

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

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02B .0215

DEADLINE FOR RECEIPT: Friday, June 7, 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:

In the Introductory Statement, line 1, please insert the publication information, as well. "20 NCAC 02B .0215 is adopted as published in 38:11 NCR, page 729, as follows:"

On line 6 (a), is "overpayment" defined in the General Statutes, the NCAC, or your internal policies? If so, please cite the definition or incorporated by reference in the Rule.

On line 6 (a), what is meant by "not entirely due to administrative error?" Who makes this determination? How is the degree or percentage of fault for overpayment determined?

On line 32, delete "Additionally" and capitalize "the."

*On line 39, please insert an effective date in the History Note. Please note, the earliest date this can be effective is July 1, 2024. "History Note: Authority G.S. 135-9(c1)
Eff. July 1, 2024"*

On line 39, I don't interpret G.S. 135-9(c1) as providing authority for your agency to implement this Rule. How does this statute authorize your agency to implement a rule declaring what would not be an administrative error by your agency? It seems that (a)(1)-(5) may fall under G.S. 150B-2(8g). Do you agree? Please explain.

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

20 NCAC 02B .0215 is proposed for adoption as follows:

20 NCAC 02B .0215 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM
OVERPAYMENT SAFE HARBOR

(a) The following causes of overpayments are not entirely due to administrative error on the part of the Retirement Systems Division:

- (1) The beneficiary received, but did not repay to the Retirement System or the Disability Income Plan of North Carolina, a benefit from the Social Security Administration, the U.S. Department of Veterans Affairs, other federal agency payments, Workers' Compensation, or the State's military disability program under G.S. 127A-108, where such benefits are required by law to be offset from benefits paid by the Retirement System or the Disability Income Plan of North Carolina, or where repayment of such benefits was agreed upon as a condition of approval for benefits from the Retirement System or the Disability Income Plan of North Carolina.
- (2) The beneficiary, the beneficiary's employer, or the beneficiary's authorized agent submitted any information on an official form to the Retirement Systems Division, either on paper or electronically, that differed from the information ultimately used to determine the eligibility for, or amount of, benefits due.
- (3) The Retirement Systems Division requested information necessary to initiate or continue the payment of benefits, by sending a letter to the mailing address that the beneficiary, the beneficiary's employer, or the beneficiary's authorized agent placed on file with the Retirement Systems Division, allowing at least three weeks between the date of the letter and the date for a response to be received, and the Retirement Systems Division did not receive a response by the time requested.
- (4) A State or local government agency reported information to the Retirement Systems Division, including employment status, dates of service, or amounts of compensation, which changed the eligibility for, or amount of, benefits due to the beneficiary.
- (5) The beneficiary experienced a forfeiture of creditable service for having been convicted of a felony under the provisions of G.S. 135-18.10, G.S. 135-18.10A, G.S. 135-75.1, or G.S. 135-75.1A .

(b) The Retirement Systems Division may initiate a review of the facts and circumstances related to the origin of any overpayment from the Retirement System or the Disability Income Plan of North Carolina, with the purpose of determining if the overpayment was entirely due to administrative error on the part of the Retirement Systems Division and therefore eligible for the alternate repayment terms of G.S. 135-9(c1). Additionally, the Director of the Retirement Systems Division shall, upon receipt of a written request by a beneficiary, beneficiary's employer, or the beneficiary's authorized agent, initiate such a review. If the Director determines the overpayment is not entirely due to administrative error on the part of the Retirement Systems Division, the Retirement Systems Division shall issue a letter to the requestor setting forth the reason or reasons for the denial. The Director shall make determinations on such requests pursuant to the authority provided under 20 NCAC 02A .0103.

History Note: Authority G.S. 135-9(c1)

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

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02C .0212

DEADLINE FOR RECEIPT: Friday, June 7, 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:

In the Introductory Statement, line 1, please insert the publication information, as well. "20 NCAC 02C .0212 is adopted as published in 38:11 NCR, pages 731-2, as follows:"

On line 6 (a), is "overpayment" defined in the General Statutes, the NCAC, or your internal policies? If so, please cite the definition or incorporated by reference in the Rule.

On line 6 (a), what is meant by "not entirely due to administrative error?" Who makes this determination? How is the degree or percentage of fault for overpayment determined?

On line 30, delete "Additionally" and capitalize "the."

*On line 37, please insert an effective date in the History Note. Please note, the earliest date this can be effective is July 1, 2024. "History Note: Authority G.S. 128-31(c1)
Eff. July 1, 2024"*

On line 37, I don't interpret G.S. 128-31(c1) as providing authority for your agency to implement this Rule. How does this statute authorize your agency to implement a rule declaring what would not be an administrative error by your agency? It seems that (a)(1)-(5) may fall under G.S. 150B-2(8g). Do you agree? Please explain.

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

20 NCAC 02C .0212 is proposed for adoption as follows:

20 NCAC 02C .0212 LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM
OVERPAYMENT SAFE HARBOR

(a) The following causes of overpayments are not entirely due to administrative error on the part of the Retirement Systems Division:

- (1) The beneficiary received, but did not repay to the Retirement System, a benefit from the Social Security Administration, the U.S. Department of Veterans Affairs, other federal agency payments, Workers' Compensation, or the State's military disability program under G.S. 127A-108, where such benefits are required by law to be offset from Retirement System benefits, or where repayment of such benefits was agreed upon as a condition of approval for benefits from the Retirement System.
- (2) The beneficiary, the beneficiary's employer, or the beneficiary's authorized agent submitted information on an official form to the Retirement Systems Division, either on paper or electronically, that differed from the information ultimately used to determine the eligibility for, or amount of, benefits due.
- (3) The Retirement Systems Division requested information necessary to initiate or continue the payment of benefits, by sending a letter to the mailing address that the beneficiary, the beneficiary's employer, or the beneficiary's authorized agent on file with the Retirement Systems Division, allowing at least three weeks between the date of the letter and the date for a response to be received, and the Retirement Systems Division did not receive a response by the time requested.
- (4) A State or local government agency reported information to the Retirement Systems Division, including employment status, dates of service, or amounts of compensation, which changed the eligibility for, or amount of, benefits due to the beneficiary.
- (5) The beneficiary experienced a forfeiture of creditable service for having been convicted of a felony under the provisions of G.S. 128-38.4 or G.S. 128-38.4A.

(b) The Retirement Systems Division may initiate a review of the facts and circumstances related to the origin of any overpayment from the Retirement System, with the purpose of determining if the overpayment was entirely due to administrative error on the part of the Retirement Systems Division and therefore eligible for the alternate repayment terms of G.S. 128-31(c1). Additionally, the Director of the Retirement Systems Division shall, upon receipt of a written request by a beneficiary, beneficiary's employer, or the beneficiary's authorized agent, initiate such a review. If the Director determines the overpayment is not entirely due to administrative error on the part of the Retirement Systems Division, the Retirement Systems Division shall issue a letter to the requestor setting forth the reason or reasons for the denial. The Director shall make determinations on such requests pursuant to the authority provided under 20 NCAC 02A .0103.

History Note: Authority G.S. 128-31(c1)

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

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02O .0104

DEADLINE FOR RECEIPT: Friday, June 4, 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:

In the Introductory Statement, line 1, please insert the publication information, as well. "20 NCAC 02O .0104 is adopted as published in 38:11 NCR, page 730, as follows:"

On line 6 (a), what is your agency's statutory authority to designate "Only" the Medical Board?

On line 15 (c), under what circumstances "may" the Director "designate additional positions?" What criteria is used to determine whether the Director "may" use this authority?

On line 17 (d), what is your agency's statutory authority to designate "Only" the Medical Board as having the authority to approve applications?

On line 18 (d), what is meant by "actively?" Is this adverb necessary or can it be deleted?

On line 21, please insert an effective date in the History Note. Please note, the earliest date this can be effective is July 1, 2024. "History Note: Authority G.S. 135-105(f); 135-105(g) Eff. July 1, 2024"

On line 21, I don't interpret G.S. 135-105(f) and 135-105(g) as providing authority for your agency to designate who can approve or deny disability benefits. Please explain.

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

Travis Wiggs
Commission Counsel
Date submitted to agency: May 20, 2024

20 NCAC 02O .0104 is proposed for adoption as follows:

**20 NCAC 02O .0104 SHORT-TERM DISABILITY AND EXTENDED SHORT-TERM DISABILITY
APPROVALS**

(a) Only the Medical Board shall have the authority to deny short-term and extended short-term disability benefits.

(b) The following positions or entities shall have the authority to approve short-term and extended short-term disability benefits on behalf of the Retirement Systems Division:

(1) Director of the Retirement Systems Division;

(2) Director of Operations;

(3) Disability Benefits Processing Manager;

(4) Disability Benefits Processing Supervisor;

(5) Clinical Reviewer; or

(6) Medical Board.

(c) The Director of the Retirement Systems Division may designate additional positions to have the authority to approve, but not deny, short-term and extended short-term disability benefits.

(d) Only the Medical Board may approve applications for short-term or extended-short-term disability benefits from individuals who have been actively employed at the Department of State Treasurer within the 365 days preceding the date of disability indicated on the individual's application for benefits.

History Note: Authority G.S. 135-105(f); G.S. 135-105(g)

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

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02O .0105

DEADLINE FOR RECEIPT: Friday, June 7, 2024.

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

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

In the Introductory Statement, line 1, please insert the publication information, as well. "20 NCAC 02O .0105 is adopted as published in 38:11 NCR, page 730, as follows:"

On line 5 (a), delete the "s" at the end of "Systems."

On line 7, change "if" to "is."

On line 10 (c), add an "s" to the end of "System."

*On line 21, please insert an effective date in the History Note. Please note, the earliest date this can be effective is July 1, 2024. "History Note: Authority G.S. 135-105(d)
Eff. July 1, 2024"*

On line 21, I don't interpret G.S. 135-105(d) as providing authority for your agency to implement this Rule. G.S. 135-105(d) doesn't contain any of the words defined in this Rule. Please explain.

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

20 NCAC 02O .0105 is proposed for adoption as follows:

20 NCAC 02O .0105 SHORT-TERM DISABILITY NOTIFICATION DATE

(a) “Date of submission” means the date indicated on the Retirement Systems Division’s hand-stamped postal mark if the submission is by mail or in person, the timestamp if the submission is by email, or the transmission date if the submission if by facsimile transmission.

(b) “Notifications made” pursuant to G.S. 135-105(d) means the submission of a written request for reimbursement by an employer.

(c) “Submission” means the act of presenting a document to the Retirement System Division for processing, consideration, or determination through one of the following methods:

(1) Mail to the mailing address in Rule 20 NCAC 02B .0101;

(2) Electronic mail (email);

(3) Facsimile transmission; or

(4) In person at the physical address in Rule 20 NCAC 02B .0101.

History Note: Authority G.S. 135-105(d)

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

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02O .0106

DEADLINE FOR RECEIPT: Friday, June 7, 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:

In the Introductory Statement, line 1, please insert the publication information, as well. "20 NCAC 02O .0106 is adopted as published in 38:11 NCR, pages 730-1, as follows:"

On line 5 (a), delete the "s" at the end of "Systems."

On line 7, change "if" to "is."

On lines 8-9 (b), I suggest rewording after "means" to say: "submission, in a method prescribed by 20 NCAC 02O .0105 (c), of the following information:"

On line 25, please clarify who is furnishing the medical information to whom "at no cost."

On line 28 (c), please add an "s" to "System."

*On line 35, please insert an effective date in the History Note. Please note, the earliest date this can be effective is July 1, 2024. "History Note: Authority G.S. 135-105(g)
Eff. July 1, 2024"*

On line 35, I don't interpret G.S. 135-105(g) as providing authority for your agency to implement this Rule. G.S. 135-105(g) doesn't contain any of the words defined in this Rule. Please explain.

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

Travis Wiggs
Commission Counsel
Date submitted to agency: May 20, 2024

20 NCAC 02O .0106 is proposed for adoption as follows:

20 NCAC 02O .0106 EXTENDED SHORT-TERM DISABILITY APPLICATION DATE

(a) "Date of submission" means the date indicated on the Retirement Systems Division's hand-stamped postal mark if the submission is by mail or in person, the timestamp if the submission is by email, or the transmission date if the submission is by facsimile transmission.

(b) "Makes an application" pursuant to G.S. 135-105(g) means submission of the following information, in a method prescribed by the Retirement Systems Division:

(1) Full name;

(2) Mailing address;

(3) Email address;

(4) Telephone number;

(5) Date of birth;

(6) Member identification number assigned by the Retirement Systems Division;

(7) Last four digits of Social Security Number;

(8) Current or most recent employer;

(9) Employer contact name; and

(10) Signed and dated acknowledgement that the member has been receiving short-term benefits from the Disability Income Plan of North Carolina; is applying for extended short-term benefits; certifies that the illness did not result from active participation in a riot or actual or attempted commission of a terrorist act, felony, or intentional self-inflicted injury; authorizes health care providers to release to the Retirement Systems Division any medical records or other information about the disability; understands that a copy of such authorization will be as valid as the original; understands that the medical information is to be furnished at no cost; and understands that the member cannot withdraw contributions from the Retirement System while receiving benefits under the Disability Income Plan of North Carolina.

(c) "Submission" means the action of presenting a document to the Retirement System Division for processing, consideration, or determination through one of the following methods:

(1) Mail to the mailing address in Rule 20 NCAC 02B .0101;

(2) Electronic mail (email);

(3) Facsimile transmission; or

(4) In person at the physical address in Rule 20 NCAC 02B .0101.

History Note: Authority G.S. 135-105(g)