, 2015;*  
*Readopted Eff. April 1, 2018.*

**25 NCAC 01J .1303 AGENCY AND UNIVERSITY GRIEVANCE REPORTS AND DATA ENTRY**

- (a) Every agency and university shall, as requested by the Office of State Human Resources, compile information on employee grievances.
- (b) The Office of State Human Resources shall make reports to the State Human Resources Commission as necessary based upon the information supplied in agency reports.
- (c) Every agency and university shall maintain all grievance data and enter grievance data by the last business day of the month in the State's HR and Payroll system or other applicable human resources information system.

*History Note: Authority: G.S. 126-4(6),(9);*  
*Temporary Adoption Eff. May 23, 2014;*  
*Eff. April 1, 2015;*



*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01J .1304 SETTLEMENTS/CONSENT AGREEMENTS IN GRIEVANCES, CONTESTED CASES**

(a) Any mediation agreement, settlement agreement, or consent agreement in a grievance or contested case that requires the entering of data into human resources and payroll information system used by agencies with employees subject to G.S. 126, shall be approved by the Office of State Human Resources for compliance with all rules contained in Subchapters 1C (Personnel Administration), 1D (Compensation), 1E (Employee Benefits), 1H (Recruitment and Selection), and 1J (Employee Relations) in Title 25 of the North Carolina Administrative Code before the agency enters the data.

(b) Data shall be entered into the human resources and payroll information system by an agency when it determines that an action shall be taken that affects classification, salary, leave, demotion, reassignment, transfer, or for any other human resources action, except where the only personnel action taken as a result of the settlement is the substitution of a resignation for a dismissal.

(c) Approval by the Office of State Human Resources shall be indicated by the signature of the State Human Resources Director or his or her designee in an appropriate place on the settlement or consent agreement to the Office of State Human Resources Director. This provision shall not be construed to require Office of State Human Resources' approval of a settlement in which the only portion requiring approval is the awarding of attorney's fees to the employee's attorney by the Office of Administrative Hearings.

(d) This provision shall also not be construed to require approval of any settlement the terms of which allow an employee to substitute a resignation for a dismissal and to withdraw a grievance or a contested case action.

(e) The provisions of 25 NCAC 01A .0104 (EXCEPTIONS AND VARIANCES) shall be complied with when any provision of a settlement or consent agreement in a grievance or contested case requires an exception to or variance from the rules in this Chapter contained in Subchapters 1C (Personnel Administration), 1D (Compensation), 1E (Employee Benefits), 1H (Recruitment and Selection), and 1J (Employee Relations). This compliance shall be in addition to the requirements of this Rule. Any settlement or consent agreement that contains a provision that requires an exception to or variance from existing human resources policy shall be reviewed and approved by the Office of State Human Resources Director prior to the processing of any human resources action forms by the Office of State Human Resources or the university human resources and payroll system.

(f) Requests to enter data into the State's human resources and payroll system that are required by the provisions of any settlement or consent agreement that has not been approved by the Office of State Human Resources as required by this Rule shall not be processed by the human resources and payroll information system used by agencies with employees subject to G.S. 126, and shall be returned to the agency without action.

(g) No agency shall agree to any mediation agreement, settlement agreement, or consent agreement entered under G.S. 126 that does not comply with the rules in this Subchapter. However, no rules in this Subchapter shall constrain the authority of any agency to request an exception from these rules; nor shall any provision of these rules restrict the discretion and authority of any decision maker applying these Rules to apply the rules consistent with the decision maker's discretion and authority.

*History Note: Authority. 126-4; 126-34.01;  
Temporary Adoption Eff. May 23, 2014;  
Eff. May 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01J .1305 OFFICE OF STATE HUMAN RESOURCES REVIEW AND APPROVAL OF FINAL AGENCY DECISION (FAD)**

The Director of the Office of State Human Resources or his or her designee:

- (1) shall review every agency or university final agency decision (FAD);
- (2) shall establish criteria and standards for the content of a FAD; and
- (3) may approve as written or make recommendations for modifications or reversal to the agency.

*History Note: Authority G.S. 126-34.01; 126-34.02;  
Temporary Adoption Eff. May 23, 2014;*

*Eff. April 1, 2015;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01J .1306 BACK PAY**

In grievances:

- (1) Back pay may be awarded as allowed by G.S. Chapter 126.
- (2) Full or partial back pay shall not be dependent upon whether reinstatement is ordered.
- (3) Gross back pay shall always be reduced by any gross interim earnings, except that interim earnings from employment that was approved secondary employment prior to dismissal shall not be set off against gross back pay. Any unemployment insurance benefits paid to the employee shall also be deducted from the gross back pay amount due.
- (4) All applicable State and federal withholding taxes, including social security taxes, shall be paid from the reduced gross back pay due. "Reduced gross back pay" is gross back pay due minus interim earnings and unemployment insurance benefits received.
- (5) The employee's regular retirement contribution shall be paid on the total, unreduced amount of gross back pay due.
- (6) Back pay shall include payment for all holidays that the grievant would have been paid for except for the interruption in employment status. Holiday premium pay shall not be a part of any back pay award.
- (7) Shift pay shall be a part of a back pay award if the grievant would have been entitled to the pay in the absence of the interruption in employment. This benefit shall not be applicable in cases involving a failure to hire or a failure to promote.
- (8) Employees shall not be entitled to any discretionary pay that may or may not have been awarded to them in the absence of the interruption in employment, including merit increments.
- (9) Back pay shall include any across-the-board compensation that would have been included in the grievant's regular salary except for the interruption in employment. This includes one time "bonuses," and across-the-board legislative pay increases.
- (10) If the grievant's longevity eligibility date occurred during the period of interrupted employment, back pay shall include the difference between the prorated longevity payment made at dismissal and the amount of longevity pay that would have been payable had employment not been interrupted. If the grievant is reinstated prior to his or her longevity date, no adjustment for longevity pay shall be made in the back pay award. The prorated longevity payment made at the time of dismissal shall be deducted from the full amount otherwise payable on the next longevity eligibility date.
- (11) Back pay shall be applied for on the Office of State Human Resources form, available on the Office of State Human Resources website, [www.oshr.nc.gov](http://www.oshr.nc.gov). The back pay application form requires the following information:
  - (a) agency or university name;
  - (b) division, department or school;
  - (c) employee name;
  - (d) employee social security number;
  - (e) position classification;
  - (f) position number; and
  - (g) a notarized sworn statement verifying the following information for a total earnings calculation:
    - (i) gross interim income, not including secondary employment approved prior to adverse action; and
    - (ii) unemployment compensation.
- (12) The decision to award back pay shall include evidence, if any, of the grievant's efforts to obtain available employment following separation from State government. The burden of proof that an employee mitigated his or her lost wages by seeking employment following separation shall be on the employee.

*History Note: Authority G.S. 126-4(9); 126-34.01; 126 -34.02;*  
*Temporary Adoption Eff. May 23, 2014;*  
*Eff. April 1, 2015;*

*Readopted Eff. April 1, 2018;*  
*Amended Eff. July 1, 2020.*

**25 NCAC 01J .1307 FRONT PAY**

In grievances:

- (1) Front pay may be awarded in all cases in which front pay is warranted by law.
- (2) "Front pay" is the payment to an employee above his or her regular salary, the excess amount representing the difference between the employee's salary in his or her current position and a higher salary determined to be appropriate due to a finding of discrimination.
- (3) Front pay may also result from an order of reinstatement to a position of a particular level that the agency is unable to accommodate at the time of the order. Front pay shall be paid for such period as the agency is unable to hire, promote, or reinstate the employee to a position at the appropriate level and as warranted by law.
- (4) Front pay shall terminate upon acceptance or rejection of a position to which the employee has been determined to be entitled.
- (5) Front pay shall be available as a remedy in cases involving hiring, promotion, demotion, or dismissal.
- (6) Front pay shall be payable under the same conditions as back pay except that the only deductions from front pay shall be for usual and regular deductions for State and federal withholding taxes and the employee's retirement contribution. There may also be a deduction for other employment earnings, whether paid by the State or another employer, so as to avoid unjust enrichment of the grievant.
- (7) Shift pay and holiday premium pay shall not be available on front pay.

*History Note: Authority G.S. 126-4(9); 126-34.01; 126-34.02;*  
*Temporary Adoption Eff. May 23, 2014;*  
*Eff. April 1, 2015;*  
*Readopted Eff. April 1, 2018.*

**25 NCAC 01J .1308 LEAVE**

- (a) An employee shall be credited on reinstatement with all vacation leave that would have been earned except for the interruption in employment.
- (b) An employee shall be credited on reinstatement with all sick leave that would have been earned except for the interruption in employment.
- (c) The decision as to whether or not to allow the reinstated employee to purchase back the vacation leave paid out in a lump sum at dismissal is within the discretion of the agency. A failure to allow such repurchase is not grievable.
- (d) Employees reinstated from dismissal shall have their former balance of sick leave at dismissal reinstated.

*History Note: Authority G.S. 126-4(9); 126-34.01; 126-34.02;*  
*Temporary Adoption Eff. February 28, 2014;*  
*Temporary Adoption Expired December 12, 2014;*  
*Eff. April 1, 2015;*  
*Readopted Eff. April 1, 2018.*

**25 NCAC 01J .1309 HEALTH INSURANCE**

Employees reinstated from dismissal shall be entitled to either retroactive coverage under the State Health Plan or to reimbursement up to the amount the state contributes for employee only coverage. The employee shall have the right to elect between these two choices, provided that if the employee elects reimbursement, the employee may do so only if the employee had secured alternate health insurance coverage during the period of interruption of employment. The employee shall not be reimbursed for the cost of coverage of dependents or spouse during the period between dismissal and reinstatement, but the employee may choose to purchase that retroactive coverage. It is the responsibility of the employee to provide proof of insurance or insured expenses incurred during the period of unemployment.

*History Note: Authority G.S. 126-4(9); 126-34.01; 126-34.02;*  
*Temporary Adoption Eff. February 28, 2014;*  
*Temporary Adoption Expired December 12, 2014;*  
*Eff. April 1, 2015;*

*Readopted Eff. April 1, 2018.*

**25 NCAC 01J .1310 INTEREST**

The State shall not pay interest on any back pay award.

*History Note: Authority G.S. 126-4(9); 126-34.01; 126-34.02;  
Temporary Adoption Eff. May 23, 2014;  
Eff. April 1, 2015;  
Readopted Eff. April 1, 2018.*

**25 NCAC 01J .1311 REINSTATEMENT**

When an employee who was dismissed or demoted is reinstated, the employee shall return to employment in the same position, or a similar position at management's option, at the same salary grade or salary grade equivalency that the employee was employed prior to dismissal. The agency may reinstate an employee to a similar position assigned to a duty station that is in a different location than the prior assigned duty station. If the new duty station is 50 miles or more from the prior assigned duty station, then the agency may choose to pay moving and relocation expenses in accordance with Section 6.6 of the State Budget Manual located on the Office of State Budget and Management website and may be viewed for free at <https://www.osbm.nc.gov/state-budget-manual>, which is hereby incorporated by reference including any subsequent amendments and editions.

*History Note: Authority G.S. 126-4(9); 126-34.01; 126-34.02;  
Temporary Adoption Eff. February 28, 2014;  
Temporary Adoption Expired December 12, 2014;  
Eff. April 1, 2015;  
Readopted Eff. April 1, 2018.*

**25 NCAC 01J .1312 CAUSES FOR REINSTATEMENT**

Reinstatement from dismissal, suspension, or demotion may be ordered only upon a finding of lack of just cause as set forth in Rule .0604 of this Subchapter; discrimination, harassment, or retaliation prohibited by G.S. 126-16 and G.S. 126-34.02; or that an employee was dismissed, suspended, or demoted in violation of G.S. 126-34.02 because he or she was a whistleblower. For the purpose of this Rule, and in addition to those matters listed in Rule .0604 of this Subchapter, failure to issue the required number and kind of warnings or other disciplinary actions prior to dismissal for unsatisfactory job performance shall constitute a lack of just cause.

*History Note: Authority G.S. 126-4(9); 126-16; 126-34.02; 126-35;  
Temporary Adoption Eff. May 23, 2014;  
Eff. April 1, 2015;  
Readopted Eff. April 1, 2018.*

**25 NCAC 01J .1313 SUSPENSION WITHOUT PAY**

For grievances filed on or after August 21, 2013, back pay shall be ordered in those cases in which it is determined that a suspension without pay lacked substantive just cause or was an act of discrimination, harassment, or retaliation prohibited by G.S. 126-16 or G.S. 126-34.02; or violated G.S. 126-34.02 because the employee was found to be whistleblower under Article 14 of Chapter 126 of the General Statutes.

*History Note: Authority G.S. 126-4(6); 126-16; 126-34.02; 126-35;  
Temporary Adoption Eff. May 23, 2014;  
Eff. April 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*

**25 NCAC 01J .1314 DISCRIMINATION, HARASSMENT, OR RETALIATION**

Back pay, transfer, promotion, or other appropriate remedies, including corrective remedies, may be ordered where discrimination, harassment, or retaliation in violation of G.S. 126-16 or G.S. 126-34.02 is found.

*History Note:* Authority G.S. 126-4(9); 126-16; 126.34.01; 126-34.02;  
Temporary Adoption Eff. May 23, 2014;  
Eff. April 1, 2015;  
Readopted Eff. April 1, 2018.

#### **25 NCAC 01J .1315 VOLUNTARY PROGRAMS OR BENEFITS**

Voluntary programs and benefits are the choice of the employee and the employee's financial responsibility. Voluntary benefits and programs include 401K programs, voluntary health and life insurance programs, or deferred compensation. Voluntary programs and benefits shall not be addressed by any remedy under these Rules or G.S. 126. To the extent that retroactive coverage or membership shall be available, the grievant is responsible for initiating any necessary action against any third party to obtain such benefits.

*History Note:* Authority G.S. 126-4(9); 126-34.02;  
Temporary Adoption Eff. May 23, 2014;  
Eff. April 1, 2015;  
Readopted Eff. April 1, 2018.

#### **25 NCAC 01J .1316 REMEDIES FOR PROCEDURAL VIOLATIONS**

- (a) Failure to give written notice of applicable appeal rights in connection with a dismissal, demotion, or suspension without pay shall be deemed a procedural violation. The sole remedy for this violation shall be an extension of the time in which to file an appeal. The extension shall be from the date of the procedural violation to no more than 30 calendar days from the date the employee is given written notice of applicable appeal rights.
- (b) Failure to give specific reasons for dismissal, demotion, or suspension without pay shall be deemed a procedural violation. Back pay, attorney's fees, or both may be awarded for this violation. Back pay or attorney's fees, or both may be awarded for such a period of time as is appropriate under the law, considering all the circumstances.
- (c) Failure to conduct a pre-dismissal conference shall be deemed a procedural violation. The remedy for this violation shall require that the employee be granted back pay from the date of the dismissal until a date determined appropriate in light of the purpose of pre-dismissal conferences, which is to provide notice to the employee and an opportunity to be heard. Reinstatement shall not be a remedy for lack of a pre-dismissal conference.

*History Note:* Authority G.S. 126-4(9); 126-34.02; 126-35;  
Temporary Adoption Eff. May 23, 2014;  
Eff. April 1, 2015;  
Readopted Eff. April 1, 2018.

#### **25 NCAC 01J .1317 REMEDIES: SALARY ADJUSTMENTS**

- (a) No department, agency, or university may use within-grade or within-range salary adjustments as a method of resolving any grievance, contested case, or lawsuit without advance notice to the Office of State Human Resources and the written approval of the State Human Resources Director.
- (b) Any within-grade or within-range salary adjustment proposed to be approved by the State Human Resources Director shall be in compliance with existing salary administration policies (see 25 NCAC 01D .0100 et. seq.) or have prior approval as an exception to or waiver from the policies in accordance with 25 NCAC 01A .0104.

*History Note:* Authority G.S. 126-4(2); 126-34.01; 126-34.02;  
Temporary Adoption Eff. May 23, 2014;  
Eff. April 1, 2015;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.

#### **25 NCAC 01J .1318 CERTAIN REMEDIES NOT AVAILABLE**

The following remedies shall not be awarded in appeals under G.S. 126:

- (1) compensatory;
- (2) punitive, except as allowed under G.S. 126-87;
- (3) exemplary; or
- (4) other special damages.

The only available relief is back pay, front pay, or other omitted benefits, along with attorney's fees in certain cases.

*History Note:* Authority G.S. 126-4(9); 126-34.02;  
Temporary Adoption Eff. May 23, 2014;  
Eff. April 1, 2015;  
Readopted Eff. April 1, 2018.

**25 NCAC 01J .1319 SITUATIONS IN WHICH ATTORNEY'S FEES MAY BE AWARDED**

Attorney's fees may be awarded only in the following situations:

- (1) the grievant is reinstated;
- (2) the grievant is awarded back pay from either a demotion or a dismissal, without regard to whether the grievant has been reinstated; or
- (3) the grievant prevails in a whistleblower grievance.

*History Note:* Authority G.S. 126-4(11); 126-34.02;  
Temporary Adoption Eff. May 23, 2014;  
Eff. April 1, 2015;  
Readopted Eff. April 1, 2018.

**25 NCAC 01J .1320 ATTORNEY'S FEES MAY BE AWARDED AS A RESULT OF A SETTLEMENT**

Attorney's fees may be paid as the result of a settlement in the grievance procedure, provided such fees are explicitly incorporated as a part of a settlement agreement signed by both parties.

*History Note:* Authority G.S. 126-4(11); 126-34.01; 126-34.02;  
Temporary Adoption Eff. May 23, 2014;  
Eff. April 1, 2015;  
Readopted Eff. April 1, 2018.

**SECTION .1400 – EMPLOYEE MEDIATION AND GRIEVANCE PROCESS**

**25 NCAC 01J .1401 MINIMUM PROCEDURAL REQUIREMENTS**

**25 NCAC 01J .1402 FLEXIBILITY**

**25 NCAC 01J .1403 INFORMAL MEETING WITH SUPERVISOR**

**25 NCAC 01J .1404 MEDIATION PROCEDURE**

**25 NCAC 01J .1405 CONCLUSION OF MEDIATION**

**25 NCAC 01J .1406 LIMITATIONS ON A MEDIATION AGREEMENT**

**25 NCAC 01J .1407 POST MEDIATION**

*History Note:* Authority G.S. 126-4(1); 126-4(6); 126-4(7); 126-4(9); 126-4(10); 126-4(17); 126-16; 126-34; 126-34.1; 126-34.2; 126-35; 126-36; 126-37; 126-38; 150B-23; S.L. 2013-382;  
Eff. March 1, 2005;  
Temporary Repeal Eff. May 23, 2014;  
Repealed Eff. April 1, 2015.

**25 NCAC 01J .1408 EMPLOYEE RESPONSIBILITIES FOR MEDIATION**

**25 NCAC 01J .1409 AGENCY RESPONSIBILITIES FOR MEDIATION**

**25 NCAC 01J .1410 OFFICE OF STATE PERSONNEL RESPONSIBILITIES**

*History Note:* Authority G.S. 126-4(6); 126-4(9); 126-4(10); 126-34-01; 126-34.02;  
Eff. March 1, 2005;  
Temporary Repeal Eff. May 23, 2014;  
Repealed Eff. April 1, 2015.

**25 NCAC 01J .1411 AGENCY PROCEDURAL REQUIREMENTS FOR EMPLOYEE MEDIATION AND GRIEVANCE POLICY**

**25 NCAC 01J .1412 OFFICE OF STATE PERSONNEL RESPONSIBILITIES FOR EMPLOYEE MEDIATION AND GRIEVANCE PROCESS**

*History Note:* Authority G.S. 126-4(9); 126-4(10); 126-34.1(a); S.L. 2013-382;  
Eff. March 1, 2005;  
Temporary Repeal Eff. May 23, 2014;  
Repealed Eff. April 1, 2015.

**SUBCHAPTER 01K – PERSONNEL TRAINING**

**SECTION .0100 – GENERAL PROVISIONS**

**25 NCAC 01K .0101 AUTHORITY**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1979;  
Repealed Eff. November 1, 1988.

**25 NCAC 01K .0102 ORGANIZATION**

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

**25 NCAC 01K .0103 POLICY ON TRAINING OF STATE EMPLOYEES**

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

**25 NCAC 01K .0104 STATE HUMAN RESOURCE DEVELOPMENT POLICY**

It is the policy of the State of North Carolina to provide training and development for its employees designed to:

- (1) improve productivity, effectiveness, and efficiency of government service by enhancement of employee performance;
- (2) help employees develop competencies so that they might become better qualified to perform the duties of their present jobs and advance to more responsible positions; and
- (3) develop managers and supervisors capable of designing and implementing effective systems for the accomplishment of each state agency's goals.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1979;  
Amended Eff. April 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0105 CENTERS OF RESPONSIBILITY**

- (a) Adequate training and development of state employees shall be accomplished through the combined efforts of employees, supervisors on the job, departmental management, and the Office of State Human Resources in cooperation with the state's institutions of higher education.
- (b) Human resource development programs shall recognize the following roles:

- (1) Employees. State employees at all levels ultimately retain an obligation to advance their own careers by pursuing appropriate opportunities for development and education.
- (2) Managers and Supervisors. Managers and supervisors have the initial responsibility for ensuring access to job-related training and development for their employees. In fulfilling this responsibility, managers and supervisors shall identify the individual training needs of their employees and work with employees to prepare and effect plans for their development.
- (3) State Agencies. State agencies are responsible for planning, budgeting, implementing and evaluating training for employees consistent with organizational needs and state policy. In addition, each agency shall work closely with other agencies and the Office of State Human Resources to promote the use of interagency training programs and resources wherever possible.
- (4) Office of State Human Resources. The Office of State Human Resources shall be responsible for statewide planning, coordination and review of human resource development programs, as well as for direct delivery of some specified interagency training
- (5) State Universities, the Community College System, and Public Instruction. The Office of State Human Resources and state agencies are responsible for utilizing the state's universities, Community College System, and public instruction to the fullest degree possible in securing professional, management, and vocational education to meet their human resource development needs.

*History Note:* Authority G.S. 126-4;  
 Eff. January 1, 1979;  
 Amended Eff. March 1, 2005;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0106 COST OF TRAINING**

- (a) If training is specifically required by an agency, full costs of salary, tuition, travel, and subsistence shall be borne by the agency.
- (b) Education deemed beneficial to both the employee and the agency may be eligible for the state's Academic Assistance Program (25 NCAC 01K .0300).

*History Note:* Authority G.S. 126-4;  
 Eff. January 1, 1979;  
 Amended Eff. March 1, 2005;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**SECTION .0200 – LEARNING AND DEVELOPMENT CENTER**

- 25 NCAC 01K .0201 ESTABLISHMENT OF THE TRAINING CENTER**
- 25 NCAC 01K .0202 LOCATION AND HOURS OF OPERATION**
- 25 NCAC 01K .0203 STAFF ORGANIZATION**
- 25 NCAC 01K .0204 PROGRAMS**
- 25 NCAC 01K .0205 PRODUCTIONS**
- 25 NCAC 01K .0206 USE OF FACILITIES**
- 25 NCAC 01K .0207 FEES**
- 25 NCAC 01K .0208 ORIENTATION FOR NEW STATE EMPLOYEES**

*History Note:* Authority G.S. 126-4; 150A-10;  
 Eff. February 1, 1976;  
 Repealed Eff. January 1, 1979.

**25 NCAC 01K .0209 OFFICE OF STATE HUMAN RESOURCES LEARNING AND ORGANIZATIONAL DEVELOPMENT TEAM PURPOSE**

The Office of State Human Resources Learning and Organizational Development Team shall provide policy direction, programs, and supportive services to assist in improving the performance of state agencies and employees.



*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1979;  
Amended Eff. March 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0210 OFFICE OF STATE HUMAN RESOURCES LEARNING AND ORGANIZATIONAL DEVELOPMENT TEAM OBJECTIVES**

The Office of State Human Resources Learning and Organizational Development Team shall:

- (1) recommend policy and procedures to the State Human Resources Commission concerning the state's system of human resource development, educational leave, academic assistance, and the use of non-state resources for training;
- (2) plan, coordinate, monitor and evaluate effectiveness of state government human resource development in cooperation with agencies, state universities, and the Community College System;
- (3) provide programs and services that most cost-effectively enhance organizational and individual performance when operated at the central level in state government. These programs and services include organizational improvement consultation, management and supervisory development, and clerical office skills training as well as human resource management and professional development initiatives.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1979;  
Amended Eff. March 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0211 PROGRAMS**

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1979;  
Repealed Eff. March 1, 2005.

**25 NCAC 01K .0212 OFFICE OF STATE HUMAN RESOURCES LEARNING AND DEVELOPMENT FACILITIES**

The North Carolina State Learning and Development Center's facilities at 101 West Peace Street in Raleigh shall be provided for use on a reservation basis by all state agencies from 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding holidays. Room fees, based upon maximum occupancy, shall be charged to defray facility operation costs, including parking and use of available and reserved audiovisual equipment. Daily room fees are as follows: Mountain Room – twenty dollars (\$20.00); Coastal Room – twenty dollars (\$20.00); Piedmont Room – thirty dollars (\$30.00); Commission Room – fifty dollars (\$50.00). Rooms may be rented for up to four hours or any fraction of four hours for one-half the daily fee.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1979;  
Amended Eff. April 1, 2005, January 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0213 FEES**

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1979;  
Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

**25 NCAC 01K .0214      LOCATION AND HOURS OF OPERATION**

*History Note:*    *Authority G.S. 126-4; 150A-10;*  
*Eff. January 1, 1979;*  
*Repealed Eff. March 1, 2005.*

**SECTION .0300 - ACADEMIC ASSISTANCE**

**25 NCAC 01K .0301      PURPOSE**  
**25 NCAC 01K .0302      ELIGIBILITY**

*History Note:*    *Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. January 1, 1979; June 1, 1977; March 1, 1977;*  
*Repealed Eff. September 1, 1989.*

**25 NCAC 01K .0303      APPROVED COURSES**  
**25 NCAC 01K .0304      APPROVED HOURS**  
**25 NCAC 01K .0305      TRAVEL**  
**25 NCAC 01K .0306      TUITION ASSISTANCE**  
**25 NCAC 01K .0307      APPLICATION PROCEDURES**  
**25 NCAC 01K .0308      TAX STATUS**  
**25 NCAC 01K .0309      ADMINISTRATIVE RESPONSIBILITY**  
**25 NCAC 01K .0310      EXTENDED EDUCATIONAL LEAVE**

*History Note:*    *Authority G.S. 126-4;*  
*Eff. January 1, 1979;*  
*Amended Eff. August 1, 1979;*  
*Repealed Eff. September 1, 1989.*

**25 NCAC 01K .0311      PURPOSE**

The academic assistance program shall provide reimbursement of academic costs if funds are available at the agency/university level, and time off the job with pay if the course is available only during working hours. If funds are not available to provide reimbursement, the agency may choose to give only time off.

*History Note:*    *Authority G.S. 126-4;*  
*Eff. September 1, 1989;*  
*Amended Eff. January 1, 2004;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01K .0312      ELIGIBILITY**

- (a) Full-time or part-time employees who have a permanent appointment shall be eligible for the Academic Assistance Program. Trainees may be determined as eligible by management after satisfactory performance for a period of not less than three months.
- (b) Eligible Sources. Academic courses/degrees from accredited community colleges, colleges, universities via traditional classroom, video-based, distance learning, web-based, e-learning and certain correspondence courses shall be eligible for approval. Accreditation must be via an accrediting agency authorized by the US Department of Education or the American Council on Education/CREDIT.
- (c) Academic courses which are audited shall be eligible for academic assistance; however, an employee may be reimbursed for the same course or course equivalent only once.

*History Note:*    *Authority G.S. 126-4;*  
*Eff. September 1, 1989;*  
*Amended Eff. December 1, 2003; August 1, 1995;*

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

### **25 NCAC 01K .0313 APPROVED COURSES**

Management, when making the determination whether to provide assistance to take a specific course, must determine that it is beneficial to both the agency/university and the employee's knowledge, skills and abilities to fulfill current and potential job duties. Academic assistance shall not be approved for courses where management has determined that neither the course, nor the degree is of benefit to the agency/university.

*History Note: Authority G.S. 126-4;  
Eff. September 1, 1989;  
Amended Eff. December 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **25 NCAC 01K .0314 ACADEMIC LEAVE**

*History Note: Authority G.S. 126-4;  
Eff. September 1, 1989;  
Amended Eff. January 1, 2004;  
Expired Eff. November 1, 2016 pursuant to G.S. 150B-21.3A.*

### **25 NCAC 01K .0315 THESIS/DISSERTATION RESEARCH COURSES**

*History Note: Authority G.S. 126-4;  
Eff. September 1, 1989;  
Repealed Eff. December 1, 2003.*

### **25 NCAC 01K .0316 ACADEMIC COSTS**

Academic costs are defined as charges assessed by an eligible source to every person enrolling for the course. Academic costs include tuition, fees and required, itemized course/lab fees. Agencies/universities may reimburse academic costs in accordance with these Rules and published in the State Human Resources Manual.

*History Note: Authority G.S. 126-4;  
Eff. September 1, 1989;  
Amended Eff. December 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **25 NCAC 01K .0317 REIMBURSEMENT OF ACADEMIC COSTS**

Agencies/universities may reimburse all academic costs as specified in 25 NCAC 01K .0316, or reimburse only tuition and other academic related fees, but shall not reimburse for fees that are unrelated to registering for a course or a degree program, such as dorm, student union construction, athletic fees, etc. Agencies may also, with a bona fide business justification, reduce the amount of reimbursement per employee to a set amount less than the tuition and fees and limit the number of courses for which any one employee may be reimbursed in an academic term. Agencies/universities choosing to reimburse an amount less than the academic costs specified in 25 NCAC 01K .0316 shall make this information available to all employees at the beginning of the fiscal year and apply this limitation to all employees requesting academic assistance in that fiscal year.

*History Note: Authority G.S. 126-4;  
Eff. September 1, 1989;  
Amended Eff. January 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01K .0318      TAX STATUS**  
**25 NCAC 01K .0319      APPLICATION PROCEDURES**

*History Note:*    *Authority G.S. 126-4;*  
                      *Eff. September 1, 1989;*  
                      *Amended Eff. December 1, 1995;*  
                      *Repealed Eff. December 1, 2003.*

**25 NCAC 01K .0320      EXCEPTIONAL SITUATIONS**

Courses taken at agency/university request shall be approved by the agency head (at Departmental/University level), or his/her designee. Courses taken under 25 NCAC 01K .0322 Extended Academic Leave shall be approved by the Office of State Human Resources.

*History Note:*    *Authority G.S. 126-4;*  
                      *Eff. September 1, 1989;*  
                      *Amended Eff. December 1, 2003;*  
                      *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01K .0321      COURSES TAKEN AT AGENCY/UNIVERSITY REQUEST**

(a) Because of specific high priority skill needs of the agency/university, employees may be requested by management to take specific courses or degree programs. Under these circumstances, all limitations under the provisions of this policy are waived, except requirements for withholding taxes and FICA.

(b) If courses taken at agency request exceed the credit hour per fiscal year limits of the academic assistance program, then the situation shall be administered under 25 NCAC 01K .0322 Extended Academic Leave. Courses specified as part of an employee's improvement/development plan are not considered to be at agency request unless approved by the agency/university head or designee.

*History Note:*    *Authority G.S. 126-4;*  
                      *Eff. September 1, 1989;*  
                      *Amended Eff. December 1, 2003;*  
                      *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01K .0322      EXTENDED ACADEMIC LEAVE**

*History Note:*    *Authority G.S. 126-4;*  
                      *Eff. September 1, 1989;*  
                      *Amended Eff. December 1, 2003;*  
                      *Expired Eff. November 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01K .0323      CERTIFICATION/LICENSING**

Incumbent employees who meet minimum educational and experience requirements and for whom certification/licensing is mandated after employment or is a policy requirement of the employing agency and approved by the agency/university head or their designee are eligible for academic assistance.

*History Note:*    *Authority G.S. 126-4;*  
                      *Eff. September 1, 1989;*  
                      *Amended Eff. December 1, 2003;*  
                      *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01K .0324      ADMINISTRATION RESPONSIBILITY**

(a) The Office of State Human Resources is responsible for the interpretation of this Rule, and approval of agency policy and procedures, and all subsequent agency revisions.

(b) Each state agency or university is delegated responsibility for, and authority to, administer the program within the provisions of this Rule. This includes retaining on a fiscal year basis records of academic assistance activity and reporting such information annually to the Office of State Human Resources.

*History Note: Authority G.S. 126-4;  
Eff. September 1, 1989;  
Amended Eff. December 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

## **SECTION .0400 - USE OF NON-STATE GOVERNMENT EDUCATION AND TRAINING SOURCES**

### **25 NCAC 01K .0401 POLICY STATEMENT**

State agencies may enter into agreements or contracts for education and training through non-state sources in accordance with the procedures stated in Regulations .0402 and .0404 of this Section.

*History Note: Authority G.S. 126-4(10); N.C.G.S. c. 143, Article 3C;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **25 NCAC 01K .0402 DETERMINATION OF NEED FOR TRAINING**

Before utilizing non-state sources for training and development activities, an agency must determine that:

- (1) agency employees currently lack the requisite competencies to meet the specified performance need.
- (2) education and training is not available within North Carolina state government to meet the agency's need(s); Education and training is not available when:
  - (a) existing programs in state government will not meet the need;
  - (b) new programs cannot be cost-effectively established to meet the need;
  - (c) inquiry has failed to disclose available, cost-effective programs in other state agencies, the Office of State Human Resources, public education, higher education institutions, or elsewhere in state government.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 2005; January 1, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **25 NCAC 01K .0403 SELECTION OF NON-GOVERNMENT SOURCES**

When there is a choice between outside training sources, the agency shall consider the following factors:

- (1) demonstrated effectiveness in similar situations in delivering the particular training;
- (2) accessibility of the training source due to geographic proximity and technological capability;
- (3) availability of training at the particular time or place it is needed;
- (4) comparative cost as determined by the Division of Purchase and Contract Rules;
- (5) practicality of necessary administrative arrangements;
- (6) significance of the training source's accreditation; and
- (7) unique advantages that might result from arrangements with one of several equally acceptable available source.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 2005; January 1, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **25 NCAC 01K .0404      PROCEDURE FOR APPROVAL OF NON-STATE SOURCES**

Consistent with 01 NCAC 05B .0301, should any state agency have a human resource development need that cannot be met by resources within state government, a justification memorandum from the purchasing agency to the State Purchase and Contract must document:

- (1) an explanation of how the achievement of the identified human resource development objectives contribute to the goals, and
- (2) that no state government institution or agency can cost-effectively meet the educational or training need in a timely manner. This memo shall include a list of the agencies contacted and the responses of each agency.

*History Note:*      *Authority G.S. 126-4; 143-64.20; 143-64.24;*  
*Eff. February 1, 1976;*  
*Amended Eff. March 1, 2005; January 1, 1979;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **SECTION .0500 - APPRENTICESHIP TRAINING**

#### **25 NCAC 01K .0501      POLICY STATEMENT**

It is a policy of the State of North Carolina, to promote and encourage the establishment, maintenance and growth of apprenticeship programs to help meet the workforce needs of state government. All such programs shall be administered through and in accordance with policy and standards established by the N.C. Department of Labor in cooperation with the employing agency.

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

#### **25 NCAC 01K .0502      APPOINTMENT PROVISIONS**

All persons entering an apprenticeship program supported by funding from positions subject to the State Human Resources Act shall receive a regular trainee appointment, and shall receive the same employment benefits as other SHRA employees with trainee appointments. Upon successful completion of an apprenticeship program, an apprentice who enters regular state employment shall receive a permanent appointment.

*History Note:*      *Authority G.S. 126-4;*  
*Eff. January 1, 1978;*  
*Amended Eff. November 1, 1990; January 1, 1989;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **SECTION .0600 - WORK PLANNING/PERFORMANCE REVIEW**

#### **25 NCAC 01K .0601      PURPOSE AND COMMITMENT**

#### **25 NCAC 01K .0602      WORKING PRINCIPLES**

*History Note:*      *Authority G.S. 126-4;*  
*Eff. May 1, 1978;*  
*Amended Eff. January 1, 1979;*  
*Repealed Eff. April 1, 1983.*

#### **25 NCAC 01K .0603      POLICY**

#### **25 NCAC 01K .0604      GOALS**

<b>25 NCAC 01K .0605</b>	<b>COMPONENTS OF THE SYSTEM</b>
<b>25 NCAC 01K .0606</b>	<b>DOCUMENTATION</b>
<b>25 NCAC 01K .0607</b>	<b>RELATIONSHIP OF WORK PLANNING AND PERFORMANCE REVIEW</b>
<b>25 NCAC 01K .0608</b>	<b>PROGRAM ACCOUNTABILITY: MONITORING/ASSESSMENT/IMPROVEMENT</b>
<b>25 NCAC 01K .0609</b>	<b>RESPONSIBILITIES OF THE OFFICE OF STATE PERSONNEL</b>
<b>25 NCAC 01K .0610</b>	<b>RESPONSIBILITIES OF DEPARTMENTS: AGENCIES: INSTITUTIONS</b>
<b>25 NCAC 01K .0611</b>	<b>RESPONSIBILITIES OF MANAGERS AND SUPERVISOR</b>

*History Note:* Authority G.S. 121-5(b), (c); 126-4;  
 Eff. April 1, 1983;  
 Amended Eff. January 1, 1989;  
 Repealed Eff. January 1, 1990.

**25 NCAC 01K .0612 INTERIM PERFORMANCE MANAGEMENT RULES**

From the effective date of this Rule through December 31, 1989, the rules in this Section shall govern performance management, in both the appraisal and compensation areas. Effective January 1, 1990, the Performance Management System in all its phases shall be governed by 25 NCAC, Subchapter 1O, Performance Management System.

*History Note:* Filed as a Temporary Rule Eff. August 24, 1989 for a period of 180 days to expire on February 20, 1990;  
 Authority G.S. 126-4;  
 Eff. January 1, 1990.

**25 NCAC 01K .0613 FISCAL YEAR 1989/90 PERFORMANCE PAY FUNDS**

Funds allocated to provide performance-based pay increases effective July 1, 1989 will not be released to any agency prior to January 1, 1990. On January 1, 1990, funds will be released to agencies determined to be in compliance with the work plan/performance review rules in effect prior to January 1, 1990. Funds for fiscal year 1990/91 will be released on and after July 1, 1990 to agencies determined to be in compliance with rules in effect on and after January 1, 1990.

*History Note:* Filed as a Temporary Rule Eff. August 24, 1989 for a period of 180 days to expire on February 20, 1990;  
 Authority G.S. 126-4;  
 Eff. January 1, 1990.

**SECTION .0700 – NORTH CAROLINA CERTIFIED PUBLIC MANAGER PROGRAM**

**25 NCAC 01K .0701 NORTH CAROLINA CERTIFIED PUBLIC MANAGER PROGRAM ADMINISTRATION**

- (a) The State of North Carolina shall provide competency-based training for mid-level managers through the North Carolina Certified Public Manager Program.
- (b) The North Carolina Certified Public Manager Program is a joint effort of North Carolina State Government and The University of North Carolina System. The program shall be based in and administered by the Office of State Human Resources.

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1982;  
 Amended Eff. March 1, 2005; December 1, 1995;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0702 NORTH CAROLINA CERTIFIED PUBLIC MANAGER PROGRAM PURPOSE**

- (a) The North Carolina Certified Public Manager Program shall provide participants with practical training that will increase their managerial performance in public sector organizations. The ultimate goal is to impact the efficiency and productivity of state government operations.
- (b) The focus of the program shall be upon middle managers employed in various state agencies.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1982;  
Amended Eff. March 1, 2005; December 1, 1995;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0703 NORTH CAROLINA CERTIFIED PUBLIC MANAGER PROGRAM ACCREDITATION**

The North Carolina Certified Public Manager Program shall be conducted in full compliance with the curriculum requirements and program accreditation standards specified by the National Certified Public Manager Program Consortium.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1982;  
Amended Eff. March 1, 2005; December 1, 1995; December 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0704 PROGRAM CURRICULUM**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1982;  
Repealed Eff. December 1, 1995.

**25 NCAC 01K .0705 NORTH CAROLINA CERTIFIED PUBLIC MANAGER PROGRAM PARTICIPATION**

(a) The North Carolina Certified Public Manager Program Director shall design and implement a process that allows each agency an equitable opportunity to participate in the North Carolina Public Manager Program. Agency management shall be responsible for initial selection and recommendation of applicants; the Office of State Human Resources shall approve participation for those applicants who meet prerequisite requirements.

(b) The employing agency and the North Carolina Public Manager Program Director shall keep the following records of each participant in the employee's personnel file: the completed application form, agency approval, and program accomplishments.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1982;  
Amended Eff. March 1, 2005; December 1, 1995; January 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0706 CERTIFICATE OF COMPLETION OF NORTH CAROLINA CERTIFIED PUBLIC MANAGER PROGRAM**

A certificate of completion shall be awarded to participants of the North Carolina Certified Public Manager Program upon completion of the program.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1982;  
Amended Eff. March 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0707 PRINCIPLES RELEVANT TO CURRICULUM DESIGN**

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



*Eff. February 1, 1982;*  
*Repealed Eff. December 1, 1995.*

**25 NCAC 01K .0708 FUNDING FOR NORTH CAROLINA CERTIFIED PUBLIC MANAGER PROGRAM**

Unless fully funded by the General Assembly, funds for the operation of the North Carolina Certified Public Manager Program shall be derived from fees charged to agencies with approved participants. Fees shall be based on actual costs of development, instruction, materials and administration.

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1982;*  
*Amended Eff. March 1, 2005; December 1, 1995; December 1, 1984;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01K .0709 FEE SCHEDULE**

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1982;*  
*Amended Eff. December 1, 1984;*  
*Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).*

**SECTION .0800 – MENTORING PROGRAM**

**25 NCAC 01K .0801 MENTORING PROGRAM ADMINISTRATION**

- (a) The State of North Carolina shall provide mentorship programs for state employees. Each state agency may elect to establish a Mentoring Program.
- (b) The program shall be based in the Office of State Human Resources with each agency being responsible for the establishment and management of a mentoring program to meet its organizational needs.
- (c) If the agency elects to establish a Mentoring Program, a copy of the agency's Mentoring Program and its guidelines shall be submitted to the Office of State Human Resources.

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

**25 NCAC 01K .0802 MENTORING PROGRAM PURPOSE**

The Mentoring Program is intended to enhance an employee's career development by partnering the employee with an experienced employee who will coach, teach, and guide the employee's career path.

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

**25 NCAC 01K .0803 MENTORING PROGRAM CURRICULUM**

The curriculum for the Mentoring Program shall be based upon the agency's guidelines.

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

**25 NCAC 01K .0804 MENTORING PROGRAM PARTICIPATION**

- (a) The selection process for participants in the Mentoring Program shall be based upon the agency's guidelines.

(b) The Mentoring Program shall be open to all employees without any form of discrimination in terms of participation because of race, color, religion, sex, national origin, age, or disability.

*History Note:* Authority G.S. 126-4;  
Eff. July 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01K .0805 FUNDING FOR MENTORING PROGRAM**

The agency shall provide resources for operation of its Mentoring Program.

*History Note:* Authority G.S. 126-4;  
Eff. July 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**SUBCHAPTER 01L - EQUAL OPPORTUNITY**

**SECTION .0100 - EQUAL EMPLOYMENT OPPORTUNITY PLANS AND PROGRAMS**

**25 NCAC 01L .0101 DUTIES OF SECTION**

The Office of State Human Resources shall develop and administer a program to ensure that employees are provided with equal employment opportunities at all occupational levels.

*History Note:* Authority G.S. 126-4; 126-16; 126-19;  
Eff. October 1, 1977;  
Amended Eff. December 2, 1995; November 1, 1987;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01L .0102 PURPOSE**

(a) Agencies and universities of the State of North Carolina shall provide all current employees and applicants for state employment with equal employment opportunities, without discrimination on the basis of race, color, religion, national origin, sex, age, genetic information, or disabling condition as defined by G.S. 168A or disability as defined by the Americans With Disabilities Act, as amended. All personnel policies, practices and programs shall be administered and implemented in a non-discriminatory manner by all state agencies and universities.

(b) Each agency and university shall adopt and implement an equal employment opportunity plan in order to:

- (1) assure that all personnel policies and practices relevant to total employment in state government will guarantee and preserve equal employment opportunities for all applicants and employees; and
- (2) assure diversity of the state's workforce at all occupational levels.

*History Note:* Authority G.S. 95-28.1A; 126-4(10); 126-16; 126-19; P.L. 110-233; 122 Stat. 881;  
Eff. October 1, 1977;  
Amended Eff. May 1, 2012; December 2, 1995; November 1, 1987; October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01L .0103 PROGRAM IMPLEMENTATION: STATE LEVEL**

(a) The Office of State Human Resources shall develop and implement a State Equal Employment Opportunity Plan to promote equal employment opportunity to include, but not be limited to, a policy statement and the following elements:

- (1) recruitment,
- (2) disciplinary processes,
- (3) selection processes,

- (4) hiring,
  - (5) promotion,
  - (6) training,
  - (7) compensation and benefits,
  - (8) performance appraisal,
  - (9) reduction-in-force,
  - (10) harassment prevention,
  - (11) evaluation mechanism,
  - (12) reporting mechanism,
  - (13) transfer or separation, and
  - (14) grievance procedures.
- (b) The Office of State Human Resources shall provide:
- (1) technical assistance, training, oversight, monitoring, evaluation, and support programs to each state agency and university.
  - (2) develop systems to review, analyze and evaluate trends regarding all personnel policies affecting the elements in the State EEO Plan.

*History Note: Authority G.S. 126-4(10); 126-16; 126-19; Eff. October 1, 1977; Amended Eff. December 2, 1995; October 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01L .0104 PROGRAM IMPLEMENTATION: AGENCY AND UNIVERSITY LEVEL**

- (a) Each state agency head and University Chancellor shall develop and implement an agency or university equal employment opportunity program and plan.
- (b) Each state agency and university shall submit a plan by March 1 of each year to the Office of State Human Resources for review, technical assistance and approval by the Director of State Human Resources. The Plan and program shall be approved if they comply with the requirements in this Rule.
- (c) Each state agency's and university's equal employment opportunity plan and program shall include the following elements:
  - (1) The State EEO policy and an EEO policy statement applicable to the agency or university. The policy shall:
    - (A) commit the agency or university to equal employment opportunity;
    - (B) prohibit discrimination and provide equal employment opportunity to applicants and employees without regard to race, color, national origin, religion, creed, sex, age, the genetic information, or disability;
    - (C) list applicable laws, regulations and guidelines pertaining to EEO compliance including Title VII of the Civil Rights Act of 1964, as amended; the Equal Pay Act of 1963; the Age Discrimination in Employment Act of 1968, as amended; Executive Order 11246, as amended; the Rehabilitation Act of 1973; the Civil Rights Restoration Act of 1988; the Americans with Disabilities Act of 1990, as amended; the Civil Rights Act of 1991; Genetic Information Nondiscrimination Act of 2008; G.S. 126-16; as amended; and other state EEO and anti-discrimination laws or statutes;
    - (D) prohibit retaliatory actions against employees who file a complaint or charge of employment discrimination, testify, assist or participate in any manner in a hearing, proceeding or investigation of employment discrimination;
    - (E) commit the agency or university to non-discriminatory practices in recruitment, selection, hiring, promotion, compensation, performance appraisal, disciplinary and grievance procedures, separations, and reduction in force;
    - (F) describe provisions for providing reasonable accommodation for persons with disabilities;
    - (G) prevent harassment, including sexual harassment;
    - (H) describe the accountability of agency head or chancellor, managers, supervisors and others for EEO compliance;
    - (I) provide for monitoring and evaluating the plan and program effectiveness; and

- (J) include the signature of the agency head or the chancellor and date;
- (2) The assignment of responsibility and accountability. The assignment of responsibility and accountability shall describe the responsibilities of the following:
  - (A) The agency head's or the university chancellor's responsibilities shall include:
    - (i) the appointing or designating of a management-level official responsible to oversee the EEO program;
    - (ii) communication of agency or university commitment to EEO policies, plans, and procedures to all employees, applicants and the general public;
    - (iii) providing necessary resources to ensure the successful implementation of the EEO program; and
    - (iv) ensuring the development and implementation of policies, procedures, and programs necessary to achieve a workforce in each occupational category that reflects the N.C. State working population as defined by U.S. Census data.
  - (B) The managers' and supervisors' responsibilities shall include:
    - (i) assisting in the development and implementation of the EEO plan and program and establishing program objectives;
    - (ii) maintaining a diverse workforce for the department, division, work unit, or section;
    - (iii) assisting the EEO officer in periodic evaluations to determine the effectiveness of the EEO program; and
    - (iv) providing a work environment and management practices which support equal opportunity in all terms and conditions of employment.
  - (C) The EEO Officer(s) responsibilities shall include:
    - (i) the interpreting and applying of Federal laws, state statutes, policy regulations and guidelines related to discrimination in employment and equal opportunity;
    - (ii) reviewing hiring recommendations for compliance with EEO program objectives prior to the final agency or university hiring decision;
    - (iii) maintaining and analyzing workforce utilization data for development of the equal employment plan and program in conjunction with management;
    - (iv) maintaining and analyzing data on employment practices to monitor and evaluate the effectiveness of the EEO program and to make recommendations on improvements;
    - (v) advising management of the program's impact and effectiveness on workforce demographics at all occupational levels;
    - (vi) providing or coordinating EEO training for management and employees;
    - (vii) providing confidential counseling or consultation for management and employees in matters involving EEO concerns or complaints alleging discrimination (formally, informally and within agency or university guidelines);
    - (viii) establishing and maintaining effective working relations with groups concerned with equal employment opportunity;
    - (ix) coordinating programs (internally or in cooperation with State Human Resources) to achieve program objectives and to provide for management and employee input and assistance in program development and implementation; and
    - (x) presenting information on the EEO plan and program to management and employees on a regular basis.
  - (D) The EEO Committee responsibilities shall include:
    - (i) serving as a communication link between managers and employees and the EEO staff on aspects of the EEO plan and program;
    - (ii) reviewing and evaluating the equal employment opportunity plan and program;
    - (iii) reviewing workforce representation data in each occupational category;
    - (iv) surveying the organizational climate and employee attitudes and evaluating the resultant data;
    - (v) meeting with the agency head or university chancellor in conjunction with the EEO Officer to discuss EEO programs, report on the employees' concerns, and recommend changes or additions to the EEO policy, plan, or program; and

- (vi) identifying recruitment resources and other activities designed to strengthen the EEO program; meeting as a committee at least quarterly.
- (3) The dissemination procedures. These procedures shall include methods for communicating the commitment, intent, and provisions of the EEO plan and program to employees and the general public.
- (4) The workforce analysis. This analysis shall be used to examine the representation of each demographic group within each occupational category using one of the following three bases for comparison:
  - (A) the N.C. working populations (ages 18-64) as established by the U.S. Census. The statewide N.C. working population shall be used for the officials and administrators, management related and professional occupational categories; and the geographical recruiting area working population shall be used for the other occupational categories;
  - (B) the two factor analysis as defined by the Office of Federal Contract Compliance Programs (OFCCP) regulations; or
  - (C) the N.C. Occupational specific civilian labor force and N.C. working population (18-64) compromise standard, as established by the State Human Resources Commission. The occupation specific labor force of each demographic group and the working population by each demographic group shall be compared to the agency or university workforce. An average of the underutilization resulting from the comparisons of the two criteria shall be used to determine the workforce underutilization by occupational category for each demographic group. When calculating the underutilization resulting from the occupation specific/working population comparison, the statewide working population and the statewide occupational specific category compromise numbers shall be used for analyzing the officials and administrators, management related and the professional occupational categories. When calculating the underutilization resulting from the occupation specific/working population comparison, the working population in the local geographical recruiting area and the occupation specific category compromise numbers in the local geographical recruiting area may be used for analyzing the other occupational categories. Only one basis or criteria for comparison shall be selected for use by an agency head or university chancellor. The analysis shall identify each occupational category in which groups are underutilized, (defined as having fewer employees in a demographic group in a particular occupational category than would be expected based on the selected basis or criteria for comparison). The analysis shall also assess the agency's or university's workforce needs and capability for addressing the identified underutilization;
- (5) The program objectives. These objectives shall establish strategies targeted at eliminating or reducing any underutilization identified in each occupational category;
- (6) The program activities and strategies. These activities and strategies shall be implemented to accomplish program objectives. These strategies shall include the following:
  - (A) recruitment procedures to attract a diverse pool of applicants to each occupational category;
  - (B) disciplinary process designed to provide equitable treatment for all employees in accordance with the State's discipline rules;
  - (C) selection procedures designed to ensure that all of the steps in the process are nondiscriminatory and job related;
  - (D) hiring process designed to include consistent information for new hires regarding employment conditions (e.g., type of appointment or salary);
  - (E) promotion procedures designed to enhance upward mobility and fully utilize the skills of the existing workforce;
  - (F) training procedures designed to enhance employee development and advancement opportunities;
  - (G) compensation and benefits analysis procedures designed to review benefits, monitor salaries, analyze practices in order to determine trends, and ensure that all employees receive compensation and benefits without discrimination;
  - (H) performance appraisal designed to hold managers and supervisors accountable for the progress of the agency's or university's EEO program, and to establish, maintain, and apply employee performance standards that are free from bias;

- (I) transfer or separation analysis designed to identify trends and to measure impact on underutilized groups;
  - (J) grievance procedures to ensure fair and equitable review of complaints in accordance with agency or university procedures and State rules on grievance; and
  - (K) a process to enroll managers and supervisors in the Equal Employment Opportunity Institute (EEOI), an EEO educational and diversity training program, as defined by G.S. 126-16.1;
- (7) An evaluation mechanism. This evaluation mechanism shall be designed to assess overall effectiveness of the equal employment opportunity program and to determine the achievement of agency or university EEO objectives as identified in the EEO plan and program;
  - (8) A reporting mechanism. This reporting mechanism shall be designed to provide agency or university management, on a regular basis throughout the year, with data on the various program activities, workforce trends, and progress towards achievement of program objectives;
  - (9) Procedures to prevent and eliminate harassment. These procedures shall be designed to create an environment that is fair to all employees without regard to race, sex, age, national origin, color, creed, religion, genetic information, or disability, as defined by G.S. 168A-3, or the American with Disabilities Act, as amended.
  - (10) Reduction-in-force procedures. These procedures shall be designed to analyze layoff decisions and to determine their actual or potential adverse impact on underutilized groups; and
  - (11) Procedures for monitoring. These procedures shall establish a data management system for maintaining and analyzing data on transactions regarding agency or university trends in compensation, promotion, selection, recruitment, training, separations, performance appraisals, and all other terms and conditions of employment.

(d) Each state agency head and university chancellor shall designate an official at the deputy secretary, assistant secretary, vice-chancellor or assistant vice-chancellor level or an official with a direct reporting relationship to the agency head or chancellor, to assume responsibility for the operation and implementation of their equal opportunity plan and program.

*History Note:* Authority G.S. 95-28.1A; 126-4(10); 126-16; 126-19; P.L. 110-233; 122 Stat. 881; Eff. October 1, 1977; Amended Eff. May 1, 2012; August 1, 2002; December 2, 1995; November 1, 1988; November 1, 1987; October 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01L .0105 PROGRAM PLAN REVIEW**

*History Note:* Authority G.S. 126-4(10); 126-16; Eff. October 1, 1977; Amended Eff. November 1, 1988; November 1, 1987; October 1, 1984; October 1, 1980; Repealed Eff. December 2, 1995.

## **25 NCAC 01L .0106 REPORTS**

*History Note:* Authority G.S. 126-4; 126-16; Eff. October 1, 1978; Repealed Eff. December 2, 1995.

## **SECTION .0200 - ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) IN THE WORKPLACE**

### **25 NCAC 01L .0201 EDUCATION AND TRAINING**

*History Note:* Authority G.S. 126-4; Eff. November 1, 1990; Amended Eff. March 1, 1992; Recodified to 25 NCAC 01N .0301 Eff. December 29, 2003.

**25 NCAC 01L .0202 BASIC EDUCATION AND TRAINING COMPONENT**

*History Note:* Authority G.S. 126-4;  
Eff. November 1, 1990;  
Amended Eff. March 1, 1992; May 1, 1991;  
Recodified to 25 NCAC 01N .0302 Eff. December 29, 2003.

**25 NCAC 01L .0203 ADVANCED EDUCATION AND TRAINING COMPONENT**

*History Note:* Authority G.S. 126-4;  
Eff. November 1, 1990;  
Amended Eff. June 1, 1992; March 1, 1992; May 1, 1991;  
Recodified to 25 NCAC 01N .0303 Eff. December 29, 2003.

**25 NCAC 01L .0204 ANTI-DISCRIMINATION**

*History Note:* Authority G.S. 126-4; 130A-148C(i); 168A-3(9);  
Eff. November 1, 1990;  
Recodified to 25 NCAC 01N .0304 Eff. December 29, 2003.

**25 NCAC 01L .0205 TESTING AND EXAMINATION**

*History Note:* Authority G.S. 126-4;  
Eff. November 1, 1990;  
Recodified to 25 NCAC 01N .0305 Eff. December 29, 2003.

**25 NCAC 01L .0206 CONFIDENTIALITY**

*History Note:* Authority G.S. 126-4;  
Eff. November 1, 1990;  
Recodified to 25 NCAC 01N .0306 Eff. December 29, 2003.

**25 NCAC 01L .0207 COMPLAINTS AND DISCIPLINE**

*History Note:* Authority G.S. 126-4;  
Eff. November 1, 1990;  
Recodified to 25 NCAC 01N .0307 Eff. December 29, 2003.

**SECTION .0300 - EQUAL EMPLOYMENT OPPORTUNITY INSTITUTE**

**25 NCAC 01L .0301 RESERVED FOR FUTURE CODIFICATION**

**25 NCAC 01L .0302 PARTICIPATION AND PURPOSE**

Supervisors and managers hired, promoted or appointed on or after July 1, 1991 shall participate in the EEOI. Supervisors and managers appointed before July 1, 1991 are encouraged to participate in the EEOI. Agencies, departments and universities shall not be authorized to conduct or contract for substitute training to replace EEOI. The purpose of the EEOI is to:

- (1) address and discuss the history and evolution of equal employment opportunity concepts and principles;
- (2) assist managers and supervisors in incorporating their equal employment opportunity responsibilities with other management responsibilities;
- (3) expose managers and supervisors to workplace equity and fairness issues; and

- (4) review and discuss accepted management practices for valuing and managing diversity in the workplace.

*History Note:* Authority G.S. 126-16.1;  
Eff. January 1, 1992;  
Amended Eff. November 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01L .0303 RESPONSIBILITIES: AGENCIES**

- (a) It is the responsibility of each state agency, department, and university (hereafter named agency) to enroll each supervisor or manager appointed on or after July 1, 1991 in the EEOI. The enrollment shall be within one year of initial appointment.
- (b) Each agency shall be responsible for providing its prorata share of the cost for supplies and resource materials.
- (c) Agencies shall be responsible for verifying candidate eligibility reports.
- (d) Agencies may enroll incumbent managers and supervisors to participate in the EEOI when space is available.
- (e) Agencies may incorporate in their new employee orientation program a module of instruction designed to familiarize new employees with the agency's commitment to equal employment opportunity.

*History Note:* Authority G.S. 126-16.1;  
Eff. January 1, 1992;  
Amended Eff. November 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01L .0304 RESPONSIBILITIES: MANAGERS AND SUPERVISORS**

Managers and supervisors shall attend and complete the EEOI in the prescribed time frame.

*History Note:* Authority G.S. 126-16.1;  
Eff. January 1, 1992;  
Amended Eff. January 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

**25 NCAC 01L .0305 RESPONSIBILITIES: OFFICE OF STATE PERSONNEL**

*History Note:* Authority G.S. 126-16.1;  
Eff. January 1, 1992;  
Repealed Eff. January 1, 2005.

**25 NCAC 01L .0306 ADMINISTRATION: DEFINITIONS**

- (a) "Supervisory positions" are defined as positions in which the majority of the work performed is directing the work of other positions. These employees have the authority to assign work and to evaluate work; to hire employees; to discipline or dismiss employees; or have significant input into such actions.
- (b) "Managerial positions" are defined as positions which manage established divisions or subdivisions of a department, agency or university. These employees direct the work of one or more supervisors and have the authority to hire, reward, discipline, or discharge employees. These employees may also provide suggestions for changes in policy to senior executives with policy-making authority.
- (c) "Executive managerial" positions are defined as policy making positions. Employees in these positions are agency/department heads, university chancellors, deputies, assistants, vice-chancellors, and other policy makers. The employees in executive managerial positions are usually appointed or elected. For the purposes of this policy, the definition of supervisors, managers, and executives also includes the setting of performance expectations, conducting performance appraisal conferences and evaluating performance.
- (d) "Incumbent Executives, Managers and Supervisors" are defined as executive managers and supervisors hired or appointed into positions prior to July 1, 1991.



- (e) "EEOI Candidates" are defined as:
- (1) Managers and supervisors hired on or after July 1, 1991 and who may or may not have served in a management role in state government.
  - (2) Incumbent executives, managers and supervisors hired or appointed into current positions prior to July 1, 1991.
  - (3) Incumbent executives, managers and supervisors promoted/appointed to a different management position on or after July 1, 1991.
  - (4) Executive level managers who are hired or appointed with or without executive level experience in state government on or after July 1, 1991.
- (f) "Training Level 1" is defined as the full EEOI Training designed for those managers and supervisors identified in Subparagraph (e)(1) of this Rule. Also, management level employees as identified in Subparagraphs (e)(2) and (e)(3) of this Rule may participate on a space availability basis.
- (g) "Training Level 2" is defined as an abbreviated course designed for executive level managers as identified in Subparagraph (e)(4) of this Rule. Also, executive level managers as identified in Subparagraphs (e)(2) and (e)(3) of this Rule may participate on a space availability basis.
- (h) "Enroll," for the purposes of this policy, shall be defined as the act of attending and completing the EEOI.

*History Note:* Authority G.S. 126-16.1;  
Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01L .0307 COURSE SCHEDULING AND SITE SELECTIONS**

*History Note:* Authority G.S. 126-16.1;  
Eff. January 1, 1992;  
Repealed Eff. November 1, 2004.

### **SECTION .0400 – PERSONS WITH A DISABILITY**

#### **25 NCAC 01L .0401 SPECIAL PROVISIONS RELATIVE TO PERSONS WITH A DISABILITY**

- (a) The definitions in G.S. 168A-3 apply to this Rule.
- (b) Equal employment opportunity for persons with a disability includes the making of a reasonable accommodation to the known physical limitations of a qualified applicant or employee who would be able to perform the essential duties of the job if such accommodation is made. This may include:
- (1) making facilities used by employees accessible to and usable by such person;
  - (2) job restructuring (reassigning non-essential duties or using part-time or modified work schedules);
  - (3) acquisition or modification of equipment or devices;
  - (4) provision of readers or interpreters; or other similar actions.
- Agencies shall make such adjustments for the known limitations of otherwise qualified applicants and employees with a disability unless it can be demonstrated that a particular adjustment or alteration would impose an undue hardship on the operation of the agency.
- (c) Whether an accommodation is reasonable must depend on the facts in each case. Factors to be considered in determining this include:
- (1) the nature and cost of the accommodation needed;
  - (2) the type of the agency's operation, including the composition and structure of its work force; and
  - (3) the overall size of the agency or particular program involved, with respect to number of employees, number and type of facilities, and size of budget.
- (d) Bona Fide Occupational Qualifications:
- (1) Age, sex or physical requirements may be considered if they constitute a bona fide occupational qualification necessary for job performance in the normal operations of the agency. Whether such a requirement is a bona fide occupational qualification shall depend on the facts in each case. This exemption shall be construed very narrowly and the agency shall have the burden of proving the exemption is justified.

- (2) Physical fitness requirements based upon preemployment physical examinations relating to minimum standards for employment may be a reasonable employment factor, provided that such standards are reasonably necessary for the specific work to be performed and are uniformly and equally applied to all applicants for the particular job category, regardless of age or sex.
  - (3) A differentiation may be based on a physical examination in job situations which necessitate stringent physical requirements due to inherent occupational factors such as the safety of the individual employees or of other persons in their charge, or those occupations which by nature are particularly hazardous. Job classifications which require rapid reflexes or a high degree of speed, coordination, dexterity and endurance would fall in this category.
  - (4) To establish age, sex or physical requirements as a bona fide occupational qualification, it shall be necessary to submit a recommendation to the Office of State Human Resources setting forth all facts and justification as to why the requirement should be considered as an employment factor in each of the classifications in question.
- (e) Special Provisions Relative to Communicable and Infectious Diseases:
- (1) Persons with communicable or infectious disease, including Acquired Immune Deficiency Syndrome (AIDS), are persons with a disability if the disease results in an impairment which substantially limits one or more major life activities. All of the statutory provisions relative to persons with a disability are applicable to persons with communicable and infectious diseases, including the requirements for a reasonable accommodation to the known limitations of an otherwise qualified applicant or employee.
  - (2) It is not discriminatory action to fail to hire, transfer, or promote, or to discharge a person with a disability because the person has a communicable disease which would disqualify a person without a disability from similar employment. However, such action may be taken on that basis only when it has been determined necessary to prevent the spread of the communicable or infectious disease. There must be documentation of consultation with private physicians and public health officials in arriving at the determination. Concern for other employees who may fear working with the infected co-worker must never be the basis for the action, in the absence of a medically documented health hazard to other persons. There is no evidence that employing a person with AIDS would present a health hazard to other persons in the usual workplace.

*History Note:* Authority G.S. 126-4; 126-5(c)(1)-(4); 126-16; 126-36; 168A-5(b)(3); P.L. 92-261; Eff. October 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **SUBCHAPTER 1M - INTERCHANGE OF GOVERNMENTAL EMPLOYEES**

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

The interchange of governmental employees program allows for governmental agencies at all levels to borrow from or loan to another governmental agency personnel who have special skills and knowledges useful in resolving problems of the receiving agency.

*History Note:* Authority N.C.G.S. c. 126, Article 10;  
Eff. January 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

### **25 NCAC 01M .0102 FILING OF APPLICATIONS**

*History Note:* Authority G.S. 126-52;  
Eff. January 1, 1978;  
Repealed Eff. November 1, 1988.

### **25 NCAC 01M .0103 DEFINITIONS**

The following definitions shall apply throughout this Subchapter:

- (1) sending agency -- any governmental agency included under this policy which sends an employee to another governmental agency;
- (2) receiving agency -- any governmental agency included under this policy which receives an employee of another governmental agency;
- (3) assigned employee -- an employee of a sending agency who is assigned or detailed to a receiving agency as part of the employee's regular duties with the sending agency;
- (4) employee on leave -- an employee on leave of absence without pay from a sending agency who becomes an employee of a receiving agency while on leave from the sending agency.

*History Note:* Authority G.S. 126-52;  
Eff. January 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01M .0104 ESTABLISHING AN AGREEMENT**

(a) All interchanges must be negotiated with the employee, the sending agency, and the receiving agency. A written agreement stating the responsibilities of all parties involved shall be submitted to the State Human Resources Director for approval; approval must be received prior to the effective date of the agreement. If a federal agency is involved, a copy of the federal form, "Assignment Agreement, Optional Form 69" may be submitted; a statement must be attached indicating if the employee's same salary and employee benefits are to be maintained during the interchange. If a federal agency is not involved, the state agreement form should be submitted.

(b) The minimum period of assignment will be one month; however, employees may be assigned or on leave for a maximum period of two years. Any travel expenses for the employee involved in an interchange shall be borne by the receiving agency.

*History Note:* Authority G.S. 126-58;  
Eff. January 1, 1978;  
Amended Eff. August 1, 1979; May 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01M .0105 COMPENSATION**

*History Note:* Authority G.S. 126-58;  
Eff. January 1, 1978;  
Amended Eff. August 1, 1979;  
Expired Eff. November 1, 2016 pursuant to G.S. 150B-21.3A.

#### **25 NCAC 01M .0106 TERMINATION**

The temporary assignment of an employee may be terminated by:

- (1) the termination date specified on the agreement,
- (2) mutual agreement between the sending and receiving agencies.

*History Note:* Authority G.S. 126-56;  
Eff. January 1, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

### **SUBCHAPTER 1N - WORKPLACE ENVIRONMENT AND HEALTH**

#### **SECTION .0100 - STATE EMPLOYEES WORKPLACE REQUIREMENTS PROGRAM FOR SAFETY AND HEALTH**

## **25 NCAC 01N .0101      PURPOSE**

*History Note:*      Authority G.S. 95-148; 126-4(5),(10); Executive Order No. 6;  
Eff. December 1, 1985;  
Amended Eff. January 1, 1989;  
Repealed Eff. February 1, 1993.

## **25 NCAC 01N .0102      POLICY**

*History Note:*      Authority G.S. 95-148; 126-4(5)(10); Executive Order No. 6;  
Eff. December 1, 1985;  
Repealed Eff. November 1, 1988.

## **25 NCAC 01N .0103      PROGRAM REQUIREMENTS**

*History Note:*      Authority G.S. 95-148; 126-4(5)(10); Executive Order No. 6;  
Eff. December 1, 1985;  
Repealed Eff. May 1, 1989.

## **25 NCAC 01N .0104      PROGRAM ADMINISTRATION**

(a) The Office of State Human Resources shall monitor agency (as defined in 25 NCAC 01A .0103) compliance with the State Employee Workplace Requirements Program for Safety and Health by providing consultative and technical services that include:

- (1) technical assistance in the design and development of written safety and health programs and operative safety committees as well as assessment of specialized workplace hazards;
- (2) periodic inspection of state operations to ensure the identification and control of hazardous workplace environments and unsafe work practices that could endanger state employees;
- (3) maintenance of a State Employee Safety and Health Handbook describing the responsibilities of employees and outlining the basic rules for working safely in state government;
- (4) investigation of work-related fatalities and major lost workday injuries and illnesses to ensure that agencies have program elements in place to control specific hazards;
- (5) coordination of training programs for designated agency safety and health directors and officers.
- (6) a systematic evaluation of state agencies to ensure compliance with written program and safety committee requirements.

To assist the Office of State Human Resources, a State Steering Committee, composed of program staff from state agencies, shall be appointed to recommend program changes, goals, and solutions to problems. Any additions or changes to the administrative or workplace requirements procedures will occur only after consultation with the State Steering Committee.

(b) Annually, the Office of State Human Resources shall prepare a report for the Governor, the State Human Resources Commission, and all state agencies, which will assess compliance with program requirements, committee effectiveness, recommended changes to enhance program, and a statistical analysis of work-related injuries and illnesses and compensation cost.

(c) The State Human Resources Commission shall comply with the provisions set forth in G.S. 143-583.

*History Note:*      Authority G.S. 95-148; 126-4(5),(10); 143-580 through 143-584;  
Executive Order No. 6 (1985);  
Eff. December 1, 1985;  
Amended Eff. April 1, 2006; February 1, 1993; September 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01N .0105      STATE AGENCY RESPONSIBILITIES**

- (a) Each state agency shall have a written State Employee Workplace Requirements Program for Safety and Health consistent with the State Human Resources Commission's model program and its procedural requirements. Written components of the program shall at a minimum contain the program requirements set forth in G.S. 143-582.
- (b) Each state agency shall establish safety and health committees comprised of a mix of management and non-management personnel in order to address safety and health issues through their input and with the most efficient use of resources and expertise.
- (c) The Safety and Health Committee shall be established in compliance with 13 NCAC 07A .0605.
- (d) A state agency with field forces must ensure field operations staff safety and health issues are represented on the safety and health committee by a member(s) of that group.
- (e) The agency Safety and Health Director or Officer or designee shall serve as ex-officio member with voting rights on the Committee(s).
- (f) The agency shall establish a procedure by which Employee Safety and Health Representatives can be selected or appointed.
- (g) The Chairperson of the Safety and Health Committee may be appointed by the agency head or elected by the members. Secretarial services are to be provided to the Chairperson to carry out his or her duties.
- (h) Each state agency shall verbally notify the Office of State Human Resources Workplace Requirements Program for Safety and Health within eight hours after the death of any N.C. State Government employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident. A summary accident investigation report and Death Claim Notice Form shall be filed within five days of knowledge of the death.

*History Note:* Authority G.S. 95-148; 126-4(5),(10); 143-580 through 143-584;  
 Executive Order No. 6 (1985);  
 Eff. February 1, 1993;  
 Amended Eff. April 1, 2006;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **25 NCAC 01N .0106 COMMITTEE RESPONSIBILITIES**

The Safety and Health Committee(s) shall perform the following functions as well as any other functions determined by the State Human Resources Commission to be necessary for the effective implementation of the State Employees Workplace Requirements Program for Safety and Health:

- (1) Review safety and health policies and procedures established by the agency as needed.
- (2) Review incidents involving work-related fatalities, injuries, illnesses or near-misses.
- (3) Review employee complaints regarding safety and health hazards.
- (4) Analyze the agency's work injury and illness statistical records.
- (5) Conduct inspections or ensure that safety and health inspections of the worksites are conducted and documented at least annually or more frequently as required by regulatory codes or standards. Ensure responses to complaints regarding safety and health hazards are provided and address process for corrective action.
- (6) Ensure that interviews with employees are conducted in conjunction with inspections of the workplace.
- (7) Ensure that agency's training records are reviewed to ensure compliance with regulatory training requirements.
- (8) Conduct meetings at least once every three months. Maintain written minutes of such meetings and send copy to each committee member. Copy of minutes shall be posted to ensure availability to all employees in the workplace.
- (9) Designate Employee Safety and Health Representative(s) to accompany representatives from regulatory agencies (i.e. NC Department of Agriculture, NC Department of Health and Human Services, NC Department of Labor Occupational Safety and Health Division, NC Department of Insurance, NC Department of Environment and Natural Resources, etc.) during environmental, safety and health inspections of the workplace.
- (10) Make written recommendations (Example: for elimination of hazards and improvement in occupational safety and health) on behalf of the Committee to the agency head.

*History Note:* Authority G.S. 95-148; 126-4(5),(10); 143-580 through 143-584;  
 Executive Order No. 6 (1985);

*Eff. February 1, 1993;*  
*Amended Eff. April 1, 2006;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**25 NCAC 01N .0107 STATE EMPLOYEES' RESPONSIBILITIES**

(a) Each supervisor shall provide safe working conditions for each subordinate, know safety and health guidelines, provide for employee's safety and health training, provide required personal protective equipment, report and investigate accidents, advise management of any unsafe work environment(s) or condition(s) and effect corrective actions and interim controls for hazardous work environments under their control.

(b) Each employee shall conduct his or her own work in a safe manner to protect him or herself, fellow employees and the public; make recommendations to improve safety and health in the workplace and notify the supervisor of any accident involving injury, illness, or near-miss to him or herself or to others.

*History Note: Authority G.S. 95-148; 126-4(5),(10); 143-580 through 143-584;*  
*Executive Order No. 6 (1985);*  
*Eff. February 1, 1993;*  
*Amended Eff. April 1, 2006;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

**SECTION .0200 - PERSONAL PROTECTIVE EQUIPMENT**

**25 NCAC 01N .0201 RESERVED FOR FUTURE CODIFICATION**

**25 NCAC 01N .0202 APPLICATION**

*History Note: Authority G.S. 126-4;*  
*Eff. July 1, 1995;*  
*Expired Eff. November 1, 2016 pursuant to G.S. 150B-21.3A.*

**25 NCAC 01N .0203 EQUIPMENT**

*History Note: Authority G.S. 126-4;*  
*Eff. July 1, 1995;*  
*Repealed Eff. April 1, 2006.*

**25 NCAC 01N .0204 HAZARD ASSESSMENT AND EQUIPMENT SELECTION**

**25 NCAC 01N .0205 TRAINING**

**25 NCAC 01N .0206 PERSONAL PROTECTIVE EQUIPMENT**

*History Note: Authority G.S. 126-4;*  
*Eff. July 1, 1995;*  
*Amended Eff. April 1, 2006;*  
*Expired Eff. November 1, 2016 pursuant to G.S. 150B-21.3A.*

**SECTION .0300 - ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS) IN THE WORKPLACE**

**25 NCAC 01N .0301 EDUCATION AND TRAINING**

**25 NCAC 01N .0302 BASIC EDUCATION AND TRAINING COMPONENT**

**25 NCAC 01N .0303 ADVANCED EDUCATION AND TRAINING COMPONENT**

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

*Eff. November 1, 1990;*  
*Amended Eff. June 1, 1992; March 1, 1992; May 1, 1991;*  
*Recodified from 25 NCAC 01L .0201 Eff. December 29, 2003 (.0301);*  
*Recodified from 25 NCAC 01L .0202 Eff. December 29, 2003 (.0302);*  
*Recodified from 25 NCAC 01L .0203 Eff. December 29, 2003 (.0303);*  
*Expired Eff. November 1, 2016 pursuant to G.S. 150B-21.3A.*

#### **25 NCAC 01N .0304 ANTI-DISCRIMINATION**

It is the State's policy not to discriminate against any applicant or employee who has or is suspected of having AIDS or HIV infection. The State recognizes that an employee with AIDS or HIV infection may wish to continue working. As long as an employee is able to satisfactorily perform the duties of the job [G.S. 168A-3(9), 130A-148(i)] and there is no medical indication that the employee's condition is a health threat to co-workers or the public, an employee shall not be denied continued employment nor shall any applicant be denied employment solely because of the medical condition.

*History Note: Authority G.S. 126-4; 130A-148C(i); 168A-3(9);*  
*Eff. November 1, 1990;*  
*Recodified from 25 NCAC 01L .0204 Eff. December 29, 2003;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **25 NCAC 01N .0305 TESTING AND EXAMINATION**

Medical tests and examinations to determine the presence of HIV or HIV associated conditions are prohibited except as authorized by state and federal law or required by the rules of the Commission for Public Health (see 15A NCAC 19A, Section .0200). An employee who suspects that, having had a nonsexual blood or body fluid exposure to the HIV virus while on the job, may voluntarily elect to be tested for the HIV infection, provided that the suspected exposure poses a significant risk of transmission of HIV as defined in the rules of the Commission for Public Health. The employer will pay for the cost of test(s) for the exposed employee, providing the employee consents to the testing agency selected by the employee. Some employees may prefer to pay for their own test through a personal or family physician, or use the free testing services of a Public Health Department. An employee choosing to have the test made by someone other than the testing agency selected by the employer must bear the cost of the test himself.

*History Note: Authority G.S. 126-4;*  
*Eff. November 1, 1990;*  
*Recodified from 25 NCAC 01L .0205 Eff. December 29, 2003;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **25 NCAC 01N .0306 CONFIDENTIALITY**

Confidentiality shall be maintained by the agency for any employee with HIV or HIV associated conditions as required by existing confidentiality rules and laws. Any current confidentiality policies that are in force shall be updated by the agency to include the HIV policy.

*History Note: Authority G.S. 126-4;*  
*Eff. November 1, 1990;*  
*Recodified from 25 NCAC 01L .0206 Eff. December 29, 2003;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

#### **25 NCAC 01N .0307 COMPLAINTS AND DISCIPLINE**

The State acknowledges that employees with HIV infection as well as their co-workers may have concerns for their own health and safety. Managers are to pursue all appropriate actions to respond to the concerns of all employees. The state recognizes the rights of employees to grievance procedures. The employer has an equal right to maintain a harmonious and productive work environment that is free from disruptive or inconsiderate behavior, or from the refusal of any employee to perform work at assigned times and locations. If insubordinate or disruptive actions occur, managers are to follow the normal disciplinary procedures described in 25 NCAC 1J .0600, DISCIPLINARY ACTION, SUSPENSION

AND DISMISSAL. Before any disciplinary action can be taken, an agency or institution shall first provide counseling by a qualified health care professional to an employee who fears that a serious health risk is created by the presence of a co-worker who has AIDS or HIV infection.

*History Note:* Authority G.S. 126-4;  
Eff. November 1, 1990;  
Recodified from 25 NCAC 01L .0207 Eff. December 29, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

## **SECTION .0400 – COMMUNICABLE DISEASE EMERGENCY**

### **25 NCAC 01N .0401 PURPOSE**

This Section outlines human resource provisions to be implemented in the event that the Public Health Director or the Governor declares a public health emergency.

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

### **25 NCAC 01N .0402 REPORTING COMMUNICABLE DISEASES**

Management shall inform employees and employees shall inform management of any evidence of a communicable disease that could endanger the health of others in the workplace. Management shall notify the local health department the same day that evidence of a communicable disease is apparent.

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

### **25 NCAC 01N .0403 ACTIONS DURING A PANDEMIC**

In case of a pandemic or other serious health threats as determined by the State Health Director, one of the following actions may occur:

- (1) closing of one or more agencies or parts of an agency by order of the Governor,
- (2) closing of an agency or parts of an agency by order of the State or Local Public Health Director,
- (3) closing of an agency or parts of an agency by agreement between the State or Local Public Health Director and an agency authority,
- (4) decision by the agency authority that an employee(s) should stay away from the workplace until symptoms have gone,
- (5) isolation of an ill or symptomatic employee(s) by the State or Local Public Health Director pursuant to G.S. 130A-2(3a), or
- (6) quarantine of an exposed or potentially ill employee(s) by the State or Local Public Health Director pursuant to G.S. 130A-2(7a).

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

### **25 NCAC 01N .0404 MANDATORY EMPLOYEES**

(a) Mandatory employees are employees with permanent, probationary, time-limited or trainee appointments who are required to work during a public health emergency because their positions have been designated by their agencies as mandatory to agency operations during the emergency. Agency heads shall designate the essential operations that must be staffed and designate the mandatory employees to staff these operations.



(b) Mandatory employees may be excused from work if they are quarantined or ill, if they are required to care for an immediate family member who is quarantined or ill, or if they are a parent (or guardian) who is required to stay home with underage children because of the closure of a day care facility, public school or eldercare facility. The agency head shall develop an alternative plan for personnel in case the designated personnel are quarantined or unable to work.

(c) Employees designated as mandatory personnel shall be notified of the designation and the requirement to report for or remain at work in emergency situations. If mandatory personnel are required to remain at the worksite for an extended period of time, the agency or university shall provide adequate housing.

(d) Individuals designated as mandatory employees are subject to disciplinary action, up to and including termination of employment, for willful failure to report for or remain at work. Each situation shall be reviewed on a case-by-case basis to determine appropriate action.

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

#### **25 NCAC 01N .0405      COMPENSATION OF MANDATORY EMPLOYEES**

When an agency is closed or when management determines that only mandatory employees are required to report to work, the mandatory employees shall be granted time and one-half pay for all hours worked, subject to the availability of funds. If funds are not available, the employee shall be granted the additional half-time pay at a later date or one-half compensatory time. This provision applies to all employees who are exempt and non-exempt under the Fair Labor Standard Act (FLSA). This special compensation provision does not include temporary employees.

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

#### **25 NCAC 01N .0406      LEAVE**

(a) When an employee is quarantined, the employee shall be granted paid administrative leave until the specified period of time ends or the employee becomes ill with the communicable disease, whichever comes first. This shall include employees with temporary appointments.

(b) If an employee has symptoms associated with a communicable disease, agency management may require the employee not to report to work and to use any available compensatory leave, sick leave, vacation leave or bonus leave.

(c) When an agency is closed or when agency management determines that only mandatory employees are required to report to work, the non-mandatory employees who are not required to work shall, at management's discretion, be granted paid administrative leave (i.e., not charging leave) for up to 30 calendar days. The employee's pay shall continue at the same rate the employee would have received had the employee been working (including any shift premium pay normally received). If adjustments need to be made, they shall be made in the next paycheck after returning to work, depending on payroll deadlines for that pay period. If a non-mandatory employee elects to work when the agency is closed, the employee shall not receive additional pay. When the agency reopens, Paragraph (d) of this Rule shall apply.

(d) If the employee becomes ill and it is determined to be work related in accordance with the Workers' Compensation Act, the Workers' Compensation Rules, 25 NCAC 01E .0700, apply. If the employee is isolated or becomes ill as a result of off-the-job exposure, the Sick Leave Rules, 25 NCAC 01E .0300, apply. The provisions of the Family and Medical Leave Rules and the Family Illness Leave Rules, 25 NCAC 01E .1400 shall also apply.

(e) When an agency is open but an employee, who is a parent (or guardian), is required to stay home with underage children because of the closure of a day care facility or a public school, the employee shall be allowed to use leave in accordance with the Sick Leave Rules, 25 NCAC 01E .0300. This also applies for eldercare.

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

#### **25 NCAC 01N .0407      VERIFICATION**

Agencies may require certification of fitness to work from a health care provider. If quarantined, the employee shall provide the agency with a written verification from a Public Health official.

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

#### **25 NCAC 01N .0408 REVIEW OF POLICY PROVISIONS**

(a) If an agency is closed for more than 30 days, the leave and compensation provisions of this policy shall be reviewed and either terminated, revised or renewed. The agency head shall determine the appropriate course of action in consultation with the Governor's Office and the State Budget Director.

(b) Pending a decision, the employee may be allowed to take compensatory, sick, vacation, or bonus leave until a decision is made.

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

#### **25 NCAC 01N .0409 EMERGENCY LAY-OFF**

(a) An emergency layoff is a temporary separation from payroll because funds are not available, work is not available or because of another emergency situation requiring employees to remain away from the worksite. The employer believes that the condition will change and intends to recall the employees as soon as feasible.

(b) An emergency lay-off may be declared if the agency or university remains totally closed or partially closed for an indefinite period of time due to the public health emergency. The agency head shall make this decision after consultation with the Governor's Office and the State Budget Director.

(c) During an emergency layoff, employees who are laid off shall be eligible to participate in the State Health Plan. State agencies shall pay the employer contribution and may pay the employee contribution for the month following the layoff, with the provision that the employees shall repay the State for any contribution made on their behalf.

(d) An employee shall not be paid for leave at the time of the emergency lay-off; however, vacation and sick leave will continue to accrue during the lay-off to be credited to the employee's account upon return from the lay-off. If a reduction-in force should occur before the employee returns, the vacation leave accumulated while on lay-off shall be paid along with other unused vacation/bonus leave that was on hand at the time of the layoff.

(e) An employee shall continue to receive total State service while on an emergency lay-off.

(f) An employee may be eligible for unemployment benefits with the North Carolina Employment Security Commission while on an emergency lay-off. Employees should contact the North Carolina Employment Security Commission for further details.

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

#### **25 NCAC 01N .0410 WAIVER OF POLICIES**

(a) During the pandemic emergency, if new hires are needed to cover emergency operations, the agency head is authorized to waive the posting rule (25 NCAC 01H .0631), the minimum qualifications rule (25 NCAC 01H .0635), the hiring of relatives (nepotism) rule (25 NCAC 01H .0633), and execute the immediate hiring of an individual who is determined to be able to do the work.

(b) Employees hired under these conditions shall be given a temporary or time-limited permanent appointment.

(c) The agency head is authorized to offer competitive salaries for the duration of the emergency.

(d) The agency head is authorized to assign employees where they are most needed and compensate them accordingly for the duration of the emergency.

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

*Eff. December 1, 2007;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

## **SECTION .0500 - WORKSITE WELLNESS**

### **25 NCAC 01N .0501 POLICY**

In partnership with the State Health Plan and the Office of State Human Resources, each agency shall create and participate in a Worksite Wellness program. The Worksite Wellness initiatives shall address the primary components of a healthy lifestyle including healthy eating, physical activity, tobacco cessation and stress management.

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 2008;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **25 NCAC 01N .0502 ADMINISTRATION**

The Office of State Human Resources and the State Health Plan, in collaboration with the North Carolina Division of Public Health, shall guide and assist agencies in the development of a comprehensive Worksite Wellness Program for State employees.

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 2008;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **25 NCAC 01N .0503 WELLNESS LEADER**

- (a) Each agency head shall designate a Wellness Leader at the management level who has direct access to the agency head.
- (b) In collaboration with management and employees, the Wellness Leader shall create a Worksite Wellness infrastructure, overseeing the development and implementation of employee wellness policies and committees, and providing ongoing assessment/monitoring of the effectiveness of Worksite Wellness Programs.

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 2008;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

### **25 NCAC 01N .0504 WELLNESS COMMITTEES**

- (a) Each agency shall establish a wellness committee infrastructure. A wellness committee is a team of employees that meet formally and have identified aims, goals, and implementation strategies to encourage healthy behaviors at the workplace, advocate for policy change, and create health-friendly work environments.
- (b) The committee shall be comprised of employees who represent a cross section of the employee population. Multiple committees may be necessary depending on the size and number of locations of the agency.
- (c) Committees shall elect a wellness chair or co-chairs to conduct meetings and lead activities.

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 2008;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*

## **SECTION .0600 - LACTATION SUPPORT**

### **25 NCAC 01N .0601 PURPOSE**

The rules in this Section set requirements for agencies with regard to nursing mothers.

*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 01N .0602 POLICY**

It is the policy of the State to assist working mothers who are nursing children during their transition back to work following the birth or adoption of a child by providing lactation support. A lactation support program allows a nursing mother to express breast milk periodically during the work day.

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. January 1, 2011;  
Amended Eff. November 1, 2011;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

#### **25 NCAC 01N .0603 OFFICE OF STATE HUMAN RESOURCES RESPONSIBILITY**

The Office of State Human Resources shall designate a program coordinator to assist agencies with questions regarding this Section.

*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 01N .0604 AGENCY RESPONSIBILITIES**

State agencies shall provide space, privacy, and time for nursing mothers to express breast milk by doing the following:

- (1) Providing private space that is not in a restroom or other common area. The space shall have a door that can be secured or locked, lighting and seating, and electrical outlets for pumping equipment.
- (2) Providing time to express breast milk. The agency may require the employee to use the regularly scheduled paid break time. If time is needed beyond the regularly scheduled paid break times, the agency shall make reasonable efforts to allow employees to use paid leave or unpaid time for this purpose.

*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 01N .0605 EMPLOYEE RESPONSIBILITY**

The employee is responsible for storage of the expressed breast milk.

*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.

### **SUBCHAPTER 010 - PERFORMANCE MANAGEMENT SYSTEM**

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

#### **25 NCAC 010 .0101 POLICY**

*History Note:* Authority G.S. 126-4; 126-7;  
Eff. January 1, 1990;  
Amended Eff. August 1, 2007; March 1, 2005;  
Repealed Eff. April 1, 2016.

**25 NCAC 010 .0102 PURPOSE**  
**25 NCAC 010 .0103 COMPONENTS OF A PERFORMANCE MANAGEMENT SYSTEM**  
**25 NCAC 010 .0104 RATING SCALE**  
**25 NCAC 010 .0105 DISPUTE RESOLUTION**  
**25 NCAC 010 .0106 MONITORING, EVALUATING, REPORTING**

*History Note:* Authority G.S. 126-4; 126-7;  
Eff. August 1, 2007;  
Repealed Eff. April 1, 2016.

**25 NCAC 010 .0107 PERFORMANCE MANAGEMENT POLICY**

It is the policy of North Carolina State Government to provide an integrated performance management system that evaluates employees' accomplishments and behaviors related to goals and organizational values to achieve organizational mission, goals, and business objectives. An integrated performance management system enables employees to develop and enhance individual performance while contributing to the achievement of organizational mission, goals, and business objectives.

*History Note:* Authority G.S. 126-4;  
Eff. April 1, 2016.

**25 NCAC 010 .0108 PERFORMANCE MANAGEMENT COVERED EMPLOYEES**

- (a) The rules in this Subchapter shall apply to the following:
- (1) probationary, time-limited, and permanent employees;
  - (2) employees appointed to exempt policy-making positions, exempt managerial positions, confidential secretary, confidential assistant, and all chief deputy positions; and
  - (3) employees in trainee classifications.
- (b) The rules in this Subchapter shall not apply to temporary employees.

*History Note:* Authority G.S. 126-4;  
Eff. April 1, 2016;  
Amended Eff. April 1, 2017.

**25 NCAC 010 .0109 PERFORMANCE MANAGEMENT DEFINITIONS**

The following definitions shall apply to all rules in this Subchapter:

- (1) "Annual Performance Evaluation" means the comprehensive review of the employee's performance, relative to the goals and values throughout the entire performance cycle as defined in 25 NCAC 010 .0110. The annual performance evaluation contains a final overall rating.
- (2) "Calibration Session" means a confidential discussion between same-level managers or supervisors facilitated by the next-level manager, supervisor or designated Human Resources representative, to evaluate work distribution, goal alignment, goal validity, results, and final ratings.
- (3) "Coaching Session" means either a formal discussion with documentation or an informal discussion without documentation between a manager or supervisor and employee to provide feedback and reinforce desired work actions and behavior.
- (4) "Counseling Session" means a formal discussion with documentation between a manager or supervisor and an employee to provide specific feedback and initiate a Performance Improvement Plan to develop a strategy for an employee to raise his or her performance to a minimum of "Meets Expectation."
- (5) "Formal Discussion" means a discussion with documentation between a manager or supervisor and employee.

- (6) "Goals" means organizational, division, work unit, and individual level outcomes that support the strategic mission of the organization. All goals must be relevant to agency goals/mission.
- (7) "Individual Development Plan" means a plan used to identify areas of development so an employee will have the skills, knowledge and abilities he or she needs to meet the organization's goals and objectives, and is given an opportunity to develop competencies that will allow him or her to be successful in the future.
- (8) "Informal Discussion" means a discussion without documentation between a manager or supervisor and employee.
- (9) "Interim Review" means a formal discussion with documentation of such at the mid-point of the performance cycle between a manager or supervisor and an employee to review the employee's progress and make any necessary adjustments (e.g., adding new goals and tasks or canceling existing goals and tasks if priorities have changed, changing the weights assigned to goals and tasks) or initiate additional performance-related documentation.
- (10) "Permanent Employee" means an employee who is in a permanent position and has attained career status by being continuously employed by the State in a position subject to the State Human Resources Act for the immediate 12 preceding months.
- (11) "Performance Expectation" means a goal, value, or both, defining outcomes and behaviors that are documented on a performance plan to identify results to be accomplished and how the work should be accomplished.
- (12) "Performance Improvement Plan" means a written document issued to an employee by a manager or supervisor that provides instructions to the employee about the action or actions the employee shall take to improve performance or conduct deficiencies to the "Meets Expectations" level of performance. A performance improvement plan is issued to an employee who maintains employment and serves as a disciplinary action.
- (13) "Performance Plan" means a description of the goals and values to be accomplished by the employee within the performance cycle, with emphasis on the goals and results to be achieved and how those results will be measured.
- (14) "Position Description" means a statement or set of duties and responsibilities that represents the major functions of a job that must be performed to meet the agency's needs.
- (15) "Probationary Employee" means an employee who is in a permanent position but has not attained career status by being continuously employed by the State in a position subject to the State Human Resources Act for the immediate 12 preceding months.
- (16) "Satisfactory Performance" means performance for which the employee consistently meets expectations and occasionally exceeds expectations.
- (17) "Time-Limited Employee" means an employee who is in a time-limited position and is not eligible for career status.
- (18) "University" means the constituent institutions of the University of North Carolina.
- (19) "Values" means qualitative behavioral attributes that document how work actions should be accomplished. Values reflect core organizational beliefs that guide and motivate actions supporting the accomplishment of the agency mission and goals.

*History Note:* Authority G.S. 126-4;  
Eff. April 1, 2016.

## **25 NCAC 010 .0110 PERFORMANCE CYCLE**

- (a) The standard State government performance cycle shall be from July 1 through June 30, with the exception of the universities who shall have a standard performance cycle from April 1 through March 31.
- (b) The annual performance evaluation shall be completed (i.e., documentation provided and ratings assigned), approved, discussed with employees, and entered into the system of record within 60 calendar days of the cycle end date.
- (c) The State Human Resources Director may change the dates of the standard performance cycle for business-related reasons with a statewide impact; however, all covered employees shall be notified a minimum of 60 calendar days prior to the start of the new performance cycle. The need to change the dates of the standard performance cycle will be determined through consultation with the statewide Performance Management Program Manager.

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

*Eff. April 1, 2016.*

**25 NCAC 010 .0111 DOCUMENTATION OF PERFORMANCE**

(a) The Office of State Human Resources shall provide a standard annual performance evaluation template, performance planning template, interim review template, individual development plan template, documented coaching session template, and Performance Improvement Plan template to be utilized by all agencies, universities and individuals covered by this Subchapter.

(b) The State Human Resources Director shall publish and communicate the standardized templates a minimum of 90 calendar days prior to the start of the performance cycle. These templates shall be available in the performance management system through an employee's online portal.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2016.*

**25 NCAC 010 .0112 PERFORMANCE MANAGEMENT RESOURCES AND TRAINING**

Each agency and university shall:

- (1) designate a person as its performance management coordinator, with responsibility for coordinating the development, implementation, and ongoing administration of performance management within the organization;
- (2) provide performance management training, made available by the Office of State Human Resources, to all newly hired or promoted managers or supervisors, to be completed within the first three months of the manager's or supervisor's new role; and
- (3) provide annual refresher training, made available by the Office of State Human Resources, to all employees.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2016.*

**25 NCAC 010 .0113 CONFIDENTIALITY AND RECORDS RETENTION**

(a) Performance evaluations shall be confidential documents under G.S. 126-22.

(b) To promote communication and coordination during calibration sessions, agency management may make some version of performance plans visible internally to management; however, any information shared during calibration sessions shall be treated as confidential and shall not be shared outside of the calibration session.

(c) A breach of confidentiality shall be considered personal misconduct and may result in disciplinary action up to and including dismissal as defined in 25 NCAC 01J .0604.

(d) Annual performance evaluations and supporting documentation shall be retained for three years, and maintained according to Article 7 of G.S. 126.

(e) Hiring supervisors and managers shall be able to inspect and examine performance management documents of final job candidates who are current or former State employees during the hiring process.

*History Note: Authority G.S. 126-4; 126-24;  
Eff. April 1, 2016.*

**25 NCAC 010 .0114 PERFORMANCE MANAGEMENT COMPLIANCE**

(a) The Office of State Human Resources shall monitor and evaluate performance management records and data to ensure agency compliance with rules in this Subchapter.

(b) If an employee believes his or her manager or supervisor is failing to adhere to the performance management in accordance with this Subchapter, the employee shall notify the next-level manager or supervisor or the agency's Human Resources office.

(c) The failure of a manager or supervisor to carry out the performance management process shall be addressed as a performance deficiency and shall result in one or more of the following:

- (1) counseling from the next-level manager or supervisor to determine the cause(s) of the deficiency and implementation of a Performance Improvement Plan;
- (2) participating in skills enhancement training;

- (3) monitoring and documentation of manager or supervisor progress towards improving implementation of performance management; or
- (4) the issuing of disciplinary action, up to and including dismissal.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2016.*

**25 NCAC 010 .0115 PERFORMANCE RATING DISPUTE**

Career State employees, as defined in G.S. 126-1.1, or former career State employees may grieve an overall performance rating of "Does Not Meet Expectations" using the agency's or university's internal employee grievance process.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2016.*

**SECTION .0200 – MANAGING AND EVALUATING PERFORMANCE**

- 25 NCAC 010 .0201 PERFORMANCE MANAGEMENT PROCESS**
- 25 NCAC 010 .0202 COMPONENTS OF AN OPERATIVE SYSTEM**
- 25 NCAC 010 .0203 RELATIONSHIP/PERFORMANCE MGMT/OTHER HUMAN RESOURCES SYSTEMS**
- 25 NCAC 010 .0204 RESPONSIBILITIES OF THE STATE PERSONNEL COMMISSION**
- 25 NCAC 010 .0205 RESPONSIBILITIES OF THE OFFICE OF STATE PERSONNEL**
- 25 NCAC 010 .0206 RESPONSIBILITIES OF AGENCIES**

*History Note: Authority G.S. 121-5; 126-4; 126-4(8); 126-7;  
Eff. January 1, 1990;  
Amended Eff. April 1, 2005; March 1, 2005; July 1, 1991;  
Repealed Eff. August 1, 2007.*

**25 NCAC 010 .0207 FREQUENCY OF PERFORMANCE REVIEWS**

A performance review shall be required in the following instances:

- (1) For permanent State employees, the manager or supervisor shall establish a performance plan for the employee during the first 60 calendar days of the performance cycle. The manager or supervisor shall conduct an interim review at the mid-point of the performance cycle and shall conduct a final performance evaluation annually, within 60 calendar days of the end of the performance cycle. The permanent employee shall have been functioning under an issued performance plan for at least six months to receive an annual performance evaluation.
- (2) For probationary employees, the manager or supervisor shall establish a performance plan for the employee during the first 60 calendar days of employment. The manager or supervisor shall review the probationary employee's performance by conducting quarterly documented performance feedback discussions during the first 12 months of employment. If a probationary employee "Meets Expectations" or "Exceeds Expectations" on all individual goals and individual values, at the end of the first performance cycle, then quarterly documented performance feedback discussions are no longer required. The manager or supervisor shall establish a performance plan for the probationary employee during the first 60 calendar days of the next performance cycle. The manager or supervisor shall conduct an interim review at the mid-point of the performance cycle and shall conduct a final performance evaluation annually, within 60 calendar days of the end of the performance cycle. The probationary employee shall have been functioning under an issued performance plan for at least six months to receive his or her first annual performance evaluation.
- (3) For time-limited employees, the manager or supervisor shall establish a performance plan for the employee during the first 60 calendar days of employment. The manager or supervisor shall review the time-limited employee's performance by conducting quarterly documented performance feedback discussions. The time-limited employee shall have been functioning under an issued performance plan for at least six months to receive his or her first annual performance evaluation. If the employee's performance indicates he or she is not suited for the position and cannot be expected to meet



satisfactory performance standards, the employee shall be separated. If he or she meets satisfactory performance standards, the manager or supervisor shall establish a performance plan for the employee during the first 60 calendar days of the next performance cycle. The manager or supervisor shall conduct an interim review at the mid-point of the performance cycle and shall conduct a final performance evaluation annually, within 60 calendar days of the end of the performance cycle.

- (4) When an employee transfers to another position within state government, the existing manager or supervisor shall assess performance and document progress and ratings prior to the transfer. If the transfer occurs within 30 calendar days of the end of the interim review or annual performance evaluation, then a copy of the completed and signed interim review or the completed (i.e., documentation provided and ratings assigned) and signed annual performance evaluation shall be sent to the receiving manager or supervisor. If the transfer occurs more than 30 calendar days prior to the interim review or annual performance evaluation, the existing manager or supervisor shall provide written performance information accountable for ensuring continuity of performance documentation specific to the employee's achievement of established goals and values to the receiving manager or supervisor.
- (5) When there is a change in the manager or supervisor, the existing manager or supervisor shall provide written performance information specific to the employee's achievement of established goals and values to the receiving manager or supervisor. If the change in the manager or supervisor occurs within 30 calendar days of the interim review or annual performance evaluation, then the existing manager or supervisor shall complete the interim review or formal performance evaluation.
- (6) When an employee separates from state government, the manager or supervisor shall assess performance and assign a final overall performance rating, unless the employee's separation is due to a documented disciplinary action, retirement, disability, illness, or death. The separating employee shall have been functioning under an issued performance plan for at least six months to be assigned a final overall performance rating. For an employee who is separated for any reason other than documented disciplinary action, retirement, disability, illness, or death, any final overall performance rating of "Does Not Meet Expectations" must be approved by the agency Human Resources Director or his or her designee, based on performance documentation provided by the separating employee and his or her manager or supervisor.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2016.*

## **25 NCAC 010 .0208 PERFORMANCE PLANNING**

- (a) An employee shall have an annual Performance Plan to include at least three, but not more than five, strategically aligned critical individual goals, a description of how goals will be measured, and the level of performance required to meet expectations and values. Goals shall be written at the "Meets Expectation" level. The agency or university shall facilitate calibration discussions to assess goal validity and ensure organizational consistency.
- (b) Within 90 calendar days of the onset of a performance management cycle, the Office of State Human Resources (OSHR) will publish and communicate two to four organizational values, which will be standard for all employees subject to this Subchapter. Each agency or university may choose to add up to five additional organizational values, selected from a predefined list published and communicated by OSHR within 90 calendar days of the onset of the performance management cycle.
- (c) Organizational values must be 50 percent of the total weight relative to overall performance and shall be equally weighted. Individual agencies or universities may determine weight of specific goals; however, goal weight shall be no more than 50 percent of the total weight relative to overall performance.
- (d) A manager or supervisor shall hold a performance planning discussion with each employee and put a performance plan in place with each employee within 60 calendar days of:
  - (1) the beginning of the performance management cycle;
  - (2) the employee's entry into a position;
  - (3) a new probationary or time-limited employee's date of employment; or
  - (4) any significant change to the performance expectations of the current Performance Plan.
- (e) Once signed by the manager or supervisor and next-level manager or supervisor, the employee shall review, sign, and date the performance plan. If the employee refuses to sign the performance plan, the manager or supervisor shall document the employee's refusal on the performance plan.

(f) An employee shall have physical or electronic access to his or her performance plan.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2016.*

#### **25 NCAC 010 .0209 PERFORMANCE FEEDBACK**

(a) Throughout the performance cycle, the manager or supervisor shall document and validate, based on observation or feedback from others, employee performance results and behaviors. In addition, the manager or supervisor shall provide feedback to the employee, both positive and corrective, when appropriate. Both the manager or supervisor and employee shall document activities and accomplishments related to goals and behaviors during the performance cycle.

(b) A manager or supervisor shall conduct a minimum of three formal performance discussions annually for an employee and timed accordingly as follows:

- (1) the initial planning discussion, at the beginning of the performance cycle;
- (2) an interim review at the performance cycle midpoint; and
- (3) the annual performance evaluation, at the end of the performance cycle.

The formal discussions shall provide a manager or supervisor and the employee with an opportunity to discuss any changes in organizational priorities or employee development goals, review progress, and if necessary, revise performance plans, initiate individual development plans, or address performance problems and identify steps the employee shall take to improve or adjust priorities through the remainder of the performance cycle. Additional formal and informal discussions shall also be conducted as needed throughout the performance cycle to adjust cycle goals, document progression, or address a change in business requirements.

(c) All formal coaching sessions, formal counseling sessions, and formal performance discussions shall be documented.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2016.*

#### **25 NCAC 010 .0210 ADDRESSING UNSATISFACTORY JOB PERFORMANCE**

(a) If at any time during the performance cycle an employee is not meeting expectations, the manager or supervisor shall conduct a documented coaching session to:

- (1) discuss ways to improve the employee's performance or behavior;
- (2) seek input from the employee about whether the performance issue can be corrected through a process change or if the employee needs to receive additional training on current procedures or processes;
- (3) outline the steps to be taken to improve performance, including the specific timeframe for improvement;
- (4) identify the consequences, including progressive disciplinary action, of failure to improve; and
- (5) define a follow up date.

(b) If employee performance or behavior improves to the "Meets Expectations" level during the specific timeframe and performance or behavior is maintained as determined by management, no further action is necessary.

(c) If employee performance or behavior does not improve to the "Meet Expectations" level during the specific timeframe, the manager or supervisor shall consult the agency Human Resources representative, prepare a Performance Improvement Plan (PIP), and conduct and document a formal counseling session to review the PIP with the employee.

(d) The PIP shall be considered equivalent to a disciplinary action as defined in 25 NCAC 01J .0604 and shall:

- (1) be in writing and state that it is a disciplinary action;
- (2) state the specific performance or behavior problem that is the reason for the disciplinary action;
- (3) state the specific steps to be taken to improve performance, including the specific timeframe for improvement;
- (4) state the consequences, including progressive disciplinary action, of failure to make the required improvements or corrections;
- (5) define a follow-up date or dates;
- (6) tell the employee of any appeal rights provided by State law; and
- (7) discuss the Employee Assistance Program (EAP) when appropriate.

(e) If employee performance or behavior improves to the "Meet Expectations" level after review of the PIP during the specific timeframe and performance or behavior is maintained as determined by agency management, no further action is necessary.

- (f) If employee performance or behavior does not improve to the "Meets Expectations" level after review of the PIP during the specific timeframe or if the employee performance or behavior fails to be maintained at the "Meets Expectations" level, the manager or supervisor shall continue the formal progressive disciplinary action process as outlined in 25 NCAC 01J .0613 and contact the agency Human Resources representative.
- (g) If an employee receives a performance-based disciplinary action during the performance cycle, corrects, and maintains performance at the "Meets Expectations" level, then the employee shall be considered to have met expectations for the performance expectation(s) associated with the disciplinary action.
- (h) If an employee receives a performance-based disciplinary action during the performance cycle, corrects, and maintains performance at the "Meets Expectations" level, then the employee shall be considered to have met expectations for the goal or organizational value associated with the disciplinary action.
- (i) If an employee receives a "Meets Expectations" for the goal or organizational value cited in the warning or other disciplinary action and a "Meets Expectations" in the overall performance evaluation rating, the performance-based disciplinary action shall become inactive.
- (j) If the written warning is based on an employee's failure to complete tasks listed in the job description or is based on an employee's failure to respond to a direct order from the manager or supervisor, but these warnings are not linked to the goals or organizational values of the performance plan, then the written warning shall remain active.
- (k) At the conclusion of the performance cycle, if an employee has not satisfied the terms of the PIP or has an active performance-based disciplinary action, the employee shall be considered not to have met expectations during the current cycle for the performance expectation(s) associated with the disciplinary action.

*History Note: Authority G.S. 126-4;  
Eff. April 1, 2016.*

## **25 NCAC 01O .0211 ANNUAL PERFORMANCE EVALUATION**

- (a) At the end of the performance cycle, the manager or supervisor shall evaluate employee performance relative to the three to five individual goals as well as the selected organizational values. The manager or supervisor shall use quantitative and qualitative information collected throughout the cycle and documented by various sources, including information documented by the employee, to determine the extent to which the employee's actual performance has met the expectations defined in the performance plan. The manager or supervisor shall evaluate performance based on the collected performance information and assign ratings to each goal and value to determine an overall annual performance evaluation rating. Agency or University Human Resources personnel shall facilitate calibration discussions to systematically assess rating validity and ensure organizational consistency.
- (b) Each individual goal and value shall be rated using the standardized rating scale. The standardized rating scale will consist of three levels defined as follows:
  - (1) "Exceeds Expectations" means performance consistently exceeds documented expectations and measurements. The employee consistently does work going far beyond what is expected in terms such as quantity, quality, timeliness, cost, and customer satisfaction. Performance that "Exceeds Expectations" is due to the effort and skills of the employee. Performance is consistently characterized by high quality work that requires little or no improvements or corrections. An employee at the "Exceeds Expectations" level repeatedly makes exceptional or unique contributions to the organization that are above the requirements of his/her duties and responsibilities. An employee performing at the "Exceeds Expectations" level should be recognized by their organization as an outstanding contributor to the organization's mission.
  - (2) "Meets Expectations" means performance consistently meets and occasionally exceeds the documented job expectations and measurements. The employee performs according to expectations. The employee does the job at the level expected for this position and consistently meets what is expected in terms such as quantity, quality, timeliness, cost and customer satisfaction. Performance that "Meets Expectations" is due to the employee's own effort and skills. An employee performing at this level is dependable and makes valuable contributions to the organization. His or her judgments are sound, and he or she demonstrates knowledge and mastery of duties and responsibilities. Most employees should meet expectations in a functional, performing work unit.
  - (3) "Does Not Meet Expectations" means performance does not meet job expectations and measurements and supervisory attempts to encourage performance improvement in accordance with 25 NCAC 01O .0210 are unsuccessful.

The employee is performing the job at an unsatisfactory performance level in terms such as quantity, quality, timeliness, cost, and customer satisfaction and performance improvement counseling by the manager or supervisor has not resulted in employee performance improvement. The manager or supervisor shall continue to address performance issues with the employee with this rating level, document management efforts to encourage satisfactory performance, and document subsequent results on a Performance Improvement Plan. Failure to perform is due to the employee's lack of effort or skills. Performance counseling sessions shall be guided by next-level management or Human Resources, and may result in additional disciplinary action for the employee who fails to demonstrate improvement.

(c) The employee's final annual performance evaluation rating shall be based on results achieved relative to the employee's individual goals and organizational values. The final annual performance evaluation rating must reflect both quantity and quality of job performance relative to established goals and identified values. A final annual performance evaluation rating of "Exceeds Expectations" shall be supported by documented results and accompanied by demonstrated adherence to organizational values. A final annual performance evaluation rating of "Does Not Meet Expectations" shall be supported by documented failure to achieve results and accompanied by lack of demonstrated adherence to organizational values. An employee who does not "Meet Expectations" or "Exceeds Expectations" on all organizational values shall not be awarded a final annual performance evaluation rating of "Exceeds Expectations," regardless of level of results achieved on goals. An employee who receives a "Does Not Meet" on any goal or value shall not be awarded an annual performance evaluation rating of "Exceeds Expectations," regardless of the level of results achieved or adherence to values.

(d) Upon completion of calibration, the manager or supervisor shall hold an annual performance evaluation meeting with each employee, and a final annual performance evaluation rating shall be assigned and entered into the system of record. The manager or supervisor shall not submit a final annual performance rating for an employee unless an annual performance plan, supported by ongoing performance documentation, has been completed in compliance with this Subchapter.

(e) The manager or supervisor and the next-level manager or supervisor shall sign the annual performance evaluation. The employee shall review, sign, and date the annual performance evaluation. If the employee refuses to sign the annual performance evaluation, the manager or supervisor shall document the refusal on the annual performance evaluation.

(f) The employee shall have physical or electronic access to the employee's annual performance evaluation.

*History Note:* Authority G.S. 126-4;  
Eff. April 1, 2016.

**25 NCAC 010 .0301 IN GENERAL**  
**25 NCAC 010 .0302 BENEFITS**  
**25 NCAC 010 .0303 THE PERFORMANCE MANAGEMENT PROCESS**  
**25 NCAC 010 .0304 COMPONENTS OF AN OPERATIVE SYSTEM**

*History Note:* Authority G.S. 126-4; 126-7; 126-7(c)(7a); 143A-17; 143B-10(h);  
Eff. January 1, 1990;  
Amended Eff. July 1, 1991; January 1, 1991;  
Repealed Eff. March 1, 2005.

**25 NCAC 010 .0305 OPTIONAL COURSES OF ACTION BETWEEN 1989 AND JULY 1, 1991**

*History Note:* Authority G.S. 126-4; 126-7;  
Eff. January 1, 1990;  
Repealed Eff. July 1, 1991.