

## **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Repealed Eff.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Repealed Eff.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Repealed Eff.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Repealed Eff.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Repealed Eff.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Repealed Eff.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Repealed Eff.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Repealed Eff.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Repealed Eff.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 for a limited term to a permanent or temporary position, not to exceed 12 consecutive months, subject to the following exemptions:
- (1) Students shall be exempt from the 12-months maximum limit. "Students" include those undergraduate students taking at least 12 semester hours or graduate students taking at least nine semester hours.
  - (2) Retired employees may have temporary appointments for more than 12 months if he or she signs a statement that he or she is not available for, nor seeking permanent employment. "Retired employees" include those drawing a retirement income or social security benefits.
- (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.

*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.*

**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**

(a) A temporary part-time appointment is an appointment of less than full-time for a limited term not to exceed 12 consecutive months, subject to the following exemptions:

- (1) Students shall be exempt from the 12-months maximum limit. "Students" include those undergraduate students taking at least 12 semester hours or graduate students taking at least nine semester hours.
- (2) Retired employees may have temporary appointments for more than 12 months if he or she signs a statement that he or she is not available for, nor seeking permanent employment. "Retired employees" include those drawing a retirement income or social security benefits.

(b) Employees with a temporary part-time appointment shall not earn or accrue leave, or receive total state service credit, retirement credit, severance pay, or priority reemployment consideration.

*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.*

**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 remains unavailable for work after 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, if 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 renders 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, 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 be to prove that the employee was unavailable, that efforts were undertaken to avoid separation, and why the efforts were unsuccessful.

(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); 126-35;  
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.*

#### **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.