

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01C .0405

DEADLINE FOR RECEIPT: July 9, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Line 6: Authorized by whom? Or are you referring to a statute which establishes the levels? In which case cite the statute.

Line 20: By incorporating the language of the statute into the rule, the agency needs to define ambiguous language in the statute. It needs to define "severe harm" and "vital services" or state factors that the Director will use in making the determination.

Line 23: Explain the authority to expand the Rule to all temporary employees of the State when G.S. 126-6.3(a) appears to be limited to "all cabinet agencies."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: June 25, 2024

Permanent Amendment for Publication in the NCAC

25 NCAC 01C .0405 is amended as published in 38:18 NCR 1204-1205 as follows:

25 NCAC 01C .0405 Temporary Appointment

(a) A temporary appointment is an appointment to fill a workforce need for a limited period of time. Temporary employees ~~may~~shall not be used to permanently expand the workforce beyond authorized levels. Temporary appointments shall not exceed 11 consecutive months, subject to the following exemptions:

- (1) Full-time students, defined as those undergraduate students taking at least 12 credit hours or graduate students taking at least 9 credit hours;
- (2) Retired employees, defined as those individuals drawing a retirement income or Social Security benefits and ~~having~~who have signed a statement that they are not available for, nor seeking, permanent employment;
- (3) Inmates that are on a work-release program;
- (4) Interns, defined as those students who, regardless of the number of credit hours enrolled, work to gain occupational experience for a period of ~~time not to exceed three months~~at least one academic semester; and
- (5) Externs, defined as those students who, regardless of the number of credit hours enrolled, are employed as part of a written agreement between the State and an academic institution through which the student is paid and earns course credit; and
- (6) Exceptions that were granted under G.S. 126-6.3(a3)(3).

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

(c) This Rule applies to all temporary employees employed by the State.

(d) The calculation of consecutive months in subsection (a) of this Rule shall restart only after a separation of at least 31 consecutive calendar days after the last day that person worked for the State in a temporary appointment. After a separation of this length, and only after such a separation, an individual who was employed for 11 consecutive months by temporary appointment shall be eligible for a new or reinstated temporary appointment.

History Note: Authority G.S. 126-4(5); 126-4(6); 126-4(7a); 126-4(19);
 Eff. February 1, 1976;
 Amended Eff. August 1, 1995; November 1, 1991; December 1, 1978; Readopted Eff. April 1, 2016;
 Amended Eff. December 1, ~~2021-2021~~; _____, 2024.