

1 20 NCAC 02A .0101 is amended as published in 36:23 NCR, page 1836, as follows:

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3 **CHAPTER 02 – RETIREMENT SYSTEMS**  
4 **SUBCHAPTER 02A - DIVISIONAL RULES**

5  
6 **SECTION .0100 - ORGANIZATIONAL RULES**

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8 **20 NCAC 02A .0101 ORGANIZATION: AUTHORITY**

9 The ~~retirement systems division~~Retirement Systems Division of the Department of State Treasurer provides the  
10 staffing for the administration of the following agencies. The agencies and the statutory authority of each are:

- 11 (1) Teachers' and State Employees' Retirement System of North Carolina -- G.S. 135, Article 1;  
12 (2) North Carolina Local Governmental Employees' Retirement System -- G.S. 128, Article 3;  
13 (3) Public Employees' Social Security Agency -- G.S. 135, Article 2; G.S. 143A, Article 4;  
14 (4) Legislative Retirement System of North Carolina -- G.S. 120-4, Article 1A;  
15 (5) Consolidated Judicial Retirement System of N.C. -- G.S. 135, Article 4;  
16 (6) Supplemental Retirement Income Plan of North Carolina -- G.S. 135, Article 5;  
17 (7) Disability Income Plan of North Carolina -- G.S. 135, Article 6;  
18 (8) ~~Firemen's~~Firefighters' and Rescue Squad Workers' Pension Fund -- G.S. 58, Article 86;  
19 (9) Register of Deeds' Supplemental Pension Fund -- G.S. 161, Article 3.  
20 (10) National Guard Pension Fund – G.S. 127A, Article 3.

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22 *History Note: Authority G.S. 128-28(g); 135-6(f);*  
23 *Eff. February 1, 1976;*  
24 *Readopted Eff. September 21, 1977;*  
25 *Amended Eff. October 1, 1993; August 1, 1988; April 1, 1985; October 1, 1983;*  
26 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*  
27 *~~2018-2018;~~*  
28 *Amended Eff. January 1, 2023.*  
29

1 20 NCAC 02A .0102 is amended as published in 36:23 NCR, page 1836 as follows:

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3 **20 NCAC 02A .0102 EXERCISE OF AUTHORITY**

4 All of the above named agencies, with the exception of the ~~N.C.~~Public Employees' Social Security Agency, exercise  
5 their prescribed statutory powers independently of the State Treasurer. However, those functions such as planning,  
6 organizing, staffing, directing, coordinating, ~~reporting-reporting,~~ and budgeting are performed under the direction and  
7 supervision of the State Treasurer. In the case of the N.C. Public Employees' Social Security Agency, all its prescribed  
8 statutory authority, powers, ~~duties,duties~~ and functions, including rule-making, are vested in the State Treasurer.

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10 *History Note: Authority G.S. 135-6(f); 128-28(g);*

11 *Eff. February 1, 1976;*

12 *Readopted Eff. September 21, 1977;*

13 *Amended Eff. October 29, 1979;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*  
15 *~~2018~~2018;*

16 *Amended Eff. January 1, 2023.*

17

1 20 NCAC 02A .0103 is readopted with changes as published in 36:23 NCR, page 1837, as follows:

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3 **20 NCAC 02A .0103 DELEGATION OF AUTHORITY TO DIRECTOR**

4 Whenever the statutes specify that the ~~board~~Board of ~~trustees~~Trustees itself will make specific findings in specific  
5 matters relating to specific persons, the ~~director~~Director of the Retirement Systems Division may make the decisions  
6 administratively in accordance with law and the rules, ~~regulations~~regulations, and previous decisions of this  
7 ~~board~~Board. Appeals may be made from the decision of the ~~director~~Director under the same procedures used for  
8 contested cases.

9

10 *History Note: Authority G.S. 128-28(g); 135-6(f);*

11 *Eff. September 21, 1977;*

12 *Amended Eff. October 29, ~~1979~~1979;*

13 *Readopted Eff. January 1, 2023.*

14

1 20 NCAC 02A .0104 is readopted with changes, as published in 36:23 NCR, page 1837, as follows:

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4 **20 NCAC 02A .0104 EXERCISE OF EMPLOYER OPTIONS**

5 No election of an optional element of a retirement system shall be considered effective by the ~~retirement~~  
6 ~~system~~Retirement System unless a duly certified copy of the minutes of the governing board of the employer is  
7 received and the terms under which the option is elected do not discriminate in favor of the more highly compensated  
8 employees.

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10 *History Note: Authority G.S. 128-28(g); 135-6(f);*

11 *Eff. November 9, ~~1979~~, 1979;*

12 *Readopted Eff. January 1, 2023.*

13

1 20 NCAC 02A .0201 is amended as published in 36:23 NCR, page 1837 as follows:

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**SECTION .0200 - RULE-MAKING PROCEDURES**

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**20 NCAC 02A .0201 ESTABLISHMENT OF PROCEDURAL RIGHTS**

6 The rules in 20 NCAC 01F .0100 establish rule-making procedures for the Retirement Systems Division of the

7 Department of State Treasurer. ~~All correspondence with the Retirement Systems Division shall be addressed to:~~

8 ~~Director of the Retirement Systems~~

9 ~~Longleaf Building~~

10 ~~3200 Atlantic Avenue~~

11 ~~Raleigh, North Carolina 27604.~~

12

13 *History Note: Authority G.S. 128-28(g); 135-6(f);*

14 *Eff. February 1, 1976;*

15 *Readopted Eff. September 21, 1977;*

16 *Amended Eff. October 1, 1993; October 29, 1979;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*  
18 *2018;*

19 *Amended Eff. September 1, ~~2019-2019~~;*

20 *Amended Eff. January 1, 2023.*

21

1 20 NCAC 02A .0202 is amended as published in 36:23 NCR, page 1837 as follows:

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3 **20 NCAC 02A .0202 DEFINITIONS**

4 The following definitions apply to rule-making in 20 NCAC 1F .0100:

5 (1) The "Division" is the Retirement Systems Division and includes the agencies enumerated in 20  
6 NCAC 2A .0101.

7 (2) The "~~Chief Officer~~" "Director" is the Director of the Retirement ~~Systems~~Systems Division.

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9 *History Note: Authority G.S. 135-6(f); 128-28(g);*

10 *Eff. February 1, 1976;*

11 *Readopted Eff. September 21, 1977;*

12 *Amended Eff. October 1, 1993; October 29, 1979;*

13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*  
14 *~~2018-2018;~~*

15 *Amended Eff. January 1, 2023.*

16

1 20 NCAC 02A .0301 is readopted as published in 36:23, page 1837, follows:  
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3 **SECTION .0300 - DECLARATORY RULINGS**

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6 **20 NCAC 02A .0301 ESTABLISHMENT OF PROCEDURAL RIGHTS**

7 The rules in 20 NCAC 1F .0200 establish declaratory ruling procedures for the Retirement Systems Division of the  
8 Department of State Treasurer, with the following exception. All requests for declaratory rulings from the Retirement  
9 Systems Division shall be in writing and mailed to the attention of the Director at the following address:

10 Director of the Retirement Systems Division  
11 Department of State Treasurer  
12 3200 Atlantic Avenue  
13 Raleigh, North Carolina 27604.

14  
15 *History Note: Authority G.S. 135-6(f); 128-28(g);*  
16 *Eff. February 1, 1976;*  
17 *Readopted Eff. September 21, 1977;*  
18 *Amended Eff. October 1, ~~1993-1993~~;*  
19 *Readopted Eff. January 1, 2023.*  
20

1 20 NCAC 02A .0302 is amended as published in 36:23, page 1837 as follows:

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3 **20 NCAC 02A .0302 DEFINITIONS**

4 The following definitions apply to declaratory rulings in 20 NCAC 1F .0200:

5 (1) The "Division" is the Retirement Systems Division;

6 (2) The "~~Chief Officer~~" "Director" is the Director of the Retirement ~~Systems~~Systems Division.

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8 *History Note: Authority G.S. 135-6(f); 128-28(g);*

9 *Eff. February 1, 1976;*

10 *Readopted Eff. September 21, 1977;*

11 *Amended Eff. October 1, 1993;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*

13 *~~2018-2018;~~*

14 *Amended Eff. January 1, 2023.*

15



1 20 NCAC 02A .0303 is repealed through readoption as published in 36:23 NCR, page 1837 as follows:

2

3 **20 NCAC 02A .0303 RECONSIDERATION OF DECLARATORY RULINGS**

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5 *History Note: Authority G.S. 135-6(f); 128-28(g);*

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*Eff. October 29, ~~1979~~1979;*

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*Repealed Eff. January 1, 2023.*

8

1 20 NCAC 02A .0401 is readopted as published in 36:23 NCR page 1837 as follows:

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3 **SECTION .0400 - CONTESTED CASE PROCEDURES**

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6 **20 NCAC 02A .0401 ESTABLISHMENT OF PROCEDURAL RIGHTS**

7 Article 3 of G.S. 150B establishes ~~The rules in 20 NCAC 1F .0300 establish~~ contested case procedures for the  
8 Retirement Systems Division of the Department of State Treasurer, ~~with following amendments:~~ All correspondence  
9 with the Retirement Systems Division shall be addressed to:

10 Director of the Retirement Systems Division

11 Department of State Treasurer

12 3200 Atlantic Avenue

13 Raleigh, North Carolina 27604.

14 (1) Informal resolution of the problem begins when a person calls, writes, or visits the ~~state~~  
15 ~~retirement~~Retirement systemSystems Division’s Member Services sectionoffice and describes the  
16 problem to a ~~counselor/field~~representative;

17 (2) If the problem is not resolved during this initial contact, the person may request an administrative  
18 review of the Division’s decision or action; ~~will be referred to the administrator of the appropriate~~  
19 ~~section;~~

20 ~~(3) If the problem is not resolved at this level, the person may discuss it with the Assistant Director of~~  
21 ~~the Retirement Systems;~~

22 ~~(4)(3) The~~ If the aggrieved person is dissatisfied at this point, he may discuss his difficulty with the  
23 Director of the Retirement Systems, or the Director’s designee, will issue a Final Agency Decision  
24 in writing, which will serve as the “agency decision” for purposes of G.S. 150B-23(f).

25  
26 *History Note: Authority G.S. 128-28(g); 135-6(f); 150B-23;*

27 *Eff. February 1, 1976;*

28 *Readopted Eff. September 21, 1977;*

29 *Amended Eff. October 1, ~~1993-1993~~;*

30 *Readopted Eff. January 1, 2023.*

31

1 20 NCAC 02A .0503 is amended as published 36:23 NCR, page 1838, as follows:

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3 **20 NCAC 02A .0503 DUAL MEMBERSHIP - COMPUTATION OF SERVICE AND BENEFITS**

4 (a) This Rule applies to any individual case in which the member had one or more periods of dual membership in  
5 those rare cases which are permitted by law. Dual membership means membership in two systems, at the same time,  
6 by virtue of the same position.

7 (b) Eligibility shall be established for the death benefit, survivor's alternate benefit, service, early or disability  
8 retirement or other benefits which are based on creditable or membership service for both systems whenever eligibility  
9 is established in either one of the systems.

10 (c) A statute permitting transfer of membership and prior service shall apply when a person becomes a member of a  
11 ~~retirement~~Retirement system~~System~~ to which the membership and prior service may be transferred from one or the  
12 other of the systems in which the member had dual membership. This shall apply only where the member is paid  
13 under only one ~~retirement~~Retirement system~~System~~ for services rendered subsequent to the last day of service in a  
14 position in which the member had dual membership.

15 (d) ~~Death benefit~~benefits for active members shall be ~~limited to twenty thousand dollars (\$20,000) and shall be~~  
16 allocated pro rata between systems based on the total compensation paid during the eligibility period.

17 (e) Other benefits shall be calculated by:

18 (1) Compute "Average Final Compensation" on the basis of compensation on which the member would  
19 have contributed had ~~the member~~he not been earning "split" service as an employee with dual  
20 membership.

21 (2) Compute creditable service as follows:

22 (A) the number of months of creditable service the member earned or acquired which were  
23 based on compensation for service in only one of the systems; plus

24 (B) the total of the fractional months earned by the member in each of the systems during  
25 periods of dual membership; where

26 (C) the fractional months during periods of dual membership is equal to the same fraction of a  
27 month that the compensation reported to the system bears to the total compensation  
28 reported to all systems. The fractional months are to be computed as follows. First, identify  
29 the total compensation earned by the member in each of the systems during periods of dual  
30 membership, as determined in Subparagraph (e)(2)(B) of this Rule. Second, add together  
31 the total compensation earned by the member in each of the systems during periods of dual  
32 membership, as determined in Subparagraph (e)(2)(B) of this Rule, to produce a Grand  
33 Total. Third, divide the total compensation earned by the member in each of the systems  
34 during periods of dual membership, as determined in Subparagraph (e)(2)(B) of this Rule,  
35 by the Grand Total, as determined in the previous sentence, to produce a factor, carried to  
36 the fourth decimal place, known as the Modification Factor, for each system. Fourth,  
37 multiply the total of the fractional months, as determined in Subparagraph (e)(2)(B) of this

1 Rule, by the Modification Factor for each system, as determined in the previous sentence,  
2 to determine the actual creditable service allowed for each system during periods of dual  
3 membership.

4 (3) Compute the annual allowance for a member by multiplying the average final compensation times  
5 the creditable service as computed in Subparagraphs (1) and (2) of this Paragraph.

6 (4) Allocate the benefits to be paid from each system pro rata on share of creditable service in each  
7 system as computed in ~~(d)(2)~~ Subparagraph (e)(2) of this Rule.

8 (f) This Rule shall apply to any individual case in which a member with dual membership commenced retirement  
9 with one ~~retirement~~ Retirement system ~~System~~ prior to the effective date of this Rule and continued in service under  
10 the other ~~retirement~~ Retirement system ~~System~~. In such cases, the retirement allowance of the member from the system  
11 with which ~~he the member~~ first retired shall be recomputed in accordance with this Rule and paid retroactively to the  
12 effective date of this Rule.

13  
14 *History Note: Authority G.S. 128-28(g); 135-6(f);*

15 *Eff. December 1, 1981;*

16 *Amended Eff. March 1, ~~1985-1985~~;*

17 *Amended Eff. January 1, 2023.*

18

1 20 NCAC 02A .0504 is readopted with changes as published in 36:23 NCR page 1838, as follows:

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3 **20 NCAC 02A .0504 DIRECT DEPOSIT OF MONTHLY BENEFIT PAYMENTS**

4 (a) This Rule applies to any individual case in which a beneficiary's monthly benefit was paid via electronic funds  
5 transfer (EFT) or direct deposit, when such EFT was suspended by the Division in error. This Rule does not apply to  
6 any individual case involving a delay by this Division to initiate an EFT or a change in an existing EFT arrangement  
7 requested by a beneficiary.

8 (b) The Division may reimburse non-sufficient fund charges incurred by a beneficiary due to the suspension in error  
9 of an existing EFT arrangement when the beneficiary was not properly notified of the suspension of such arrangement  
10 and upon receipt of satisfactory proof that such charges were incurred.

11 (c) Any other bad check service charges or fees imposed by any financial institution or merchant may be reimbursed  
12 at the discretion of the Division Director upon receipt of satisfactory proof that such charges were incurred.

13 (d) Any such reimbursement of non-sufficient fund NSF or bad check service charges shall be paid from the Pension  
14 Accumulation Fund of the Retirement System in which the beneficiary is in receipt of a benefit.

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16 *History Note: Authority G.S. 128-28(g); 135-6(f); 135-52; 135-102(c);*

17 *Eff. March 1, ~~1992~~1992;*

18 *Amended Eff. January 1, 2023.*

1 20 NCAC 02A .0505 is adopted as published in 36:23 NCR, page 1838, as follows:

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3 **20 NCAC 02A .0505 ADMINISTRATIVE FEES FOR SERVICE PURCHASES**

4 (a) This Rule applies to purchase of creditable service whenever a statutory provision prescribes that the  
5 calculation of the amount payable shall include an administrative fee to be set by the Board. An applicant  
6 shall be eligible to purchase creditable service under any such provision only after having met all  
7 requirements of eligibility for purchase as defined by law and by rules duly adopted.

8 (b) An administrative fee in the amount of twenty-five dollars (\$25.00) for each payment shall be assessed  
9 members at the time of purchase as provided by law.

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11 *History Note: Authority G.S. 135-6(f); 128-28(g);*

12 *Eff. January 1, 2023.*

13