

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Repealed Eff.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Repealed Eff.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Repealed Eff.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Repealed Eff.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Repealed Eff.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.

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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Repealed Eff.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**
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- 25 NCAC 01I.0310 NEW AND ADDITIONAL PERMANENT: FULL OR PART-TIME POSITIONS**
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History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Amended Eff. January 1, 1989; August 1, 1980;
Repealed Eff. August 3, 1992.

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History Note: Authority G.S. 126-10;
Eff. February 1, 1976;
Amended Eff. January 1, 1989; April 1, 1981;
Repealed Eff. August 3, 1992.

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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 011.0508 MEDICAL: HEALTH: AND LABORATORY CLASSES
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History Note: Authority G.S. 126-4;
Eff. March 1, 1979;
Amended Eff. October 1, 1980;
Repealed Eff. August 3, 1992.

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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.

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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 011.0614 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.

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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 011.0706 DEMOTION/REASSIGNMENT**
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History Note: *Authority G.S. 126-4;*
Eff. February 1, 1986;
Amended Eff. May 1, 1989; January 1, 1989;
Repealed Eff. August 3, 1992.

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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.

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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.

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25 NCAC 011.1001 COMPENSATION PLAN
25 NCAC 011.1002 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 011.1003 LOCAL SALARY SCHEDULE
25 NCAC 011.1004 APPENDIX TO LOCAL SALARY SCHEDULE

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

25 NCAC 011.1005 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 011.1006 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.

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- 25 NCAC 01I.1201 POLICY**
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- 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**
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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

- 25 NCAC 01I.1301 POLICY**

25 NCAC 01I.1302 PERFORMANCE OF DUTIES
25 NCAC 01I.1303 PERSONAL CONDUCT
25 NCAC 01I.1304 SUSPENSION
25 NCAC 01I.1305 RIGHT OF APPEAL
25 NCAC 01I.1306 REFERENCE

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.

25 NCAC 01I.1307 APPEALS
25 NCAC 01I.1308 CAUSES
25 NCAC 01I.1309 DISMISSAL: CAUSES RELATING TO PERFORMANCE OF DUTIES
25 NCAC 01I.1310 DISMISSAL
25 NCAC 01I.1311 DISMISSAL: CAUSES RELATING TO PERSONAL CONDUCT
25 NCAC 01I.1312 SUSPENSION
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25 NCAC 01I.1314 SPECIAL PROVISIONS: CREDENTIALS

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.

- 25 NCAC 01I.1405 MERIT PRINCIPLE I: RECRUITMENT: SELECTION: ADVANCEMENT**
- 25 NCAC 01I.1406 MERIT PRINCIPLE II: CLASSIFICATION: COMPENSATION**
- 25 NCAC 01I.1407 MERIT PRINCIPLE III: TRAINING**
- 25 NCAC 01I.1408 MERIT PRINCIPLE IV**
- 25 NCAC 01I.1409 MERIT PRINCIPLE V**
- 25 NCAC 01I.1410 MERIT PRINCIPLE VI: POLITICAL ACTIVITY**
- 25 NCAC 01I.1411 PROCEDURE FOR SUBMISSION**
- 25 NCAC 01I.1412 AREAS NOT COVERED BY THE DELEGATION AGREEMENT**
- 25 NCAC 01I.1413 ONGOING CONDITIONS OF THE DELEGATION AGREEMENT**

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

- 25 NCAC 01I.1501 FORMPD-107**
- 25 NCAC 01I.1502 FORMPD-1**
- 25 NCAC 01I.1503 FORMS PD-100 HR AND PD-100 CD**
- 25 NCAC 01I.1504 FORMPD-119 HR**
- 25 NCAC 01I.1505 FORMPD-3**
- 25 NCAC 01I.1506 FORMPD-118**
- 25 NCAC 01I.1507 FORMPD-102**
- 25 NCAC 01I.1508 FORMPD-103**

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

25 NCAC 01I.1601 PERSONNEL ADVISORY SERVICE TO LOCAL GOVERNMENT 25 NCAC 01I.1602 DESCRIPTION OF REQUEST 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.

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.

25 NCAC 01I.1702 EMPLOYMENT OF RELATIVES

(a) The employment of close relatives within the same department or work unit of a local government agency subject to GS. Chapter 126 is to be avoided unless significant recruitment difficulties exist. If there are fewer than three other available eligibles for a vacancy and it is necessary for relatives to be considered for employment or if two individuals are already employed and marry, the following will apply:

Two members of an immediate family shall not be employed within the same department or work unit of a local government agency subject to GS. Chapter 126 if such employment will result in one supervising a member of his immediate family or where one member occupies a position which has influence over the other's employment, promotion, salary administration and other related management or personnel considerations.

(b) The term "immediate family" shall be understood to refer to that degree of closeness of relationship which would suggest that problems might be created within the work unit or that the public's philosophy of fair play in providing equal opportunity for employment to all qualified individuals would be violated. This would include wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and granddaughter. Also included are the step, half and in-law relationships as appropriate based on the above listing.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992.

25 NCAC 011.1703 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.

25 NCAC 011.1704 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.

SECTION .1800 - GENERAL PROVISIONS

25 NCAC 011.1801 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.

25 NCAC 011.1802 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.

25 NCAC 011.1803 CLASSIFICATION METHOD

All positions are defined by the types and levels of work involved and evaluated based on the application of accepted job analysis techniques and according to common job factors and the relative importance of the presence or absence of such job factors in the positions.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992.

25 NCAC 011.1804 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.

25 NCAC 011.1805 TENTATIVE AND FLAT-RATE PROVISIONS FOR TEMPORARY CLASSIFICATION

The State Human Resources Director is authorized to establish temporary classifications with tentative pay grades or flat-rate salaries when insufficient information is available to make permanent classification and pay recommendations to the State Human Resources Commission. When sufficient information is available, the Director will make a recommendation to the State Human Resources Commission which will incorporate the temporary class and pay into the permanent classification plan and pay plan. Such temporary classes, tentative pay grades and flat-rate salaries shall be administered according to all applicable rules and regulations approved by the State Human Resources Commission.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992.

25 NCAC 011.1806 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.

SECTION .1900 - RECRUITMENT AND SELECTION

25 NCAC 011.1901 RECRUITMENT

Local departments and agencies will meet their workforce needs through systematic recruitment and career support programs which identify, attract, select, and develop the human resources necessary for present and future work.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992.

25 NCAC 011.1902 POSTING AND ANNOUNCEMENT OF VACANCIES

- (a) Vacant positions to be filled will be publicized by the agency having the vacancy to permit an open opportunity for all interested employees and applicants to apply.
- (b) Vacancies which will be filled from within the agency workforce will be prominently posted in an area known to employees, and will be described in an announcement which includes at minimum the title, salary range, key duties, knowledge and skill requirements, minimum training and experience standard, and contact person for each position to be filled. An exception to this posting requirement will be permissible where a formal, pre-existing "understudy" arrangement has been established by management.
- (c) Any vacancy for which an agency wishes to consider outside applicants or outside applicants concurrently with the internal workforce shall be listed with the local Job Service Office of the Employment Security Commission. Listings will include the appropriate announcement information and vacancies so listed shall have an application period of not less than seven work days.
- (d) If an agency makes an effort to fill a vacancy from within, and is unsuccessful, the listing with the Employment Security Commission would take place when the decision is made to recruit outside. A vacancy which an agency will not fill for any reason shall not be listed; if conditions change, it shall then be treated as a new vacancy.

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

25 NCAC 011.1903 APPLICANT INFORMATION AND APPLICATION

- (a) The primary source of public information and referral for vacancies in subject local government programs is the Employment Security Commission. Interested persons may contact their local ESC Job Service Office. Other sources may also be designated by local departments and agencies.
- (b) Persons applying for a local vacancy must complete and submit the official application form designated by the hiring authority and approved by the reviewing state agency. It is not necessary for local agencies to accept official application forms in the absence of an actual vacancy under active recruitment.
- (c) 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.
- (d) An applicant may be disqualified if he:
 - (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 an application correctly or within the prescribed time limits;
 - (4) lacks the physical or mental ability to perform the essential duties of the position even with reasonable accommodation.

*History Note: Authority G.S. 126-4;
Eff. September 1, 1992.*

25 NCAC 011.1904 VETERAN'S PREFERENCE

Persons entitled to veterans' preference must so indicate on any application filed. Verifying documentation may be required by the agency.

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

25 NCAC 011.1905 SELECTION

(a) Selection of Applicants:

- (1) The selection of applicants for appointment will be based upon a relative consideration of their qualifications for the position to be filled. Advantage will be given to applicants determined to be best qualified and hiring authorities must reasonably document hiring decisions to verify this advantage was granted and explain their basis for selection.
- (2) Selection procedures and methods will be validly related to the duties and responsibilities of the vacancy to be filled. In any vacancy instance, the same selection process will be used consistently with all the applicants. Equal employment consideration will be afforded. Reference checking and other means of verifying applicant qualifications may be employed as necessary. It should be recognized and explained to persons selected that the probationary period is a required extension of the selection process.

(b) Minimum Qualifications:

- (1) The employee or applicant must possess at least the training and experience requirements, or their minimum equivalent, set forth in the state class specification for the class of the position to be filled. This shall apply in new appointments, promotions, demotions, transfers, and reinstatements.
- (2) The training and experience requirements serve as indicators of the possession of the skills, knowledges, and abilities which have been shown through job evaluation to be important to successful performance, and as a guide to primary sources of recruitment. It is recognized that a specific quantity of formal education or numbers of years experience does not always guarantee possession of the necessary skills, knowledges, and abilities for every position. Qualifications necessary to perform successfully may be attained in a variety of combinations. In evaluating qualifications, reasonable substitutions of formal education and job-related experience, one for the other, will be made upon request by the local appointing authority to the appropriate state review agency.
- (3) Management is responsible for determining the vacancy-specific qualifications that are an addition to minimum class standards. Such qualification requirements must bear a logical and job-related relationship to the minimum standard. Management shall be accountable for the adverse effects resulting from the use of qualification standards that are unreasonably construed.
- (4) The review authority for qualifications in questionable selection situations rests first with the respective Regional Personnel Office and Central Office of the Department of Human Resources, or in the state Office of Crime Control and Public Safety, and finally with the Office of State Human Resources.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992.

SECTION .2000 - APPOINTMENT AND SEPARATION

25 NCAC 011.2001 APPOINTMENT

An appointment is the approved employment 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 persons to all subject positions shall be by the action of the appointing authority.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992.

25 NCAC 011.2002 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.*

- (a) A promotion is a change to a classification at a higher level. This may result from movement to another position or by the present position being reallocated to a higher classification as a result of increases in the level of duties and responsibilities.
- (b) When it is feasible, a vacancy should be filled by promotion of a qualified permanent employee. Selection should be based upon demonstrated capacity, and quality of services. If promotion results from movement to another position, the candidate must possess the minimum training and experience for the class. If the promotion results from the present position being reallocated to a higher classification, the employee may be promoted by waiver of the stated training and experience requirements if he has satisfactorily performed for a minimum of three months prior to the reallocation.
- (c) An employee in a work-against appointment cannot be promoted, upon reallocation of his position, by waiver of training and experience requirements until he 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 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 will continue until performance meets the required standard, as certified by the appointing authority, except that in no case shall the duration be longer than nine months after initial probationary appointment (unless the person is in trainee status).
- (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 will continue in probationary status until performance meets the required standard, but in no case shall the duration be longer than nine months after initial probationary appointment (unless the person is in trainee status).

History Note: Authority G.S. 126-4;
Eff. August 3, 1992.

25 NCAC 011.2004 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.

25 NCAC 011.2005 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 011.2300 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.

SECTION .2100 - COMPENSATION

25 NCAC 011.2101 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.

25 NCAC 011.2102 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.*

25 NCAC 011.2103 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.

25 NCAC 011.2104 PAY STATUS

An employee is in pay status when working, when exhausting vacation or sick leave, or when drawing worker's compensation for a period not to exceed 12 months. An employee is not in pay status after his last day of work when separated because of resignation, dismissal, death, retirement or reduction in force.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992.

25 NCAC 011.2105 OTHER PAY

(a) For those cities or counties in which all employees are covered by a plan for a form of pay, in addition to base salary, for services performed, the coverage may be approved for agencies subject to these policies. The local authorities shall submit the plan to the State Regional Personnel Office through their Department of Human Resources Office or State Office of Crime Control and Public Safety, and certify that it is computed on a consistent basis for all employees.

(b) Where there are two or more local jurisdictions comprising a single departmental unit, the jurisdictions shall operate as one unit in establishing any special pay forms; the action shall be independent of provisions for other employees of either jurisdiction.

History Note: Authority G.S. 126-4; 126-5; 126-9;
Eff. August 3, 1992.

25 NCAC 011.2106 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.

25 NCAC 011.2107 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.

25 NCAC 011.2108 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.

SECTION .2200 - HOURS OF WORK AND OVERTIME COMPENSATION

25 NCAC 011.2201 HOURS OF WORK AND OVERTIME COMPENSATION

The state policy on "hours of work and overtime compensation" as outlined in 25 NCAC 1D .1900 is intended to provide guidance in complying with federal regulations; however, each county, district, or area jurisdiction is responsible for compliance directly to the U.S. Department of Labor.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992.

SECTION .2300 - DISCIPLINARY ACTION: SUSPENSION, DISMISSAL AND APPEALS

25 NCAC 011.2301 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 011.2302(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.*

25 NCAC 011.2302 DISMISSAL FOR UNSATISFACTORY PERFORMANCE OF DUTIES

(a) Unsatisfactory Job Performance is 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.

(b) 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.

(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 which 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-dismissal conference with the employee in accordance with the procedural requirements of the 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-dismissal conference constitute procedural violations with remedies as provided for in 25 NCAC 01B.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. August 3, 1992;
Amended Eff. April 1, 2001; December 1, 1995.*

25 NCAC 011.2303 DISMISSAL FOR GROSSLY INEFFICIENT JOB PERFORMANCE

(a) Gross Inefficiency (Grossly Inefficient Job Performance) 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:

- (1) 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 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.

(c) Prior to dismissal of an employee with permanent status on the basis of grossly inefficient job performance, there shall be a pre-dismissal conference between the employee and the agency director or designated management representative. This conference shall be held in accordance with the provisions of 25 NCAC 01I .2308.

(d) Dismissal for grossly inefficient job performance requires written notification to the employee. Such notification must 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-dismissal conference constitute procedural violations with remedies as provided for in 25 NCAC 01B.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. August 3, 1992;
Amended Eff. April 1, 2001; December 1, 1995.*

25 NCAC 01I.2304 DISMISSAL FOR PERSONAL CONDUCT

(a) Employees may be dismissed for a current incident of unacceptable personal conduct.

(b) Unacceptable personal conduct is:

- (1) conduct for which no reasonable person should expect to receive prior warning; or
- (2) job related conduct which constitutes violation of state or federal law; or
- (3) conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the agency; or
- (4) the willful violation of known or written work rules; or
- (5) conduct unbecoming an employee that is detrimental to the agency's service; or
- (6) 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 of an animal owned or in the custody of the agency; or
- (7) falsification of an employment application or other employment documentation; or
- (8) insubordination which is the willful failure or refusal to carry out a reasonable order from an authorized supervisor. Insubordination is considered unacceptable personal conduct for which any level of discipline, including dismissal, may be imposed without prior warning; or
- (9) absence from work after all authorized leave credits and benefits have been exhausted.

(b) Prior to dismissal of an employee with permanent status on the basis of unacceptable personal conduct, there shall be a pre-dismissal conference between the employee and the agency director or designated management representative. This conference shall be held in accordance with the provisions of 25 NCAC 01I .2308.

(d) Dismissals for unacceptable 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.

(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-dismissal conference constitute procedural violations with remedies as provided for in 25 NCAC 01B.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; 126-34;
Eff. August 3, 1992;
Amended Eff. April 1, 2001; December 1, 1995.*

25 NCAC 01I.2305 WRITTEN WARNING

(a) The supervisor shall monitor and promote the satisfactory performance of work assignments and acceptable standards of 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 must receive. The supervisor may elect to issue a written warning for grossly inefficient job performance or unacceptable personal conduct. The written warning must:

- (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, must be made to address these specific issues;
- (4) Tell the employee the time frame allowed for making the required improvements/corrections. Absent a specified time frame, 60 days is the time frame allowed for correcting unsatisfactory job performance. 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 improvements/corrections.

(b) A written warning must be issued in accordance with the procedural requirements of this Section, including any applicable appeal rights.

History Note: Authority G.S. 126-4;
Eff. August 3, 1992;
Amended Eff. December 1, 1995.

25 NCAC 011.2306 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 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 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-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.

(b) An agency may impose the same periods of disciplinary suspension without pay for 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.

25 NCAC 011.2307 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.

(b) Unsatisfactory Job Performance. An employee may be demoted for unsatisfactory job performance after the employee has received at least one prior disciplinary action.

(c) Grossly Inefficient Job Performance. An employee may be demoted for grossly inefficient job performance without any prior disciplinary action.

(d) Personal Conduct. An employee may be demoted for unacceptable personal conduct without any prior disciplinary action.

(e) 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.

(f) 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 range 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.
- (g) Prior to the decision to demote an employee for disciplinary reasons, the agency director or designated 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;
Eff. August 3, 1992;
Amended Eff. April 1, 2001; December 1, 1995.*

25 NCAC 011.2308 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 011.2305, 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.

25 NCAC 011.2309 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 II .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 II .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.

25 NCAC 011.2310 APPEALS

(a) An employee with permanent status who has been demoted, suspended or dismissed shall have 15 calendar days from the date of his receipt of written notice of such action to file an appeal with his agency or county grievance procedure, whichever is applicable. Grievances which do not allege discrimination must follow the agency or county grievance procedure. An appeal of a final agency decision must be filed in accordance with G.S. 150B-23 within 30 calendar days of receipt of the final agency decision. Grievances which allege unlawful workplace harassment must be submitted in writing to agency management, within 30 calendar days of the alleged harassing action, and the agency must be given 60 calendar days in which to take remedial action, if any, unless the agency has waived the 60-day period, and the employee has acknowledged such waiver. An appeal to the State Human Resources Commission of unlawful workplace harassment must be filed with the Office of Administrative Hearings in accordance with G.S. 150B-23 and within 30 calendar days of written notification of the remedial action, if any, taken by the agency.

(b) Grievances which allege discrimination not including unlawful workplace harassment may at the election of the employee, proceed through the agency or county procedure or proceed directly to the State Human Resources Commission (SHRC) for a hearing by the Office of Administrative Hearings (OAH) and a decision by the SHRC. A direct appeal to the SHRC (such appeal involving a contested case hearing by the OAH and a decision by that agency to the SPC) alleging discrimination not including unlawful workplace harassment must be filed in accordance with G.S. 150B-23 and must be filed within 30 calendar days of receipt of notice of the alleged discriminatory act.

(c) Grievances filed on an untimely basis (see G.S. 126-35, G.S. 126-36, and G.S. 126-38) must be dismissed. Allegations of discrimination, if raised more than 30 calendar days after the party alleging discrimination became aware or should have become aware of the alleged discrimination, must be dismissed. Grievances alleging unlawful workplace harassment raised more than 30 calendar days after written notification of remedial action, if any, taken by the agency must be dismissed.

History Note: Authority G.S. 126-35; 126-36; 126-38; 150B-23; 150B-36;
Eff. December 1, 1995;
Amended Eff. July 18, 2002.

SECTION .2400 - BASIC REQUIREMENTS FOR A "SUBSTANTIALLY EQUIVALENT" PERSONNEL SYSTEM

25 NCAC 011.2401 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.

25 NCAC 011.2402 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.

25 NCAC 011.2403 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.

25 NCAC 011.2404 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.*

25 NCAC 011.2405 SYSTEM PORTION V: EQUAL EMPLOYMENT OPPORTY/AFFIRMATIVE ACTION

General Requirement. Fair treatment of applicants and employees will be assured in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the federal equal employment opportunity and nondiscrimination laws.

- (1) Equal Employment Opportunity:
 - (a) Requirement. Equal employment opportunity will be assured for all persons.
 - (b) Requirement. Prohibitions against discrimination consistent with the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967 as amended, the Rehabilitation Act of 1973 as amended, and other relevant statutes will be established and enforced.
 - (c) Requirement. Retaliation against those who protest alleged discrimination shall be prohibited.
- (2) Affirmative Action:
 - (a) Requirement. The governing body will adopt a written EEO/AA policy which clearly outlines the governing body's intent, actions and commitment in regard to EEO and AA. This policy statement shall ensure greater utilization of all persons by identifying previously underutilized groups in the work force, such as women, minorities and the disabled, and making special efforts toward their recruitment, selection, appointment, promotion, development and upward mobility.
 - (b) Requirement. The jurisdiction shall develop and implement a continuing program of affirmative action in order to assure that all personnel policies and practices relevant to total employment in the jurisdiction will guarantee equal opportunity for all persons. Also, sufficient resources should be devoted to adequately implement an affirmative action program. The program should include:
 - (i) Identification and elimination of artificial barriers to equal employment opportunity.
 - (ii) Work force analysis to determine whether percentages of minorities and women employed in various job categories are substantially similar to percentages of those groups available in the relevant labor force. Where underrepresentation occurs, employment procedures will be analyzed to determine the cause.
 - (iii) Development of a systematic action plan, with goals and timetables, formulated to correct any substantial disparities or other problems identified in the work force and employment analysis.
 - (iv) Periodic evaluation of results to assess the effectiveness of the affirmative action programs in achieving affirmative action goals on a timely basis. The affirmative action plan should be updated at least every two years.
 - (c) Requirement. Management and supervisory personnel shall be evaluated for progress toward affirmative action goals.
- (3) Workforce Relations Requirement. Personnel administration within the jurisdiction will conscientiously recognize the dignity and value of the individual employee and promote means of communications, participation and understanding among all employees.

History Note: Authority G.S. 126-11;
Eff. August 3, 1992.

25 NCAC 011.2406 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.

25 NCAC 011.2407 CONDITION OF PRIVILEGE

A substantially equivalent personnel system exemption, approved by the State Human Resources Commission under NCCS 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.*

25 NCAC 011.2408 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.*

25 NCAC 011.2409 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.

25 NCAC 011.2410 SYSTEM ADVANCEMENTS

Changes or additions to an exempted personnel system portion shall be substantially equivalent in regard to new personnel legislation or making rules at the state or federal level.

History Note: Authority G.S. 126-11;
Eff. October 10, 1992.