

NORTH CAROLINA REGISTER

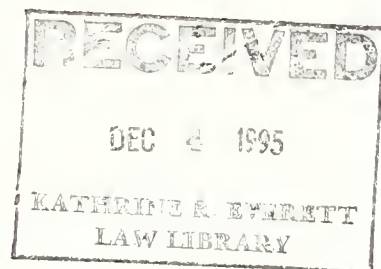
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December 1, 1995**

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Rules Review Commission Objections
Contested Case Decisions

PUBLISHED BY

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December 1, 1995

This issue contains documents officially
filed through November 7, 1995.

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volume and issue number	issue date	last day for filing	end of com- ment period	earliest reg- ister issue for publica- tion of text	earliest date for public hearing	A. non-substantial economic impact			B. substantial economic impact		
						end of re- quired com- ment period	deadline to submit to RRC for review at next RRC meeting	first legisla- tive day of the next regular ses- sion	end of re- quired com- ment period	deadline to submit to RRC for review at next RRC meeting	first legisla- tive day of the next regular ses- sion
10:17	12/01/95	11/07/95	01/30/96	02/01/96							
10:18	12/15/95	11/22/95	02/13/96	02/15/96							
10:19	01/02/96	12/07/95	03/04/96	03/15/96							
10:20	01/16/96	12/20/95	03/18/96	04/01/96							
10:21	02/01/96	01/10/96	04/01/96	04/15/96	02/16/96	03/04/96	03/20/96	05/13/96	04/01/96	04/22/96	01/30/97
10:22	02/15/96	01/25/96	04/15/96	05/01/96	03/01/96	03/18/96	03/20/96	05/13/96	04/15/96	04/22/96	01/30/97
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11:12	09/16/96	08/23/96	11/15/96	12/02/96	10/01/96	10/16/96	10/21/96	01/30/97	11/15/96	11/20/96	01/30/97

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2B .0103 and the Rules of Civil Procedure, Rule 6.

GENERAL	FILING DEADLINES	NOTICE OF RULE-MAKING PROCEEDINGS	NOTICE OF TEXT
<p>The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:</p> <ul style="list-style-type: none"> (1) temporary rules; (2) notices of rule-making proceedings; (3) text of proposed rules; (4) text of permanent rules approved by the Rules Review Commission; (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165; (6) Executive Orders of the Governor; (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; (8) orders of the Tax Review Board issued under G.S. 105-241.2; and (9) other information the Codifier of Rules determines to be helpful to the public. <p>COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.</p>	<p>ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month closest to (either before or after) the first or fifteenth respectively that is not a Saturday, Sunday, or holiday for State employees.</p> <p>LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.</p>	<p>END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS: This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.</p> <p>EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT: The date of the next issue following the end of the comment period.</p>	<p>EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.</p> <p>END OF REQUIRED COMMENT PERIOD</p> <p>(1) RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT: An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.</p> <p>(2) RULE WITH SUBSTANTIAL ECONOMIC IMPACT: An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the rule, whichever is longer.</p>
			<p>DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.</p>
			<p>FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.</p>

**EXECUTIVE ORDER NO. 87
EXTENDING EXECUTIVE ORDERS
26, 27, 28, 29, 30, AND 34**

By the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

Section 1.

The following Executive Orders are hereby extended for two years:

- A. Executive Order No. 26, Board of Trustees of the N.C. Public Employee Deferred Compensation Plan;
- B. Executive Order No. 27, Governor's Commission for Recognition of State Employees;
- C. Executive Order No. 28, Agriculture, Forestry, and Seafood Industry Advisory Committee;
- D. Executive Order No. 29, Teacher Advisory Committee;
- E. Executive Order No. 30, Highway Beautification Council; and
- F. Executive Order No. 34, Highway Safety Commission.

This Executive Order is effective immediately.

Done in Raleigh, North Carolina this the 27th day of October, 1995.

**EXECUTIVE ORDER NO. 88
AMENDING STATEWIDE FLEXIBLE
BENEFITS PROGRAM**

WHEREAS, State employees are an important resource to state government; and

WHEREAS, the State needs to provide a uniform competitive compensation package that includes an up-to-date benefits program in order to maintain its competitive edge with businesses and other states in its region; and

WHEREAS, the State needs to provide the same tax-advantaged benefits to all State employees, regardless of the agency, department or university where they work; and

WHEREAS, the reasonable cost of administering an efficiently designed flexible benefits program could be recovered by the savings associated with such a program;

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of North Carolina, **IT IS ORDERED:**

Section 1. Policy.

A statewide employee flexible benefits coordination effort is hereby formalized for the purpose of administering these benefits to employees and to promote the development and

maintenance of a competitive compensation package for all State employees.

Section 2. Administration.

There is created within the Office of State Personnel a Statewide Employee Flexible Benefits Program (SEFBP). The State Personnel Director shall be responsible for central flexible benefits coordination for all State employees. The administration of the statewide flexible benefits plan shall become the responsibility of SEFBP. This program shall begin the process of assessing the flexible benefits plan design, administrative procedures, administrative capabilities, and communications needs for the implementation of a comprehensive statewide flexible benefits plan. These responsibilities include, but are not limited to the following:

- (a) Implementing the Statewide Flexible Benefits Plan;
- (b) Administering contracts for supplemental insurance carriers and third party administrators for spending accounts and premium conversion plans participating in the SEFBP;
- (c) Coordinating administration of spending accounts;
- (d) Coordinating enrollment and communication efforts concerning the SEFBP and other benefit programs;
- (e) Coordinating the Statewide Flexible Benefits Advisory Committee; and
- (f) Speaking on behalf of State government flexible benefits in the Legislature.

Section 3. Statewide Flexible Benefits Advisory Committee.

There is hereby established a Statewide Flexible Benefits Advisory Committee (FBAC) for the purpose of assisting the State in developing and maintaining an effective flexible benefits plan for State employees. The FBAC shall make recommendations to the State Personnel Director concerning the administration of the Flexible Benefits Plan and the components of the flexible benefits package for State employees.

Section 4. Duties of the FBAC.

The FBAC shall be responsible for the following:

- (a) Assisting the SEFBP in developing administrative functions;
- (b) Reviewing existing flexible benefit programs in State government;
- (c) Recommending pre-tax benefits to be included in the SEFBP;
- (d) Assisting in reviewing contracts and administering spending accounts; and
- (e) Undertaking other functions as necessary.

Section 5. Membership.

The membership of the FBAC shall consist of 14 members and 3 ex-officio members. Members shall be appointed to a three year staggered term. Members are as follows:

- (a) A Representative from the State Controller's Office;
- (b) A Representative from the State Treasurer's Office;
- (c) A Representative from the State Budget Office;
- (d) A Representative from the Attorney General's Office;
- (e) A Representative from the State Health Benefits Office;
- (f) A Representative from the Administrative Office of the Courts;
- (g) A Representative from the Department of Environment, Health, and Natural Resources;
- (h) A Representative from the University of North Carolina System;
- (i) A Representative from the State Employees Association;
- (j) A Representative from the Department of Human Resources;
- (k) A Representative from the Department of Transportation;
- (l) A Representative from the Department of Correction; and
- (m) Two Representatives of the private sector.

One representative each from the Department of Public Instruction and the Community Colleges shall serve as non-voting ex officio members. The SEFBP Manager shall serve as a voting ex officio member and provide support staff as required.

The Director of the Office of State Personnel shall appoint a Chair from among the membership for a one year term.

This order shall be effective immediately.

Done in Raleigh, North Carolina, this the 27th day of October, 1995.

**EXECUTIVE ORDER NO. 89
DIRECTING STATE PURCHASING AGENTS
TO MEET WITH REPRESENTATIVES OF
THE BLIND AND SEVERELY DISABLED**

WHEREAS, the General Assembly of North Carolina has recently passed legislation, which becomes effective January 1, 1996, entitled "AN ACT TO ENCOURAGE THE PURCHASE OF COMMODITIES AND SERVICES OFFERED BY BLIND AND SEVERELY DISABLED PERSONS" (Senate Bill 519, 1995 Session); and

WHEREAS, under this Act, State agencies, institutions, and political subdivisions are conditionally allowed to purchase goods and services directly from nonprofit workcenters for the blind and severely disabled; and

WHEREAS, North Carolina has over 400 blind citizens and approximately 5,200 people with severe disabilities who are employed by work centers for the blind and severely disabled; and

WHEREAS, the work centers actively train hundreds of blind and severely disabled people for employment each year; and

WHEREAS, it is in the best interests of the State of North Carolina to provide blind and severely disabled citizens with opportunities to lead more productive and meaningful lives and to support themselves and their families independent of public assistance monies.

NOW, THEREFORE, by the authority vested in me as Governor by the laws and Constitution of the State of North Carolina, **IT IS ORDERED:**

Section 1. The Department of Administration shall compile and maintain an accurate list of all North Carolina nonprofit work centers for the blind and severely disabled as such centers are defined in North Carolina General Statute 143-48.(b)(1b) within the Act above-noted.

Section 2. The Department of Administration shall take all reasonable steps it deems necessary and appropriate to ensure:

a. That purchasing agents of all State government agencies and institutions subject to this Order and North Carolina General Statute 143-48.2 within the Act are aware of, and have ready access to, the list described above; and,

b. That all listed nonprofit work centers for the blind and severely disabled are apprised of the opportunities available by virtue of the Act.

This Order is effective immediately.

Done in Raleigh, North Carolina, this the 31st day of October, 1995.

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:

The Estate of Edith Virginia Stone, Joan B. DiNapoli,
Executrix)
)
)
)
)ADMINISTRATIVE
DECISION NUMBER: 308

THIS MATTER was heard before the Tax Review Board (hereinafter "Board") on August 29, 1995 in the City of Raleigh, Wake County, North Carolina in the office of the State Treasurer. It involves an appeal filed on behalf of the Estate of Edith Virginia Stone by Joan B. DiNapoli, Executrix, (hereinafter "Taxpayer") from the Final Decision of Michael A. Hannah, Assistant Secretary for Legal and Administrative Services for the Department of Revenue (hereinafter "Assistant Secretary") entered on March 22, 1995, sustaining the denial of an inheritance tax refund.

Chairman Harlan E. Boyles presided over the hearing with ex officio member, Hugh Wells, Chairman, Utilities Commission and duly appointed member, Jeff D. Batts, Attorney at Law participating.

Joan B. DiNapoli, Executrix, appeared on behalf of the Estate of Edith Virginia Stone; Marilyn R. Mudge, Associate Attorney General, appeared on behalf of the Department of Revenue.

The Tax Review Board, as a quasi-judicial body, provides administrative review to Taxpayers from the Secretary of Revenue's decisions sustaining the assessment of tax or additional tax pursuant to the North Carolina Revenue Laws. Pursuant to N.C.G.S. § 105-241.2, the Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary.

THE BOARD HAVING REVIEW THE PETITION AND RECORD MADE IN THE PROCEEDING AND HAVING CAREFULLY CONSIDERED THE MATTERS OF RECORD AND THE ARGUMENTS PRESENTED RENDERED THE FOLLOWING DECISION: that the findings of fact made by the Assistant Secretary were fully supported by competent evidence in the record, that the conclusions of law made by the Assistant Secretary were fully supported by the findings of fact, and that the decision by the Assistant Secretary was fully supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Final Decision of the Assistant Secretary is **CONFIRMED** in every respect.

Entered this the 31st day of October, 1995.

TAX REVIEW BOARD

S/ Harlan E. Boyles, Chairman
State Treasurer

S/ Hugh Wells
Chairman, Utilities Commission

S/ Jeff D. Batts, Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:

The Proposed Assessment of Sales and Use Tax against MCI
EQUIPMENT CORPORATION and MCI LEASING,
INC. for the taxable period of April 1, 1983 through
November 30, 1984

and

The Proposed Assessment of Sales and Use Tax against MCI
TELECOMMUNICATIONS CORPORATION for the
taxable period of April 1, 1983 through December 31, 1985.

ADMINISTRATIVE
DECISION NUMBER: 309

THIS MATTER was heard before the Tax Review Board (hereinafter "Board") on August 29, 1995 in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer. It involved an appeal by MCI Equipment Corporation, MCI Leasing, Inc. and MCI Telecommunications Corporation (hereinafter collectively referred to as "Taxpayers") from the Final Decision of Michael A. Hannah, Assistant Secretary for Legal and Administrative Services for the Department of Revenue (hereinafter "Assistant Secretary") entered on February 2, 1995, sustaining a proposed assessment of additional sales and use tax for the taxable period of April 1, 1983 through November 30, 1984 and the taxable period of April 1, 1983 through December 31, 1985.

Chairman Harlan E. Boyles presided over the hearing with ex officio member, Hugh Wells, Chairman, Utilities Commission and duly appointed member, Jeff D. Batts, Attorney at Law.

Douglas A. Richards, Senior Tax Counsel appeared on behalf of the Taxpayer; Kay Linn Miller Hobart, Associate Attorney General, appeared on behalf of the Department of Revenue.

The Tax Review Board, as a quasi-judicial body, provides administrative review to Taxpayers from the Secretary of Revenue's decisions sustaining the assessment of tax or additional tax pursuant to the North Carolina Revenue Laws. Pursuant to N.C.G.S. § 105-241.2, the Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary.

THE BOARD HAVING REVIEWED THE PETITION AND RECORD MADE IN THE PROCEEDING AND HAVING CAREFULLY CONSIDERED THE MATTERS OF RECORD AND THE ARGUMENTS PRESENTED RENDERED THE FOLLOWING DECISION: that the findings of fact made by the Assistant Secretary were fully supported by competent evidence in the record, that the conclusions of law made by the Assistant Secretary were fully supported by the findings of fact, and that the decision by the Assistant Secretary was fully supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Final Decision of the Assistant Secretary is **CONFIRMED** in every respect.

Entered this the 31st day of October, 1995.

TAX REVIEW BOARD

S/ Harlan E. Boyles, Chairman
State Treasurer

S/ Hugh Wells
Chairman, Utilities Commission

S/ Jeff D. Batts, Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:

The Proposed Assessment of additional Sales and Use
Tax for the period of February 1, 1993 through
August 31, 1993 by the Secretary of Revenue against
Crown Aluminum

ADMINISTRATIVE
DECISION NUMBER: 310

THIS MATTER was heard before the Tax Review Board (hereinafter "Board") on August 29, 1995 in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer. It involves an appeal by Crown Aluminum (hereinafter "Taxpayer") from the Final Decision of Michael A. Hannah, Assistant Secretary for Legal and Administrative Services for the Department of Revenue (hereinafter "Assistant Secretary") entered on March 10, 1995, sustaining a proposed assessment of additional sales and use tax for the period of February 1, 1993 through August 31, 1993.

Chairman Harlan E. Boyles presided over the hearing with ex officio member, Hugh Wells, Chairman, Utilities Commission and duly appointed member, Jeff D. Batts, Attorney at Law.

J. Roger Gregg, CPA and Wilfred Mayrand appeared at the Hearing; Christopher E. Allen, Associate Attorney General, appeared on behalf of the Department of Revenue.

The Tax Review Board, as a quasi-judicial body, provides administrative review to Taxpayers from the Secretary of Revenue's decisions sustaining the assessment of tax or additional tax pursuant to the North Carolina Revenue Laws. Pursuant to N.C.G.S. § 105-241.2, the Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary.

THE BOARD HAVING REVIEWED THE PETITION AND RECORD MADE IN THE PROCEEDING AND HAVING CAREFULLY CONSIDERED THE MATTERS OF RECORD AND THE ARGUMENTS PRESENTED RENDERED THE FOLLOWING DECISION: that the findings of fact made by the Assistant Secretary were fully supported by competent evidence in the record, that the conclusions of law made by the Assistant Secretary were fully supported by the findings of fact, and that the decision by the Assistant Secretary was fully supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Final Decision of the Assistant Secretary is **CONFIRMED** in every respect.

Entered this the 31st day of October, 1995.

TAX REVIEW BOARD

S/ Harlan E. Boyles, Chairman
State Treasurer

S/ Hugh Wells
Chairman, Utilities Commission

S/ Jeff D. Batts, Appointed Member

This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.

DLP:GS:NT:tlb
DJ 166-012-3
95-2902

U.S. Department of Justice

Civil Rights Division

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

November 2, 1995

George Weaver, Esq.
Lee, Reece & Weaver
P.O. Box 2047
Wilson, North Carolina 27894-2047

Dear Mr. Weaver:

This refers to the procedures for conducting the November 7, 1995, special bond election for the Town of Elm City in Wilson County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on September 8, 1995.

The Attorney General does not interpose any objection to the specified change. However, we note that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

Deval L. Patrick
Assistant Attorney General
Civil Rights Division

By:

Elizabeth Johnson
Acting Chief, Voting Section

**TITLE 10 - DEPARTMENT OF HUMAN
RESOURCES**

SOCIAL SERVICES COMMISSION

Notice of Rule-making Proceeding is hereby given by the Social Services Commission in accordance with G.S. 150B-21.2(b). The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceeding and any comments received on this notice.

Rule Citation: 10 NCAC 411 .0100

Statutory Authority for the rule-making: G.S. 7A-544; 7A-552; 7A-675

Statement of the Subject Matter: *Amendment of rules regarding the use or access of information contained in the Central Registry.*

Reason for Proposed Action: *This action is proposed in order to make this section of the North Carolina Administrative Code congruent with Federal Rules which govern the eligibility requirements for receipt of grant moneys through the Child Abuse Prevention and Treatment Act (P.L. 102-295). North Carolina has been notified by Federal authorities that grant moneys are jeopardized by non-compliance with Federal Codes.*

Comment Procedures: *Anyone wishing to comment should contact Sharnese Ransome, Special Assistant, NC Division of Social Services, 325 N. Salisbury Street, Raleigh, NC 27603, 919/733-3055.*

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

CHAPTER 1 - ACUPUNCTURE LICENSING BOARD

Notice of Rule-making Proceeding is hereby given by the North Carolina Acupuncture Licensing Board in accordance with G.S. 150B-21.2(b). The agency shall subsequently publish in the Register the text of the rules it proposes to adopt as a result of this notice of rule-making proceeding and any comments received on this notice.

Rule Citation: 21 NCAC 01 .0705, .0709

Statutory Authority for the rule-making: G.S. 90-456; 150B-38(h)

Statement of the Subject Matter:

21 NCAC 01 .0705 - *To present the procedure for initiating a formal hearing.*

21 NCAC 01 .0709 - *This Rule will contain procedures for revoking or suspending a license to practice acupuncture in North Carolina.*

Reason for Proposed Action:

21 NCAC 01 .0705 - *To clarify procedures for initiating a formal hearing.*

21 NCAC 01 .0709 - *To present procedures for revoking or suspending licensure to practice acupuncture in North Carolina.*

Comment Procedures: *All written comments must be mailed to Charlene Barbour, 1418 Aversboro Road, Garner, NC 27529 and must be received by January 30, 1996.*

The Codifier of Rules has entered the following temporary rule(s) in the North Carolina Administrative Code. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the *North Carolina Register* serves as a notice of rule-making proceedings for a permanent rule that does not differ substantially from the published temporary rule.

TITLE 16 - DEPARTMENT OF PUBLIC EDUCATION

Rule-making Agency: *State Board of Education*

Rule Citation: *16 NCAC 6C .0401*

Effective Date: *November 15, 1995*

Findings Reviewed by the Codifier of Rules: *Approved*

Statutory Authority for the rule-making: *G.S. 115C-272; 115C-285; 115C-302; 115C-316; 115C-336(c).*

Reason for Proposed Action: *To enable certain public school employees to use vacation leave in the event of a catastrophic illness.*

Comment Procedures: *Written comments must be received by January 30, 1996 and directed to: Harry E. Wilson, State Board of Education, Education Building, Room 2086, 301 N. Wilmington Street, Raleigh, NC 27601-2825.*

CHAPTER 6 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 6C - PERSONNEL

SECTION .0400 - LEAVE

.0401 VACATION LEAVE

(a) All full-time or part-time permanent public school employees who are working or on paid leave for at least one-half of the calendar days in a month earn vacation leave, based on length of state service in North Carolina.

(b) A part-time permanent employee in a budgeted position earns vacation leave on a pro rata basis.

(c) Local boards of education may choose to record leave earned in hours. If leave is recorded in hours, the leave earned as indicated in this Paragraph will be multiplied times the regular number of hours worked per day. Employees earn vacation leave as follows:

<u>Years of State Service</u>	<u>Days Per Month of Employment</u>
Less than 2 yrs.	1.00
2 but less than 5 yrs.	1.15
5 but less than 10 yrs.	1.40
10 but less than 15 yrs.	1.65
15 but less than 20 yrs.	1.90
20 yrs. or more	2.15

(d) LEAs credit state service for full-time or part-time permanent employment figured on the same basis as for longevity pay. The LEA must establish the anniversary date for each employee on the basis of the employee's state service.

(e) The LEA may advance vacation leave to an employee.

(f) The LEA transfers unused vacation leave when an employee transfers between LEAs. An employee may have leave transferred to or from a state agency or institution, community college or technical institute, a position subject to the State Personnel Act in a local mental health, public health, social services or emergency management agency, if the receiving agency is willing to accept the leave; otherwise, the employee will be paid in a lump sum for accumulated leave not to exceed 30 workdays or 240 hours, according to the earning rate.

(g) Leave payment at separation is subject to the following:

- (1) An employee who is overdrawn on leave when he or she separates will have the excess leave corrected through a deduction from the final salary check.

- (2) Payment for leave may be made on the regular payroll or on a supplemental payroll. The LEA makes payment from the same source of funds and in the same proportion as the employee's salary is paid.
- (3) Terminal leave payment is subject to the same deductions as salary, including retirement.
- (4) The receipt of lump sum leave payment and retirement benefit is not dual compensation.
- (5) The LEA makes payment for unpaid salary, terminal leave and travel of a deceased employee to the personal representative of the deceased employee, or if there is no personal representative, to the Clerk of Superior Court of the county in which the employee resided.

(h) Each LEA shall maintain leave records for all employees. LEAs must inform employees of their leave balances at least once a year. LEAs must retain leave records for separated employees for at least five years from the date of separation.

(i) Leave must be taken in one-half days, whole days, or hours as determined for earning purposes by the local board.

(j) School bus drivers and instructional personnel who require a substitute may take vacation leave only on days when students are not in attendance. Instructional personnel who do not require a substitute may take vacation leave on any day school is in session. LEAs may designate specific scheduled workdays for required attendance as long as employees have an opportunity to take annual leave earned during the school year. Employees may charge leave taken only to scheduled teacher workdays and the ten vacation leave days scheduled in the school calendar.

(k) Other employees may take vacation leave instead of sick leave. These employees must have an opportunity to take annual leave earned in the school year.

(l) Employees may take vacation leave due to catastrophic illness as provided by G.S. 115C-336(c). The local superintendent or a committee designated by the superintendent shall determine whether an illness is catastrophic by considering such factors as:

- (1) the debilitating nature of the condition;
- (2) the life-threatening potential of the condition;
- (3) the duration of the condition;
- (4) the monetary hardship incurred because of the condition;
- (5) the expected length of the leave; and
- (6) other options available to the employee, such as state disability.

History Note: Statutory Authority G.S. 115C-272; 115C-285; 115C-302; 115C-316;

Eff. July 1, 1986;

Amended Eff. July 1, 1994; October 1, 1993; December 1, 1991; March 1, 1990;

Temporary Amendment Eff. November 15, 1995.

The Rules Review Commission (RRC) objected to the following rules in accordance with G.S. 150B-21.9(a). State agencies are required to respond to RRC as provided in G.S. 150B-21.12(a).

AGRICULTURE

Structural Pest Control Division

2 NCAC 34 .0904 - Prohibited Acts	RRC Objection	10/18/95
Agency Revised Rule	Obj. Removed	10/18/95

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Environmental Health

15A NCAC 18A .2509 - Plan Review and Approval		
Rule Withdrawn by Agency		09/21/95
15A NCAC 18A .2531 - Wading Pools	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 18A .2531 - Spas and Hot Tubs	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95

Environmental Management

15A NCAC 2B .0212 - Fresh Surface Water Quality Standards for Class WS-I Waters	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 2B .0214 - Fresh Surface Water Quality Standards for Class WS-II Waters	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 2B .0215 - Fresh Surface Water Quality Standards for Class WS-III Waters	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 2B .0219 - Fresh Surface Water Quality Standards for Class B Waters	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 2B .0222 - Tidal Salt Water Quality Standards for Class SB Waters	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 2B .0224 - High Quality Waters	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95

Health: Epidemiology

15A NCAC 19H .0702 - Research Requests		
Rule Withdrawn by Agency		09/21/95

Sedimentation Control

15A NCAC 4B .0020 - Inspections and Investigations	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95

Solid Waste Management

15A NCAC 13B .0815 - Incorporation by Reference	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 13B .0817 - Septage Management Firm Permits	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 13B .0819 - Septage Land Application Site Permits	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 13B .0820 - Septage Detention and Treatment Facility Permits	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95

15A NCAC 13B .0821 - Location of Septage Land Application Sites	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 13B .0822 - Management of Septage Land Application Sites	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95
15A NCAC 13B .0825 - Standards for Septage Treatment and Detention Facilities	RRC Objection	09/21/95
Agency Revised Rule	Obj. Removed	09/21/95

HUMAN RESOURCES

Facility Services

10 NCAC 3C .3001 - Definitions	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Cont'd	10/18/95
10 NCAC 3C .3108 - Suspension of Admissions	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .3205 - Discharge of Minor or Incompetent	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .3302 - Minimum Provisions of Patient's Bill of Rights	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Cont'd	10/18/95
10 NCAC 3C .3502 - Bylaws	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .3602 - Responsibilities	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .3603 - Personnel Policies and Practices	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .3607 - Personnel Health Requirements	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .3608 - Insurance	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .3704 - Status	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .3902 - Manager	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3C .3904 - Patient Access	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .4003 - Policies and Procedures	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .4102 - Classification of Optional Emergency Services	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3C .4104 - Medical Director	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3C .4203 - Nursing Staff	RRC Objection	07/13/95

<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Returned to Agency</i>		<i>10/18/95</i>
10 NCAC 3C .4303 - Nursing Services Maternal Services	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Returned to Agency</i>		<i>10/18/95</i>
10 NCAC 3C .4307 - Nursing Staff of Neonatal Services	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Returned to Agency</i>		<i>10/18/95</i>
10 NCAC 3C .4401 - Organization	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Returned to Agency</i>		<i>10/18/95</i>
10 NCAC 3C .4502 - Pharmacist	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Returned to Agency</i>		<i>10/18/95</i>
10 NCAC 3C .4508 - Space		
<i>RRC Rescinded its July Approval</i>		<i>10/18/95</i>
<i>Rule Withdrawn by Agency</i>		<i>10/18/95</i>
10 NCAC 3C .4512 - Medications Dispensed	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/18/95</i>
10 NCAC 3C .4702 - Organization	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Returned to Agency</i>		<i>10/18/95</i>
10 NCAC 3C .4703 - Sanitation and Safety	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/18/95</i>
10 NCAC 3C .4704 - Distribution of Food	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/18/95</i>
10 NCAC 3C .4705 - Nutritional Support	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Returned to Agency</i>		<i>10/18/95</i>
10 NCAC 3C .4801 - Organization	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Returned to Agency</i>		<i>10/18/95</i>
10 NCAC 3C .4905 - Tissue Removal and Disposal	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/18/95</i>
10 NCAC 3C .5002 - Delivery of Care	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Returned to Agency</i>		<i>10/18/95</i>
10 NCAC 3C .5201 - Psychiatric/Substance Abuse Svcs.: Applicability of Rules	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/18/95</i>
10 NCAC 3C .5202 - Definitions Applicable/Psychiatric/Substance Abuse Svcs.	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Agency Revised Rule</i>	<i>Obj. Cont'd</i>	<i>10/18/95</i>
10 NCAC 3C .5205 - Seclusion	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>10/18/95</i>
10 NCAC 3C .5302 - Definitions	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Withdrawn by Agency</i>		<i>10/18/95</i>
10 NCAC 3C .5309 - Nursing/Health Care Administration and Supervision	<i>RRC Objection</i>	<i>07/13/95</i>
<i>No Response from Agency</i>	<i>Obj. Cont'd</i>	<i>09/21/95</i>
<i>Rule Withdrawn by Agency</i>		<i>10/18/95</i>
10 NCAC 3C .5315 - Dental Care	<i>RRC Objection</i>	<i>07/13/95</i>

RRC OBJECTIONS

No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5318 - Activities and Recreation	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5319 - Social Services	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5322 - Brain Injury Extended Care Physician Services	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5323 - Brain Injury Extended Care Program Requirements	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5324 - Special Nursing Req. Brain Injury Long Term Care	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5325 - Ventilator Dependence	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5326 - Physician Services for Ventilator Dependent Patients	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5403 - HIV Designated Unit Policies and Procedures	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5405 - Physician Services in a HIV Designated Unit	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5407 - Use of Investigational Drugs on the HIV Designated Unit	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5501 - Definitions	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5502 - Physician Reg. for Inpatient Rehab. Facilities or Units	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5507 - Comprehensive Rehabilitation Personnel Administration	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5508 - Comprehensive Inpatient Rehab. Program Staffing Req.	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5512 - Additional Req. for Traumatic Brain Injury Patients	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .5513 - Additional Req. for Spinal Cord Injury Patients	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Withdrawn by Agency		10/18/95
10 NCAC 3C .6102 - List of Referenced Codes and Standards	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3C .6208 - Obstetrical Department Requirements	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3H .2001 - Definitions	RRC Objection	07/13/95

RRC OBJECTIONS

No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2201 - Administrator	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2202 - Admissions	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2203 - Patients Not to be Admitted	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2206 - Medical Director	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2209 - Infection Control	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3H .2212 - Quality Assurance Committee	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2301 - Patient Assessment and Care Planning	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2302 - Nursing Services	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2308 - Domiciliary Home Personnel Requirements	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2401 - Maintenance of Medical Records	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2501 - Availability of Physician's Services	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2505 - Brain Injury Long-Term Care Physician Services	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2506 - Physician Services for Ventilator Dependent Patients	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2601 - Availability of Pharmaceutical Services	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Cont'd	10/18/95
10 NCAC 3H .2604 - Drug Procurement	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3H .2605 - Drug Storage and Disposition	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2606 - Pharmaceutical Records	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2607 - Emergency Drugs	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2701 - Provision of Nutrition and Dietetic Services	RRC Objection	07/13/95

RRC OBJECTIONS

No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Cont'd	10/18/95
10 NCAC 3H .2801 - Activity Services	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .2802 - Social Services	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3002 - Quality of Specialized Rehabilitation Services	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3003 - Ventilator Dependence	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3004 - Brain Injury Long-Term Care	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Cont'd	10/18/95
10 NCAC 3H .3005 - Special Nursing Req. for Brain Injury Long-Term Care	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Cont'd	10/18/95
10 NCAC 3H .3011 - HIV Designated Unit Policies and Procedures	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3012 - Physician Services in an HIV Designated Unit	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3013 - Special Nursing Requirements for an HIV Designated Unit	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3015 - Use of Investigational Drugs for HIV Designated Units	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3016 - Additional Social Work Req. for HIV Designated Units	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3021- Physician Req. for Inpatient Rehab. Facilities or Units	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3027 - Comprehensive Inpatient Rehab. Program Staffing Req.	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3031 - Additional Req. for Spinal Cord Injury Patients	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Rule Returned to Agency		10/18/95
10 NCAC 3H .3103 - Site	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3H .3201 - Required Spaces	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3H .3401 - Heating and Air Conditioning	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95
10 NCAC 3H .3404 - Other	RRC Objection	07/13/95
No Response from Agency	Obj. Cont'd	09/21/95
Agency Revised Rule	Obj. Removed	10/18/95

RRC has Objected on 07/13/95 to the Following Repeals in 10 NCAC 3C and 10 NCAC 3H:

10 NCAC 3C .0101 - .0102, .0104 - .0110, .0201 - .0203, .0301 - .0307, .0401 - .0407, .0501 - .0505, .0601 - .0604, .0701 - .0708, .0801 - .0805, .0807, .0901 - .0917, .1001 - .1006, .1101 - .1102, .1201 - .1204, .1301 - .1303, .1401 - .1405, .1501 - .1508, .1510, .1601 - .1606, .1701 - .1717, .1801 - .1805, .2101 - .2105.

No Response from Agency

Obj. Cont'd 09/21/95

Obj. Removed 10/18/95

10 NCAC 3C .1901 - .1912, .1915 - .1932, .2001 - .2008, .2020 - .2033

RRC Objection 07/13/95

No Response from Agency

Obj. Cont'd 09/21/95

Rules Returned to Agency

10/18/95

10 NCAC 3H .0108 - .0109, .0206 - .0220, .0306 - .0318, .0407 - .0409, .0505 - .0507, .0510 - .0517, .0605 - .0609, .0705 - .0712, .0810 - .0812, .0903 - .0911, .1003 - .1008, .1105 - .1109, .1130 - .1136, .1150 - .1163, .1204 - .1208, .1210, .1306 - .1308, .1405 - .1406, .1408 - .1410, .1501 - .1503, .1612 - .1613, .1703 - .1704, .1804 - .1807.

No Response from Agency

Obj. Cont'd 09/21/95

Obj. Removed 10/18/95

Medical Assistance

10 NCAC 26I .0101 - Purpose and Scope

RRC Objection 10/18/95

10 NCAC 26I .0102 - Requests for Formal and Informal Appeals

RRC Objection 10/18/95

10 NCAC 26I .0103 - Time Limits on Requests for Recipient/Applicant Informal Appeals

RRC Objection 10/18/95

10 NCAC 26I .0106 - Payment Pending Appeals

RRC Objection 10/18/95

10 NCAC 26I .0107 - Dismissal of Appeal

RRC Objection 10/18/95

Agency Revised Rule

Obj. Removed 10/18/95

LICENSING BOARDS AND COMMISSIONS

Board of Medical Examiners

21 NCAC 32H .0506 - Certification Requirement: Emergency Medical Dispatcher

RRC Objection 08/10/95

Agency Revised Rule

Obj. Removed 09/21/95

21 NCAC 32N .0002 - Continuances

RRC Objection 08/10/95

Agency Responded - Agency Will Not Revise Rule

Obj. Cont'd 09/21/95

Board of Pharmacy

21 NCAC 46 .2601 - Dispensing and Delivery

RRC Objection 08/10/95

Agency Revised Rule

Obj. Cont'd 08/10/95

Agency Revised Rule

Obj. Removed 09/21/95

Board of Physical Therapy Examiners

21 NCAC 48C .0103 - Prohibited Practice

Rule Withdrawn by Agency

09/21/95

21 NCAC 48E .0110 - Foreign-Trained Physical Therapists

RRC Objection 09/21/95

Agency Revised Rule

Obj. Removed 09/21/95

21 NCAC 48G .0514 - Continuances

RRC Objection 09/21/95

Agency Revised Rule

Obj. Removed 09/21/95

21 NCAC 48H .0703 - Hearings

RRC Objection 09/21/95

Agency Revised Rule

Obj. Removed 09/21/95

Board of Practicing Psychologists

21 NCAC 54 .1702 - Foreign Degree Application Policy

RRC Objection 09/21/95

Agency Revised Rule

Obj. Removed 09/21/95

PUBLIC EDUCATION**Elementary and Secondary Education**

16 NCAC 6D .0106 - Limited English Proficiency Programs
Rule Withdrawn by Agency

10/18/95

SECRETARY OF STATE**Securities Division**

18 NCAC 6 .1209 - Nonprofit Securities
Agency Revised Rule
Rule Returned to Agency

RRC Objection 08/10/95
Obj. Cont'd 08/10/95
09/21/95

18 NCAC 6 .1314 - Escrow Agreements
Rule Returned to Agency

RRC Objection 08/10/95
09/21/95

18 NCAC 6 .1401 - Application for Registration of Dealers
Agency Revised Rule
Rule Returned to Agency

RRC Objection 08/10/95
Obj. Cont'd 08/10/95
09/21/95

18 NCAC 6 .1702 - Application for Investment Adviser Registration
Agency Revised Rule
Rule Returned to Agency

RRC Objection 08/10/95
Obj. Cont'd 08/10/95
09/21/95

STATE PERSONNEL**Office of State Personnel**

25 NCAC 1E .1408 - Certification
Agency Revised Rule

RRC Objection 09/21/95
Obj. Removed 09/21/95

25 NCAC 1J .0615 - Special Provisions
Agency Revised Rule

RRC Objection 09/21/95
Obj. Removed 09/21/95

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
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<i>Division of Purchase and Contract</i>				
Senter-Sanders Tractor Corp. v. Admin., Div of Purchase & Contract	94 DOA 0803	Nesnow	03/06/95	
CMC Maintenance Co., a Div. of RDS Corp. v. Dept. of Administration, Div. of Purchase & Contract, et al.	95 DOA 0194	Phipps	06/13/95	
<i>State Construction Office</i>				
W. M. Piatt & Company v. State Construction Office, DOA	94 DOA 0738	Nesnow	04/11/95	10:03 NCR 221
Holland Group, Inc. v. Dept. of Administration, St. Construction Office	94 DOA 1565	Nesnow	06/01/95	10:07 NCR 619
ALCOHOLIC BEVERAGE CONTROL COMMISSION				
Ali Alsaras v. Alcoholic Beverage Control Commission	94 ABC 0526	Chess	05/16/95	
Norman D. Forbes v. Alcoholic Beverage Control Commission	94 ABC 0787	Gray	03/17/95	
Ben Sproul and Steve Pauls v. Alcoholic Beverage Control Comm.	94 ABC 1046	Chess	08/17/95	
Albert Stanley Tomanec v. Alcoholic Beverage Control Commission	94 ABC 1168	Becton	03/07/95	
Robert Johnson v. Alcoholic Beverage Control Commission	94 ABC 1661	West	05/01/95	
Stinking Mercury, Inc. v. Alcoholic Beverage Control Commission	94 ABC 1682	Chess	05/03/95	
Alcoholic Beverage Control Comm. v. Depot Stop N Go, Inc.	94 ABC 1694	Mann	03/29/95	
John H. Robinson v. Alcoholic Beverage Control Commission	94 ABC 1727	Morrison	05/18/95	
Clara and Carson Young v. Alcoholic Beverage Control Commission	94 ABC 1729	Chess	05/11/95	
Vladimir Walter Kozlik Jr. v. Alcoholic Beverage Control Commission	94 ABC 1754*12	Mann	08/02/95	10:11 NCR 960
Bryan Lynn Whitaker, Susan Ansley Whitaker v. ABC Commission	94 ABC 1784	Mann	04/19/95	
Diamond Club, Inc. v. Alcoholic Beverage Control Commission	94 ABC 1803	Mann	04/07/95	
Alcoholic Beverage Control Commission v. Weisner, Inc.	95 ABC 0068	West	06/07/95	
Robert Louis Reese v. Alcoholic Beverage Control Commission	95 ABC 0074	Chess	05/25/95	
Ray E. Bailey v. Alcoholic Beverage Control Commission	95 ABC 0210	Gray	05/01/95	
Legwin Z. Williams v. Alcoholic Beverage Control Commission	95 ABC 0224	Nesnow	05/31/95	10:06 NCR 417
Taleb Abed Rahman v. Alcoholic Beverage Control Commission	95 ABC 0323	Phipps	08/02/95	
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Alcoholic Beverage Control Comm. v. Janice Mae Miles	95 ABC 0434	West	07/20/95	
Imran Ali Hameerah v. Alcoholic Beverage Control Commission and City of Raleigh	95 ABC 0477	Phipps	07/14/95	
Ali Mohamed Ahmed v. Alcoholic Beverage Control Commission	95 ABC 0487	Gray	10/03/95	
Alcoholic Beverage Control Commission v. Vladimir Walter Kozlik Jr.	95 ABC 0518*12	Mann	08/02/95	10:11 NCR 960
Mychal R. Hill v. Alcoholic Beverage Control Commission	95 ABC 0617	Morrison	09/08/95	
Alcoholic Beverage Control Comm. v. Goldstar Food, Inc.	95 ABC 0678	Gray	10/30/95	
Collie Hawkins v. Alcoholic Beverage Control Commission	95 ABC 0696	Gray	10/06/95	
Alcoholic Bev Cont Comm. v. Partnership, T/A Royal Knights Soc Club	95 ABC 0711	Phipps	09/14/95	
Alcoholic Beverage Control Commission v. Lebby Rhew Allen	95 ABC 0712	Gray	10/04/95	
Alcoholic Beverage Control Comm. v. Nancy Wheeler Wolfe	95 ABC 0713	Phipps	09/14/95	
John Edsel Rhodes v. Alcoholic Beverage Control Commission	95 ABC 0792	Nesnow	10/25/95	
BOARD OF CHIROPRACTIC EXAMINERS				
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CRIME CONTROL AND PUBLIC SAFETY				
Patrick O. Hawkins v. Office of Administrative Hearings	95 CPS 0361	Phipps	08/01/95	

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<i>Crime Victims Compensation Commission</i>				
John Pavlikianidis v. Victims Compensation Commission	94 CPS 0237	Morrison	03/21/95	10:02 NCR 176
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Phyllis H. Steinmetz v. Crime Victims Compensation Commission	94 CPS 0542	West	05/16/95	
Hubert Johnson, Edna J. Carter v. Crime Victims Compensation Comm.	94 CPS 1177	Mann	06/12/95	
Wayne L. Utley v. Crime Victims Compensation Commission	94 CPS 1180	Becton	03/07/95	
Sandra H. Hughes v. Victims Compensation Commission	94 CPS 1600	Morrison	06/09/95	
Kristine S. Ray v. Crime Victims Compensation Commission	94 CPS 1673	Chess	04/20/95	
Shirley Moody Myers v. Crime Victims Compensation Commission	94 CPS 1674	Chess	04/20/95	
Thomasine Inman v. Crime Victims Compensation Commission	94 CPS 1731	Nesnow	03/09/95	
Irmgard Gordos v. Crime Victims Compensation Commission	94 CPS 1782	Gray	03/09/95	
Fay, Cynthia, S. Dalton v. Crime Victims Compensation Commission	95 CPS 0010*	West	05/30/95	
Ellen Sherwin v. Crime Vic Comp James Byrum Emp/ Baptist Hosp	95 CPS 0012	West	03/22/95	
Anthony Harold Stone v. Crime Victims Compensation Commission	95 CPS 0115	Chess	08/22/95	
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Larusha Bey v. Crime Victims Compensation Commission	95 CPS 0245	Reilly	06/02/95	
Percible Gaston v. Crime Victims Compensation Commission	95 CPS 0270	Gray	06/13/95	
Horton Edward v. Crime Victims Compensation Commission	95 CPS 0331	Phipps	07/25/95	
David Leo Rice v. CPS, Crime Victims Compensation Commission	95 CPS 0335	Morrison	09/15/95	
Janet Ring Stevens v. Crime Victims Compensation Commission	95 CPS 0337	Gray	07/21/95	
Michael A. Herd v. Crime Victims Compensation Commission	95 CPS 0349	Chess	08/15/95	
Juan Aguilar v. Crime Victims Compensation Commission	95 CPS 0356	Reilly	06/22/95	
Albert Lionell Meadows v. Crime Victims Compensation Commission	95 CPS 0373	Gray	09/27/95	
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Edsel Batta Jr. v. CPS, Crime Victims Compensation Commission	95 CPS 0456	Phipps	09/29/95	
James T. Todd v. Crime Victims Compensation Commission	95 CPS 0459	Nesnow	09/26/95	10:15 NCR 1624
Mark Edward Altman v. CPS, Crime Victims Compensation Commission	95 CPS 0461	West	07/25/95	
Fred McMillan v. Victims Compensation Commission	95 CPS 0481	Phipps	10/12/95	
Brandi Faith Blalock, Dorothy Smith Blalock v. Crime Vic Comp Comm.	95 CPS 0540	Phipps	10/10/95	10:15 NCR 1628
Roland Lee Kelly, Jr. v. United Family Svcs, Vic Assis/Crime Vic. Comp	95 CPS 0568	Phipps	08/09/95	
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Margie Lunsford v. Crime Victims Compensation Commission	95 CPS 0779	Becton	09/19/95	
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Setzer Bros. Inc. v. Environment, Health, and Natural Resources	94 EHR 1676	Nesnow	03/09/95	
Environment, Health, & Natural Resources v. Royal James Cafe	94 EHR 1756	Becton	06/30/95	10:08 NCR 696
John W. VanHoy, Jr. & Adjacent Land Owners v. EHNHR and Shugart Enterprises, Inc.	95 EHR 0016	Phipps	11/03/95	10:17 NCR 2279
Browning-Ferris Ind. of S. Atlantic, Inc. and Sampson Cty. Disposal, Inc. v. Dept. of Environment, Health, and Natural Resources, and Hoke County and Bladen County	95 EHR 0506	West	06/13/95	
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<i>Carteret County Health Department</i>				
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CONTESTED CASE DECISIONS

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<i>Davidson County Health Department</i>				
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<i>Environmental Health</i>				
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<i>Environmental Management</i>				
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Empire Power Co. and George Clark v. EHNR, Div. of Env. Mgmt. and Duke Power Company	92 EHR 0021* ¹	Gray	04/03/95	
Empire Power Co. and George Clark v. EHNR, Div. of Env. Mgmt. and Duke Power Company	92 EHR 0053* ¹	Gray	04/03/95	
United Screen Printers, Inc. v. EHNR, Div. of Environmental Mgmt.	93 EHR 0273* ⁵	West	05/30/95	
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<i>Division of Epidemiology</i>				
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<i>Hyde County Health Department</i>				
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<i>Macon County Health Department</i>				
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<i>Maternal and Child Health</i>				
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Taisser Shehadeh v. EHNR, Maternal & Child Health, Nutrition Svcs.	94 EHR 1711	Chess	05/02/95	
Philip Haskins v. EHNR, Div. of Maternal & Child Health	94 EHR 1777	Chess	03/09/95	
Food City, Inc. v. Dept of Environment, Health, & Natural Resources	95 EHR 0372	Reilly	08/10/95	
Cameron Brian White v. EHNR, Maternal & Child Health, Nutrition Svcs.	95 EHR 0687	Nesnow	10/19/95	
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Sameer Mohammed Dari v. EHNR, Maternal & Child Health, Nutn Svcs.	95 EHR 0853	Gray	10/10/95	
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Barbara R. Amer d/b/a 311 Grocery Store v. EHNR	95 EHR 0874* ¹³	Reilly	10/23/95	
Donnie Blalock v. EHNR, Maternal & Child Health, Nutrition Svcs.	95 EHR 0892	Gray	09/14/95	
<i>New Hanover County Health Department</i>				
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<i>Pitt County Public Health Center</i>				
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<i>Wayne County Department of Health</i>				
Habib Abdallah v. Wayne County Department of Health (WIC Program)	95 EHR 0864	Phippa	09/27/95	
EQUAL EMPLOYMENT OPPORTUNITY				
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HUMAN RESOURCES				
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Sandra Jean Taylor v. Department of Human Resources	95 DHR 0366	Reilly	07/19/95	
Claudia Toriola v. Department of Human Resources	95 DHR 0507	West	10/18/95	
<i>Division of Child Development</i>				
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Samuel Simmons & Wife, Alpha Mack Simmons v. Human Resources	94 DHR 1617	Gray	09/13/95	10:13 NCR 1205
Willie & Pamela Sturges v. DHR, Division of Child Development	94 DHR 1631	Reilly	07/10/95	
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<i>Division of Facility Services</i>				
William H. Cooke v. DHR, Division of Facility Services	94 DHR 0565	Gray	03/16/95	
Mildred Reece, Calvin Reece v. DHR, Division of Facility Services	94 DHR 1783	Gray	03/16/95	
Domiciliary & Group Care Section				
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Brenda I. McAllister v. DHR, Division of Facility Services	95 DHR 0149	West	09/11/95	
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<i>Bingo Licensure Section</i>				
The Regular Veterans Association of the United States and the Sixteen Posts of the Regular Veterans Association of the United States and the Regular Veterans Association Auxiliary Located in the State of North Carolina v. DHR, Division of Facility Services, Bingo Licensure Section	95 DHR 0040	Morrison	04/13/95	
<i>Certificate of Need Section</i>				
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and				
Pine Manor Rest Home, Inc., d/b/a Pine Manor Health Care				
The Carrolton of Fayetteville, Inc. and Highland House of Fayetteville, Inc. and Richard Allen, Sr. v. DHR, Division of Facility Services, Certificate of Need Section	94 DHR 0198*2	Reilly	04/05/95	
and				
Pine Manor Rest Home, Inc., d/b/a Pine Manor Health Care				
Retirement Villages, Inc. (Lessor), and Liberty Healthcare Ltd. Partnership (Lessee) D/B/A Countryside Villa of Duplin v. DHR, Division of Facility Services, Certificate of Need Section	94 DHR 0403	Chess	12/14/94	
and				
Beaver Properties/Wallace, Inc., and Brian Center Health & Retirement/Wallace, Inc.				
Gordon G. Koltis, M.D., Carolina Radiation & Cancer Treatment Center, P.A., and Carolina Radiation Medicine, P.A. v. DHR, Div. of Facility Services, Certificate of Need Section,	94 DHR 1820	Chess	09/25/95	
and				
Pitt County Memorial Hospital, Inc.				

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<i>Medical Facilities Licensure Section</i>				
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Joe Junior Bailey v. DHR, Div/Facility Svcs., Med. Facilities Lic. Sec.	95 DHR 0322	Becton	09/13/95	
Linda Faye Taylor v. DHR, Div/Facility Svcs., Med. Facilities Lic. Sec.	95 DHR 0410	Morrison	11/09/95	
Evangeline of King, Inc. v. DHR, Div/Fac Svcs, Med. Facilities Lic. Sec.	95 DHR 0413	Reilly	08/14/95	
Nicole Murphy v. DHR, Div/Facility Svcs, Med. Facilities Lic. Sec.	95 DHR 0863	Becton	10/20/95	
<i>Division of Medical Assistance</i>				
A.S., by and through her agent and personal representative, Hank Neal v. DHR, Division of Medical Assistance	93 DHR 1736	Reilly	05/22/95	
D.A., by and through his agent and personal representative, Hank Neal v. DHR, Division of Medical Assistance	93 DHR 1737	Reilly	05/22/95	
Stephen K., & Christopher & Katina Komorek v. DHR, Med Assistance	94 DHR 1170	Reilly	10/18/95	
<i>Division of Social Services</i>				
Cecilia Y. Wall, William S. Wall v. Department of Human Resources	94 DHR 1627	Morrison	07/06/95	
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Robert A. Byers, Sharon L. Byers v. DHR, Div. of Social Services	95 DHR 0488	Phipps	10/31/95	
<i>Child Support Enforcement Section</i>				
Daniel J. Carter v. Department of Human Resources	91 CSE 1103	Morrison	03/03/95	
Shawn Dominic Caldwell v. Department of Human Resources	92 CSE 1449	Reilly	03/29/95	
William Zonta Thompson v. Department of Human Resources	92 CSE 1559	Reilly	03/29/95	
Jackie E. Hackney v. Department of Human Resources	93 CSE 1088	Chess	03/20/95	
Lenzo Davis v. Department of Human Resources	93 CSE 1111	Becton	07/12/95	
Frank M. Swett v. Department of Human Resources	93 CSE 1123*3	Reilly	05/16/95	
Elbert Quick v. Department of Human Resources	93 CSE 1169	Chess	03/08/95	
Dennis E. Barkley v. Department of Human Resources	93 CSE 1187	Reilly	06/30/95	
Clement McMillan v. Department of Human Resources	93 CSE 1208	Chess	03/08/95	
Herbert James Jackson III v. Department of Human Resources	93 CSE 1209	Mann	08/11/95	
Larry James Walker Jr. v. Department of Human Resources	93 CSE 1255	Morrison	06/12/95	
James R. Gray v. Department of Human Resources	93 CSE 1268	Chess	03/08/95	
Manuel F. Isla v. Department of Human Resources	93 CSE 1270*10	Becton	07/28/95	
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Charles R. Hauley v. Department of Human Resources	94 CSE 1554	Becton	03/07/95	
Michael L. Schadler v. Department of Human Resources	94 CSE 1555	Becton	03/07/95	
Owen B. Fisher Jr. v. Department of Human Resources	94 CSE 1562	Becton	04/07/95	
Robin Delmar Goods v. Department of Human Resources	94 CSE 1563	Becton	04/07/95	
Julio Alvarado Jr. v. Department of Human Resources	94 CSE 1564	Becton	05/22/95	
Thomas A. Morgan v. Department of Human Resources	94 CSE 1567	Chess	06/02/95	
Terrence R. McLaughlin v. Department of Human Resources	94 CSE 1569	Chess	03/07/95	
Johnnie V. Johnson v. Department of Human Resources	94 CSE 1570	Chess	06/28/95	
Ward F. Miller v. Department of Human Resources	94 CSE 1571	Chess	04/19/95	
Joel P. Roth v. Department of Human Resources	94 CSE 1572	West	03/14/95	
Atward T. Warren v. Department of Human Resources	94 CSE 1573	West	03/31/95	
Monte Harwell v. Department of Human Resources	94 CSE 1576	West	07/18/95	
Albert Noah Dunlap v. Department of Human Resources	94 CSE 1577	Reilly	04/10/95	
James E. Davis v. Department of Human Resources	94 CSE 1578	Reilly	04/10/95	
Roger T. Benoy v. Department of Human Resources	94 CSE 1579	Reilly	03/03/95	
Spencer P. Johnson v. Department of Human Resources	94 CSE 1580	Reilly	04/10/95	
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Tony Thomas v. Department of Human Resources	94 CSE 1585	Morrison	07/26/95	
Willie A. Harris v. Department of Human Resources	94 CSE 1586	Morrison	04/06/95	
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Dennis W. Nolan v. Department of Human Resources	94 CSE 1590	Gray	03/31/95	
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Mickey Bridgett v. Department of Human Resources	94 CSE 1595	West	05/08/95	

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Randolph J. Nunn v. Department of Human Resources	94 CSE 1608	Mann	03/21/95	
David Lester Gordon v. Department of Human Resources	94 CSE 1609	Mann	03/13/95	
Larry James Walker, Jr. v. Department of Human Resources	94 CSE 1610	Chess	06/01/95	
Wade A. Burgess v. Department of Human Resources	94 CSE 1611	Chess	06/09/95	
Gary Jones v. Department of Human Resources	94 CSE 1612	Chess	07/12/95	
Anthony Harriao v. Department of Human Resources	94 CSE 1615	Becton	04/07/95	
Eddie L. Oliver III v. Department of Human Resources	94 CSE 1616	Becton	07/10/95	
Michael D. Tyree v. Department of Human Resources	94 CSE 1619	Becton	04/07/95	
Edward Fisher v. Department of Human Resources	94 CSE 1621	Becton	04/07/95	
Leroy Jones v. Department of Human Resources	94 CSE 1622	Nesnow	07/05/95	
Bernard Cooper v. Department of Human Resources	94 CSE 1623	Nesnow	04/17/95	
William Gray v. Department of Human Resources	94 CSE 1645	Becton	04/25/95	
Edward Lockhart v. Department of Human Resources	94 CSE 1646	Chess	06/02/95	
Duane B. Marshburn v. Department of Human Resources	94 CSE 1647	Mann	08/03/95	
Jimmy R. Jackson v. Department of Human Resources	94 CSE 1648	Gray	03/09/95	
Mark A. Jones v. Department of Human Resources	94 CSE 1649	Morrison	03/07/95	
Ondino Damota Freitas v. Department of Human Resources	94 CSE 1650	Reilly	03/07/95	
Tony Monzell Perry v. Department of Human Resources	94 CSE 1651	West	04/07/95	
Frank M. Swett v. Department of Human Resources	94 CSE 1652*	Reilly	05/16/95	
James B. Stokes Jr. v. Department of Human Resources	94 CSE 1653	Becton	04/07/95	
Edith Christine Spurlock v. Department of Human Resources	94 CSE 1654	Chess	07/19/95	
Andrew P. Jergens v. Department of Human Resources	94 CSE 1655	Mann	05/22/95	
Nelson Bennett v. Department of Human Resources	94 CSE 1656	Gray	03/02/95	
Eric L. McDonald v. Department of Human Resources	94 CSE 1657	Morrison	04/06/95	
Kevin Close v. Department of Human Resources	94 CSE 1677	West	08/10/95	
Stephen L. Blankenship v. Department of Human Resources	94 CSE 1678	Becton	07/28/95	
Herbert T. Robertson v. Department of Human Resources	94 CSE 1679	Chess	06/28/95	
Rodney DC Barnes v. Department of Human Resources	94 CSE 1680	Mann	11/16/95	
Kenny R. Bradshaw v. Department of Human Resources	94 CSE 1700	Reilly	04/10/95	
Eddie Harris Jr. v. Department of Human Resources	94 CSE 1702	Becton	04/07/95	
Ronnie P. Stephens v. Department of Human Resources	94 CSE 1703	Chess	06/28/95	
Anthony B. Gardner v. Department of Human Resources	94 CSE 1704	Mann	05/02/95	
Timothy C. Okeke v. Department of Human Resources	94 CSE 1724	Reilly	08/08/95	
Lewis M. Scarborough v. Department of Human Resources	94 CSE 1725	West	05/25/95	
Manuel F. Isla v. Department of Human Resources	94 CSE 1749*10	Becton	07/28/95	
Robert Larry Martin v. Department of Human Resources	94 CSE 1750	Chess	03/21/95	
Dwane M. Williams v. Department of Human Resources	94 CSE 1759	Nesnow	06/09/95	
Joseph O. Evans v. Department of Human Resources	94 CSE 1766	Chess	03/21/95	
Donald E. Kirby v. Department of Human Resources	94 CSE 1767	Reilly	03/03/95	
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Paul R. Rosa v. Department of Human Resources	94 CSE 1778	West	03/06/95	
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David L. Hill v. Department of Human Resources	95 CSE 0200	Becton	08/29/95	
Keith Matthews v. Department of Human Resources	95 CSE 0205	Chess	07/19/95	
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Y'vonne Butler v. Department of Human Resources	95 CSE 0319	Becton	09/18/95	
Derrick Leon Henry v. Department of Human Resources	95 CSE 0321	Chess	07/17/95	
Raul A. Dinzey v. Department of Human Resources	95 CSE 0344	Mann	08/03/95	
David Dean Davis v. Department of Human Resources	95 CSE 0350	Phipps	07/26/95	
Frank McGirt v. Department of Human Resources	95 CSE 0351	Gray	08/07/95	
Kelly Thomas Felty v. Department of Human Resources	95 CSE 0360	Morrison	08/07/95	
Robert Lee Elliott v. Department of Human Resources	95 CSE 0369	Reilly	10/09/95	
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Clarence O. Hilliard v. Department of Human Resources	95 CSE 0371	Reilly	05/25/95	
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Alonzo Wilson v. Department of Human Resources	95 CSE 0414	Becton	07/28/95	
Reginald Hill v. Department of Human Resources	95 CSE 0438	Becton	07/21/95	
Rhonda D. Deaton v. Department of Human Resources	95 CSE 0489	Becton	07/05/95	
Timothy W. Barber v. Department of Human Resources	95 CSE 0491	Phipps	08/07/95	
Rudolph C. Williams v. Department of Human Resources	95 CSE 0492	Gray	07/18/95	
John K. Bostic v. Department of Human Resources	95 CSE 0493	Nesnow	08/02/95	
Eva T. Wilson v. Department of Human Resources	95 CSE 0520	Reilly	07/21/95	
Robert Lee Smith, Jr. v. Department of Human Resources	95 CSE 0528	West	08/25/95	
Dave L. James v. Department of Human Resources	95 CSE 0539	Mann	07/21/95	
Robert Lee Bullock v. Department of Human Resources	95 CSE 0559	Phipps	07/31/95	
Augusta Hepburn v. Department of Human Resources	95 CSE 0573	Gray	08/28/95	
Kenneth Walter Dudney v. Department of Human Resources	95 CSE 0575	Morrison	09/12/95	
Michael Watts Sr. v. Department of Human Resources	95 CSE 0628	Nesnow	09/26/95	
Chris Brown v. Department of Human Resources	95 CSE 0695	Phipps	08/25/95	
Kenneth Collins v. Department of Human Resources	95 CSE 0709	Chess	10/27/95	
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James M. Melvin v. Department of Human Resources	95 CSE 0719	Phipps	10/10/95	
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Willie Gadson v. Department of Human Resources	95 CSE 0783	Nesnow	10/26/95	
Eddie Harris Jr. v. Department of Human Resources	95 CSE 0814	Becton	09/28/95	
Cerulean Fetherson v. Department of Human Resources	95 CSE 0900	Phipps	11/07/95	
Willie M. Herring v. Department of Human Resources	95 CSE 0913	Gray	09/25/95	

Distribution Child Support

Lisa J. Hill v. DHR, Div. of Social Svcs., Child Support Enf. Section	95 DCS 0239	Phipps	05/02/95
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Mr. and Mrs. William Jefferson v. Hoke Cty Soc Svcs, Linda Cromartie	95 DHR 0857	Gray	08/17/95
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Crystea Fields v. Rockingham County DSS	95 DHR 0316	Reilly	06/01/95
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Wake County Social Services

Grace A. Wright v. Wake County Social Services., Suzanne Woodell and Craig Glenn	94 DHR 1618	Chess	05/03/95
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Grace F. Watkins v. Teachers' & St. Emp. Comp. Major Med. Plan	94 INS 1639	Chess	05/24/95
Billy Gene Campbell v. Department of Insurance	95 INS 0143	Reilly	04/20/95
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Patrick P. Sassman v. Alarm Systems Licensing Board	94 DOJ 1825	Reilly	03/09/95
Chad R. Fuller v. Alarm Systems Licensing Board	95 DOJ 0716	West	08/18/95
Malcolm K. Teague v. Alarm Systems Licensing Board	95 DOJ 0765	Nesnow	10/19/95

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<i>Education and Training Standards Division</i>				
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Ricky Dale McDevitt v. Sheriff's Ed. & Training Stds. Comm.	94 DOJ 1710	Nesnow	05/04/95	10:05 NCR 324
Reginald Keith Goffington v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 0028	Becton	06/08/95	
Nervin Joseph DeDeaux v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 0029	Reilly	05/16/95	
Tony Lamont Blackmon v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 0043	Reilly	06/02/95	
Constance F. Lawrence v. Sheriff's Ed. & Training Stds. Comm.	95 DOJ 0076	Morrison	04/06/95	
Alexander Douglas Jones v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 0101	Morrison	06/13/95	10:07 NCR 627
Marilyn Jean Britt v. Sheriff's Ed. & Training Stds. Comm.	95 DOJ 0172	Gray	08/03/95	
Antonio Tremont Davis v. Sheriff's Ed. & Training Stds. Comm.	95 DOJ 0298	Phipps	08/08/95	
Amy Rebecca Batcheler v. Sheriff's Ed. & Training Stds. Comm.	95 DOJ 0364	West	08/16/95	
Richard Terry Locklear v. Criminal Justice Ed. & Training Stds. Comm. and Sheriffs' Education and Training Standards Commission	95 DOJ 0365*14	West	10/30/95	10:17 NCR 2255
Richard Dan Wuchte v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 0401	Nesnow	06/07/95	
Henry Roger Judd v. Sheriff's Ed. & Training Stds. Comm.	95 DOJ 0431	Nesnow	08/02/95	
Daryl Tyrone Beard v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 0566	Gray	10/11/95	
Jewel T. Braswell v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 0730	Phipps	09/11/95	
George H. Powell Jr. v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 0784	Phipps	09/08/95	
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<i>Private Protective Services Board</i>				
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Donnell E. Morrow, Jr. v. Private Protective Services Board	94 DOJ 1823	Reilly	03/09/95	
Private Protective Services Board v. James C. Purvis	95 DOJ 0018	Chess	05/15/95	
Private Protective Services Board v. Samuel O. Smith	95 DOJ 0133	Chess	05/09/95	
Jann Mitchell Stanley v. Private Protective Services Board	95 DOJ 0420	Morrison	05/24/95	
Donald Wayne Clark v. Private Protective Services Board	95 DOJ 0444	Phipps	07/14/95	10:09 NCR 805
Richard Frank v. Private Protective Services Board	95 DOJ 0610	Phipps	08/10/95	
Marvin E. Shackelford v. Private Protective Services Board	95 DOJ 0611	Phipps	07/18/95	
Julius T. Fairley v. Private Protective Services Board	95 DOJ 0612	Phipps	07/20/95	
James L. McLeary, Jr. v. Private Protective Services Board	95 DOJ 0613	Phipps	07/18/95	
Bobby E. Smithy v. Private Protective Services Board	95 DOJ 0717	West	08/23/95	10:12 NCR 1039
Frederick B. Moore, Jr. v. Private Protective Services Board	95 DOJ 0766	Morrison	09/01/95	
Daniel C. Ingles v. Private Protective Services Board	95 DOJ 0767	Morrison	08/30/95	
Walter Lee Watson v. Private Protective Services Board	95 DOJ 0768	West	10/09/95	
Charles Ray Gable v. Private Protective Services Board	95 DOJ 0975	Gray	10/17/95	
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<i>Occupational Safety & Health Division</i>				
Lenoir County Public Schools v. Department of Labor, OSHA	95 DOL 0218	Nesnow	05/01/95	
<i>Private Personnel Service Division</i>				
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<i>Wage and Hour Division</i>				
R.J. Scott, Pres. Pirate Enterprises, Inc. v. Labor, Wage & Hour Div.	94 DOL 1524	West	03/23/95	
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PUBLIC INSTRUCTION				
Glenn II, on behalf of Glenn II, and Glenn II, Individually v. Charlotte-Mecklenburg County Schools	93 EDC 0549	Chess	03/16/95	
Donna Marie Snyder v. Department of Public Instruction	93 EDC 0731	Chess	10/11/95	
S.M. on Behalf of J.A.M., and S.M., Individually, and J.M. v. Davie County Board of Education	93 EDC 0742	Phipps	05/30/95	
William Hewett v. State Board of Education	94 EDC 0533	Gray	03/31/95	10:02 NCR 179
James Midgette v. State Board of Education	94 EDC 1401	Reilly	05/02/95	
Deborah R. Crouse v. State Board of Education	95 EDC 0003	Chess	04/10/95	
Haydn Stewart Hasty v. State Board of Education	95 EDC 0027	Reilly	10/09/95	10:15 NCR 1632
Bobby G. Little v. Department of Public Instruction	95 EDC 0168	Phipps	03/20/95	
Tonya Marie Snipes and Robert Leon Snipes v. Orange County Schools	95 EDC 0225	Mann	05/15/95	
Vance County Schools v. Haywood Yarbrough	95 EDC 0235	Mann	08/04/95	
Laverne K. Suggs v. Department of Public Instruction	95 EDC 0384	Nesnow	07/12/95	
Lavern K. Suggs v. Guilford County Schools	95 EDC 0385	Nesnow	06/02/95	
Kenneth G.H. Leftwich v. State Board of Education	95 EDC 0405	Nesnow	05/25/95	
Madeline J. Taylor v. Department of Public Instruction	95 EDC 0525	Phipps	10/25/95	
William Andrew McCullough v. Public Instruction, Licensure Section	95 EDC 0915	Gray	10/30/95	
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Phillip S. Banks, III v. North Carolina State Bar	95 BAR 0861	Morrison	08/18/95	
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<i>Caswell County Health Department</i>				
Della Brown v. Caswell County Health Department	94 OSP 0834	Nesnow	06/12/95	
Julie R. Johnson v. Caswell County Health Department	94 OSP 0865	Reilly	03/15/95	
<i>N.C. Central University</i>				
Peter A. Fore v. N.C. Central University	93 OSP 0189	Nesnow	06/13/95	
<i>Department of Commerce</i>				
T. Sherwood Jernigan v. Dept. of Commerce, Savings Institution Div.	94 OSP 0775	West	05/25/95	
<i>Department of Community Colleges</i>				
Sheila M. Thompson v. Department of Community Colleges	94 OSP 1530	Chess	11/01/95	10:17 NCR 2272
<i>Department of Correction</i>				
Nancy Gilchrist v. Department of Correction	94 OSP 0121	West	03/09/95	
Howard Gray Sadler v. Correction, Div. of Adult Probation/Parole	94 OSP 0332	West	05/15/95	
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George J. McClearse, Jr. v. Department of Correction	94 OSP 0644	Gray	04/19/95	
Gaius Wells v. Department of Correction	94 OSP 0684	West	10/12/95	10:15 NCR 1610
Nancy C. Walker v. Department of Correction	94 OSP 1206	Gray	08/18/95	
Ruth Kearney v. Department of Correction	94 OSP 1807	Becton	03/13/95	
Ann R. Fletcher v. Department of Correction	95 OSP 0123	Chess	08/21/95	
Odell Davis v. Department of Correction	95 OSP 0244	Gray	09/21/95	
James W. Hughes v. Department of Correction, Blue Ridge Unit Avery	95 OSP 0334	Becton	07/25/95	
Dennis Harrell v. Department of Correction	95 OSP 0440	Phipps	09/05/95	10:13 NCR 1209
William E. Norwood, Jr. v. Department of Correction	95 OSP 0500	Gray	08/16/95	
Shelby Gorham-Teel v. Department of Correction	95 OSP 0536	Reilly	10/23/95	
Larry Riddle v. Department of Correction	95 OSP 0570	West	10/18/95	
Eric Little v. Department of Correction, Morrison Youth Institution	95 OSP 0658	Phipps	10/18/95	
Cynthia R. Steven v. N.C. Women's Prison	95 OSP 0829	Chess	10/24/95	
Mark R. Murphy v. Department of Correction	95 OSP 1047	Nesnow	10/26/95	
<i>Department of Crime Control and Public Safety</i>				
Betty Sue Whitley v. National Guard Dept. Crime Control & Public Safety	94 OSP 1399	Chess	06/13/95	
Robert W. Beasley v. Crime Control & Public Safety, St. Highway Patrol	94 OSP 1821	Morrison	08/10/95	10:11 NCR 965

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<i>Office of the District Attorney</i>				
Shannon Caudill v. Office of the District Attorney for Judicial District 17-B, and Administrative Office of the Courts	95 OSP 0188	Nesnow	03/20/95	
<i>Dorothea Dix Hospital</i>				
Paul E. Hunter v. Dorothea Dix Hospital	95 OSP 0504	Gray	07/12/95	
<i>Durham County Health Department</i>				
Laurie A. Gerhard v. Durham County Health Department	95 OSP 0220	Phipps	08/17/95	10:12 NCR 1043
<i>East Carolina University</i>				
Helen E. Wolfe v. East Carolina University, Dept. of Biology	94 OSP 1558	Reilly	09/07/95	
Lillie Mercer Atkinson v. ECU, Dept. of Comparative Medicine, et al.	95 OSP 0038* ⁷	Becton	06/08/95	
Lillie Mercer Atkinson v. ECU, Dept. of Comparative Medicine, et al.	95 OSP 0057* ⁷	Becton	06/08/95	
<i>Edgecombe County Health Department</i>				
Ronald E. Wooten v. Edgecombe County Health Department	94 OSP 1209	Gray	07/10/95	
<i>Department of Environment, Health, and Natural Resources</i>				
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<i>Fayetteville State University</i>				
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<i>Forsyth Stokes Mental Health Center</i>				
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<i>Department of Human Resources</i>				
April Benfield v. Department of Human Resources and Western Carolina Center	94 OSP 1758	Nesnow	06/07/95	
Eugene Hightower, Jr. v. Department of Human Resources, EEO	94 OSP 1811	West	05/04/95	
Rebecca Johnson v. Human Resources, Special Care Center	95 OSP 0138	West	03/31/95	
Edward E. Williams v. NC Special Care Center, Def./Emp, DHR	95 OSP 0483	Reilly	10/03/95	
<i>Black Mountain Center</i>				
James Harrison v. Black Mountain Center, Dept. of Human Resources	94 OSP 0994* ¹¹	Gray	07/31/95	
James Harrison v. Black Mountain Center, Dept. of Human Resources	95 OSP 0190* ¹¹	Gray	07/31/95	
<i>Caswell Center</i>				
David A. Kilpatrick v. DHR, Caswell Center	95 OSP 0267	Nesnow	10/25/95	
<i>Cherry Hospital</i>				
William H. Cooke v. DHR, Cherry Hospital	93 OSP 1547	Gray	03/16/95	
Deloris L. Johnson v. Cherry Hospital, DHR	95 OSP 0409	Gray	08/25/95	
<i>Durham County Department of Social Services</i>				
Delores H. Jeffers v. Durham County Department of Social Services	94 OSP 0939	Morrison	06/12/95	

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>Gaston County Department of Social Services</i>				
Bobbie J. Gilliam v. Gaston County Department of Social Services	94 OSP 0770	West	05/24/95	
<i>Halifax County Department of Social Services</i>				
Robert E. Sykes v. Halifax County Department of Social Services	94 OSP 0826	Gray	11/15/95	
<i>Iredell County Department of Social Services</i>				
Vernon E. Grosse v. Iredell County Department of Social Services	94 OSP 0282	Becton	03/09/95	
Bonnie N. Bellamy v. Iredell County Department of Social Services	94 OSP 0739	Chess	03/01/95	10:01 NCR 48
<i>Richmond County Department of Social Services</i>				
Emma Jane Bradley v. Richmond County Dept. of Social Services	95 OSP 0055	Reilly	07/18/95	10:09 NCR 809
<i>Wake County Department of Health</i>				
Regina K. Crowder v. Wake County/Health Dept., Caroline E. Lee, Dir.	94 OSP 1032**	Nesnow	06/12/95	
Sabrina R. Crowder v. Wake County/Health Dept., Richard Stevens	94 OSP 1072**	Nesnow	06/12/95	
Thomasine D. Avery v. Wake County/Health Department	94 OSP 1074**	Nesnow	06/12/95	
<i>Wake County Department of Social Services</i>				
Olivia L. Jordan v. Wake County/Department of Social Services	94 OSP 1179**	Nesnow	06/12/95	
<i>Department of Labor</i>				
Michael Robert Smith v. Department of Labor	94 OSP 0610	Nesnow	06/09/95	
<i>Lee-Harnett Area Mental Health, Developmental Disabilities, and Substance Abuse Authority</i>				
Julie Dyer v. Lee-Harnett Area MH/DD/SA Authority	94 OSP 0750	Gray	03/20/95	
<i>North Carolina Special Care Center</i>				
Lynn Banasiak Bass v. North Carolina Special Care Center	95 OSP 0419	Phipps	08/01/95	
<i>North Carolina State University</i>				
Artelia S. Clark v. N.C. State University	89 OSP 0612	Nesnow	07/07/95	
Wesley Brown v. N.C. State University	94 OSP 1173	Reilly	06/30/95	10:08 NCR 700
David L. Bauer v. North Carolina State University	95 OSP 0044	Morrison	04/25/95	
Billy Ray Kelly v. NCSU Physical Plant	95 OSP 0130	West	03/22/95	
Heather Ann Waskiewicz v. NCSU, Dept. of Public Safety	95 OSP 0213	Phipps	07/06/95	
Antoinette Chavis-Scott v. N.C.S.U. Accounts Payable	95 OSP 0800	Chess	10/31/95	
<i>Orange-Person-Chatham Mental Health</i>				
Patricia A. Harris v. Orange-Person-Chatham Mental Health	95 OSP 0162	West	04/11/95	
<i>Department of Revenue</i>				
Wayne Davenport v. Department of Revenue, Motor Fuels Tax Division	95 OSP 0902	Becton	11/03/95	
<i>Richmond Community College</i>				
Willie J. Breeden v. Richmond Community College	95 OSP 0846	Gray	09/13/95	
<i>Department of Transportation</i>				
Michael E. Kornegay v. Department of Transportation	93 OSP 1700	Gray	03/24/95	
Robert F. Goins v. Department of Transportation	94 OSP 0281	Chess	05/30/95	
Esther Doe Murphy v. Department of Transportation	95 OSP 0114	Gray	07/10/95	
Debra R. Embden v. DOT, Division of Motor Vehicles	95 OSP 0411	Morrison	11/01/95	10:17 NCR 2286
Mary Matthews Finnerty v. Department of Transportation	95 OSP 0412	Nesnow	11/02/95	
Lonnie Joseph Cole v. NC DOT (TTI's Boone NC) Div. of Hwys	95 OSP 0606	West	10/24/95	

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Judy H. Arnold v. Department of Transportation, Div. of Motor Vehicles	95 OSP 1075	Becton	07/31/95	
<i>Union County Schools</i>				
Carolyn H. Elkins v. Union County Schools	95 OSP 0948	Reilly	11/03/95	
<i>University of North Carolina</i>				
Beth Ann Miller v. UNC Student Health	94 OSP 0800	Nesnow	05/25/95	
Roberta Jones v. University of North Carolina-Chapel Hill	94 OSP 1718	Chess	10/31/95	10:17 NCR 2276
<i>UNC Hospitals</i>				
David Patrick Malone v. Univ. of NC Hospital at Chapel Hill	94 OSP 0771	Becton	03/14/95	
Lillian C. Daniels v. UNC Hospital	95 OSP 0056	Morrison	05/11/95	
<i>Wake County</i>				
Mark Morgan v. Wake County	94 OSP 0937	Nesnow	04/28/95	10:04 NCR 287
STATE TREASURER				
John W. Parris v. Bd. of Trustees//NC Local Gov. Emp. Retirement Sys.	91 DST 1093	Nesnow	05/04/95	
Channie S. Chapman v. Bd./Trustees//NC Local Gov. Emp. Ret Sys.	94 DST 0443	Morrison	05/15/95	
Bryan L. Basden v. Retirement Systems Division	95 OSP 0171	Chess	06/21/95	
Wayne La Broad v. Bd./Trustees//Teachers/St. Emp. Retirement Sys.	95 DST 0219	Morrison	07/14/95	
Tammy Evonne Ashcroft Brown v. Bd./Tr./NC Local Gov. Emp. Ret Sys.	95 DST 0404	Phipps	07/27/95	10:10 NCR 872
UNIVERSITY OF NORTH CAROLINA				
Jerry B. Potter, Sr. v. UNC Hospitals at Chapel Hill	95 UNC 0502	Gray	09/12/95	

STATE OF NORTH CAROLINA
COUNTY OF ROBESON

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS

RICHARD TERRY LOCKLEAR)	
Petitioner)	94 DOJ 1006
)	
v.)	
)	
N.C. CRIMINAL JUSTICE EDUCATION)	
AND TRAINING STANDARDS COMMISSION)	
Respondent)	
)	PROPOSED DECISION
RICHARD TERRY LOCKLEAR)	
Petitioner)	
)	
v.)	95 DOJ 0365
)	
N.C. SHERIFFS' EDUCATION AND TRAINING)	
TRAINING STANDARDS COMMISSION)	
Respondent)	

These matters were consolidated for hearing by Order dated April 21, 1995 and were heard by Thomas R. West, Administrative Law Judge, on May 10-11, June 9, July 20 and August 14, 1995 in Elizabethtown, Raleigh and Lumberton, North Carolina.

APPEARANCES

Petitioner was represented by Edward John Bullard of Lumbee River Legal Services and Woodberry L. Bowen of the law firm of Bowen & Byerly in Lumberton, North Carolina.

Respondent Criminal Justice Education and Training Standards Commission was represented by Special Deputy Attorney General Robin P. Pendergraft.

Respondent Sheriffs' Education and Training Standards Commission was represented by Assistant Attorney General John J. Aldridge, III.

EXHIBITS

The following exhibits were received into evidence:

R1	R9	
R2	R10	
R3	R11	- Sheriffs' Commission only
R4	R12	- Sheriffs' Commission only
R5	R13	- Sheriffs' Commission only
R6	R14	- Sheriffs' Commission only
R7	R15	
R8	R16	
 P4	 P HH	
P GGG	P OO	
P DD	P PP	
P XXX - Sheriff's Commission only	P QQ	
	P UU (A)	

P EE

OFFER OF PROOF

The following exhibits were tendered by Petitioner, but not received into evidence. The documents are included in an Offer of Proof by Petitioner:

P AAA
P BBB
P CCC
P DDD

P EEE
P FFF
P HHH

WITNESSES

The following people were called to testify by the Commissions:

Richard Terry Locklear		
Jennifer Walker		
Kathy Avery		
Sgt. Price Carpenter	-	Whiteville Police Dept.
Laurie A. Curtis Brown		
Carol Clark		
Laura Yvette Casto Pittman		
Penny Branton		
Scott Perry	-	Deputy Director of Criminal Justice Standards Division
Jeannie Outland	-	Director of Criminal Justice Standards Division
Julia Lohman	-	Assistant Director of Sheriff's Training and Standards Division
Chief Randall Aragon	-	Chief, Whiteville Police Dept.
Special Agent David Marshall	-	State Bureau of Investigation (at all times relevant to this case)

The following people were called to testify by Richard Terry Locklear:

Sgt. David Archie	-	Whiteville Police Dept.
Richard Terry Locklear		
John Raynor	-	Retired Chief of Whiteville Police Dept.
Charles Blackmon	-	Former Sgt., Whiteville Police Dept.
Jeffrey Martin	-	Chief of Personnel, Robeson Co. Sheriff's Dept.
Lt. Robert Memory	-	Whiteville Police Dept.

JUDICIAL NOTICE

Judicial notice was taken of the following New Jersey statutes:

2C:12-1	Assault
2C:20-7	Receiving stolen property
2C:20-10	Unlawful taking of means of conveyance
2C:33-4	Harassment
39:3-40	Driving when license refused, suspended, revoked or prohibited; motor vehicle license revoked; punishment

Judicial notice was taken of the following North Carolina General Statute:

14-33 Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments.

Judicial notice was taken of the following rules in the North Carolina Administrative Code:

12 NCAC 10B .0100 - .0304
 12 NCAC 9A .0100 - .0206
 12 NCAC 9B .0100 - .0113

Based upon the testimony and evidence presented, the undersigned makes the following:

FINDINGS OF FACT

Stipulated Facts

1. All parties are properly before this Administrative Law Judge, in that jurisdiction and venue are proper, and all parties received proper notice of hearing.

2. The North Carolina Criminal Justice Education and Training Standards Commission has the authority granted under Chapter 17C of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 9, to certify criminal justice officers and to deny, revoke or suspend such certification.

3. The North Carolina Sheriffs' Education and Training Standards Commission has the authority granted under Chapter 17E of the North Carolina General Statutes and Title 12 of the North Carolina Administrative Code, Chapter 10, Subchapter 10B, to certify justice officers as either deputy sheriffs or jailers, and to deny, revoke or suspend such certification.

4. The Criminal Justice Commission rule 12 NCAC 9B.0204(b)(3)(A) provides that:

(b) The Commission may suspend, revoke, or deny the certification of a criminal justice officer when the Commission finds that the applicant for certification or the certified officer:

(3) has committed or been convicted of:

(A) a criminal offense or unlawful act defined in 12 NCAC 9A .0103 as a Class B misdemeanor. . . .

5. The Sheriffs' Commission rule 12 NCAC 10B .0204(d)(1) provides that:

(d) The Commission may revoke, suspend or deny the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer has committed or been convicted of:

(1) A crime or unlawful act defined in 12 NCAC 10B .0103(10)(b) as a Class B misdemeanor within the five year period prior to the date of appointment.

6. Both 12 NCAC 9A .0103(21)(b) (Criminal Justice Commission) and 12 NCAC 10B .0103(10)(b) (Sheriffs' Commission) provide that a Class B misdemeanor means an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this state, or any other jurisdiction, either civil or military, for which the maximum punishment allowable for the designated offense under the laws and statutes of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Class B misdemeanor expressly includes either first or subsequent offenses of N.C.G.S. § 20-138(a) or (b). A Class B misdemeanor also includes a violation of N.C.G.S. § 20-138.1 if the defendant was sentenced under punishment level 1 or punishment level 2 for the offense and also includes a violation of N.C.G.S. § 20-38(b) (driving while license permanently revoked or suspended).

7. The Criminal Justice Commission rule 12 NCAC 9B .0204(b)(2) provides that the Commission shall revoke, deny, or suspend the certification of a criminal justice officer when the Commission finds that the applicant for certification or certified officer:

(2) fails to meet or maintain one or more of the minimum employment standards required by 12

NCAC 9B .0100 for the category of the officer's certification or fails to meet or maintain one or more of the minimum training standards required by 12 NCAC 9B .0200 or 12 NCAC 9B .0400 for the category of the officer's certification.

8. The Sheriffs' Commission rule 12 NCAC 10B .0204(b)(2) provides that the Commission shall revoke, deny, or suspend the certification of a justice officer when the Commission finds that the applicant for certification or the certified officer:

- (2) fails to meet or maintain any of the minimum employment or certification standards required by 12 NCAC 10B .0300.

9. The Criminal Justice Commission rule 12 NCAC 9B .0101(3) provides that every criminal justice officer employed by an agency in North Carolina shall be of good moral character pursuant to G.S. 17C-10 and as determined by a thorough background investigation.

10. The Sheriffs' Commission rule 12 NCAC 10B .0301(a)(8) provides that every justice officer employed or certified as deputy sheriff or jailer in North Carolina shall be of good moral character.

11. The Criminal Justice Commission rule 12 NCAC 9B .020(4)(b)(6) provides that the Commission may suspend, revoke, or deny the certification of a criminal justice officer when the Commission finds that the applicant for certification or the certified officer has knowingly made a material misrepresentation of any information required for certification.

12. The Sheriffs' Commission rules 12 NCAC 10B .0204(c)(1) and (2) provide that the Commission may suspend, revoke, or deny the certification of a justice officer when the Commission finds that the applicant or certified officer:

- (1) has knowingly made a material misrepresentation of any information required for certification or accreditation;
- (2) has knowingly and willfully, by any means of false pretense, deception, defraudation, misrepresentation or cheating whatsoever, obtained or attempted to obtain credit, training or certification from the Commission or the North Carolina Criminal Justice Education and Training Standards Commission.

13. Petitioner successfully completed the Basic Law Enforcement Training course at Robeson Community College on April 18, 1991.

14. Petitioner applied with the Criminal Justice Commission for certification as a full time law enforcement officer with the Whiteville Police Department in May 1991.

15. Petitioner was issued a probationary certification (PRA 152448471) by the Criminal Justice Commission on May 22, 1991.

16. Petitioner was issued general certification (GNA 152448471) by the Criminal Justice Commission on May 20, 1992.

17. Petitioner was separated from the Whiteville Police Department on November 17, 1993.

18. Petitioner was charged with the following offenses with the attending dispositions:

<u>CASE#/LOCATION</u>	<u>CHARGE/STATUTE</u>	<u>DATE/OFFENSE</u>	<u>DISPOSITION</u>
B1761 Clinton, NJ	Receiving Stolen Property NJS 2C:20-7	8/16/80	Convicted of Unlawful Taking of Means of Conveyance 2/2/82

Belvidere, NJ	Harassing Communications NJSA 2C:33-4C	8/24/83	Dismissed	9/7/83
84/12-106R NJ	Worthless check	12/31/84		
C047196 Kearny, NJ	Simple assault NJSA 2C:12-1(a)(1)	7/1/88	Convicted	9/26/88
Kearny, NJ	DWL Suspended NJSA 39:3-40	8/7/88	Convicted	10/27/88

19. On November 8, 1993, Petitioner was charged with the criminal offense of assault on a female, Laura Y. Casto, on June 20, 1993, in violation of N.C.G.S. § 14-33(b)(2) (93 CR 07557). This criminal matter was heard in District Court on April 18, 1994 before the Honorable Napoleon Barefoot who entered a finding of not guilty.

20. On November 8, 1993, Petitioner was charged with the criminal offense of attempted second degree rape of Laurie A. Curtis on October 20, 1993, in violation of N.C.G.S. § 14-27.6 (93 CR 7538). Petitioner also was charged with the criminal offense of attempted second degree sexual offense of Laurie A. Curtis on October 20, 1993 in violation of N.C.G.S. § 14-27.6 (93 CR 7539). These criminal matters were heard on April 7, 1994 in Superior Court before an impaneled jury, whereby Petitioner's motion to dismiss the attempted second degree sexual offense was allowed. The jury returned a verdict of not guilty on the attempted second degree rape.

21. Petitioner applied for justice officer certification with the Sheriffs' Commission on December 30, 1994.

22. On August 29, 1994, David D. Cashwell, Director of the Criminal Justice Standards Division, sent to Petitioner by certified mail, a letter advising Petitioner that probable cause had been found to believe that Petitioner's certification as a law enforcement officer should be suspended, based upon probable cause to believe that Petitioner committed two (2) Class B misdemeanors and knowingly made material misrepresentations of information on his application forms for obtaining law enforcement certification. This letter further advised that probable cause existed that Petitioner failed to maintain the minimum employment standard that every law enforcement officer shall be of good moral character.

23. Petitioner was appointed as a jailer with the Robeson County Sheriff's Office on December 30, 1994. On February 24, 1995, Joan G. Neuner, Director of the Sheriffs' Education and Training Standards Commission, sent to Petitioner by certified mail, a letter advising Petitioner that probable cause had been found to believe that his certification was subject to being denied, based upon probable cause to believe that Petitioner falsified his application for certification with each of the Respondent Commissions and that Petitioner committed two (2) Class B misdemeanors of Assault on a Female. This letter further advised Petitioner that probable cause existed to believe his certification was subject to be denied based on his lack of good moral character.

24. Upon further investigation, it has been determined that the "Richard Terry Locklear" convicted on September 23, 1992 for the fraudulent criminal act of disposing of mortgaged property is not Petitioner; therefore, the Criminal Justice Commission does not intend to pursue that portion of its allegations which states that Petitioner failed to notify the Criminal Justice Standards Division of the 1992 conviction.

Adjudicated Facts

Material Misrepresentations

I.

25. Petitioner was born in Robeson County on December 19, 1951; lived in New Jersey from 1980-1990; and has been married to Irene Locklear since 1990.

26. Petitioner applied for employment as a police officer with the town of Whiteville on or about May 1, 1991.

27. Petitioner was caused by authorities at the Whiteville Police Department to sign at least two documents on May 1, 1991; namely, an F-3, Personal History Form (Exhibit 5), and an F-5A LE Report of Appointment Form (Exhibit

4).

28. Chief John Raynor did not cause the F-5A LE Report of Appointment form to be filled out by his secretary with any typed information until on or after the date drug testing results were received which was May 7, 1991; hence, Petitioner signed the F-5 Report of Appointment form in blank.

29. In the section of Form F-5A LE entitled "Criminal Offense Record," only one criminal offense is disclosed. It is disclosed that Petitioner was charged with "Assault on a Female" by the "Karney PD in NJ" "4-5 years ago." It is disclosed that the case was disposed of by Petitioner paying a fine.

30. Petitioner's signature is on the form attesting that the information on the form was complete and accurate to the best of his knowledge. The same representation was made by Chief John Raynor.

31. In June 1991, Petitioner applied with the Criminal Justice Commission for certification as a law enforcement officer with the Whiteville Police Department by submitting the Report of Appointment/Application for Certification (Form F-5A LE) to that Commission. The form is a required document for certification. (Respondents' Exhibit 4).

32. Based upon information provided by the Petitioner to the Criminal Justice Commission on the Form F-5A LE, the Commission issued a law enforcement officer certification to Petitioner.

33. Also, as part of the state certification process, Petitioner was required to complete and did complete on May 1, 1991 a Criminal Justice Commission mandated form, the Personal History Statement (Form F-3). This document assists with the required background investigation of the officer and is not submitted to the Criminal Justice Commission but is maintained on file with the local department for review by the Commission.

34. Question number 50 on the Personal History Statement asks: "Have you ever been charged with a criminal offense? ____ Yes ____ No. If yes, give details below." Blank spaces are provided to allow the officer to include the particular offense charged, the law enforcement agency, date, and disposition of the case. (Respondents' Exhibit 5).

35. Petitioner responded to Question 50 on the Criminal Justice Commission's form in the following manner:

- A. Simple Assault, Kearny P.D., 1985 or 1986, Fine of \$200.00
- B. ?, Clinton, NJ P.D., ?, Fine of \$200.00
- C. Driving on Suspended list (would like to explain), Kearny, N.J. PD, ?, Fine of ?

The explanation attached for question 50B included the following: "After losing my job in 1978 a car dealership came and repossessed my car. I took my car back. I did not know that it was a crime. I was fined \$200.00." (Respondents' Exhibit 5).

36. In order to become a jailer with the Robeson County Sheriff's Department, Petitioner was required to and did complete on December 12, 1994 a Sheriffs' Commission mandated form, the Personal History Statement (Form F-3). This form assists with the required background investigation of the officer and is submitted to the Sheriffs' Commission as part of the state certification application process. (Respondents' Exhibit 11).

37. Question number 47 on the Sheriffs' Commission Personal History Statement asks: "Have you ever been arrested by a law enforcement officer or otherwise charged with a criminal offense? ____ Yes ____ No." Blank spaces are provided to allow the officer to include the particular offense charged, the law enforcement agency, date, and disposition of the case. (Respondents' Exhibit 11).

38. Petitioner responded to Question 47 on the Sheriffs' Commission form in the following manner:

- 1. Unauth vehicle, Clinton Police NJ, ?, fine
- 2. Disorderly person, Kearny PD NJ, ?, fine
- 3. Assault on Female, 2d attempted rape, attempted sex off., N.C. S.B.I., 10-93, not guilty.
- 4. Harassing communication, New Jersey State Police, Blairstown, N.J., dismissed. (Respondents' Exhibit 11).

39. When asked on the Sheriffs' Commission Form F-3 (Question number 29) whether he had "ever been discharged or forced to resign from any position because of criminal misconduct or rules violation." Petitioner explained that he "was discharged from Whiteville Police Department for assault on a female and 2nd degree attempted rape (not guilty)."

40. On August 16, 1980, Petitioner was stopped and arrested by the Clinton, New Jersey Police Department and charged with the felony of receiving stolen property, a 1979 Ford automobile. Upon being placed under arrest, the police brought Petitioner to police headquarters and fingerprinted and photographed him. After the above processing, Petitioner was placed in the custody of the Hunterdon County Jail. (Respondents' Exhibit 3C).

41. The Ford automobile belonged to Petitioner until it had been repossessed by the Ford Motor Credit Company due to Petitioner's failure to make his car payments. On August 15, 1980, the vehicle was in the possession of Clinton Ford until Petitioner took the vehicle. (Respondents' Exhibit 3C).

42. On February 2, 1982, Petitioner pled guilty to and was found guilty of the misdemeanor of unlawful taking of a means of conveyance, in violation of N.J.S.A. 2C: 20-7. This is the offense to which Petitioner referred in answer 50B on the Criminal Justice Commission's Form F-3.

43. Petitioner admitted that the above incident occurred and that it was not reported on the Criminal Justice Commission's Report of Appointment/Application for Certification (Form F-5A LE).

44. According to documents received into evidence, the New Jersey State Police served Petitioner on August 18, 1983 with a criminal summons for simple assault, which allegedly occurred on August 15, 1983, and he was released from custody that same day on his own recognizance. On August 18, 1983, Petitioner filed a complaint with the New Jersey State Police against Terri L. Thomas and Thomas E. Pryslak for simple assault which allegedly occurred on August 15, 1983. All three charges were eventually dismissed in the White Township Municipal Court on September 14, 1983. (Respondents' Exhibit 3B).

45. According to the New Jersey State Police investigation report, on August 15, 1983 two troopers responded to a "fight in progress" call at Bill's Olympic Diner, whereby Terri Thomas and her friend Thomas Pryslak had been involved in a physical altercation with Ms. Thomas' ex-boyfriend, the Petitioner, in the parking lot. (Respondents' Exhibit 3B).

46. When asked about this 1983 assault charge by Respondents' Request for Admissions, Petitioner indicated that he was "without the knowledge, memory, or information sufficient to form a belief as to the truth of this requested admission." (Respondents' Exhibit 10).

47. Petitioner testified at the hearing that he remembered the fight with Mr. Pryslak over his girlfriend, Terri Thomas, but did not remember taking out any papers on the two nor that he was charged with simple assault.

48. Petitioner agreed that the above 1983 simple assault charge was not listed on the Criminal Justice Commission's Form F-5A LE nor the Form F-3, and also that such charge was not listed on the Sheriffs' Commission Form F-3.

49. Petitioner admitted that on or about August 24, 1983, he was arrested for the offense of harassing communications, in violation of N.J.S.A. 2C:33-4C, transported to jail in a police vehicle, and on or about September 7, 1983, that charge was dismissed in the Municipal Court of Belvidere, New Jersey. (Respondents' Exhibit 10).

50. Petitioner admitted that he did not list the above 1983 harassing communications charge on the Criminal Justice Commission's Form F-5A LE nor the F-3.

51. Petitioner admitted that in 1984 while in New Jersey he was criminally charged with writing a worthless or bad check (Case Number 84/12-106R), which he paid off.

52. Petitioner admitted that the worthless check conviction was not included on the Criminal Justice Commission's Form F-5A LE nor the F-3, and also that he did not list such charge on the Sheriffs' Commission's Form F-3. He explained that he felt the worthless check charge was "so trivial" that he didn't need to list it.

53. Petitioner admitted that on or about July 1, 1988, he was charged with simple assault of his girlfriend Beverly Durr, in violation of N.J.S.A. 2C:12-1(a)(1), and on September 26, 1988 pled not guilty to and was found guilty of that criminal offense in the Municipal Court of Kearny, New Jersey. (Respondents' Exhibits 2 and 10).

54. Petitioner did not list "simple assault" or "assault on a female" on the Sheriffs' Commission's F-3, but testified that he was confused when he completed this document in December 1994 and listed this 1988 conviction as "disorderly person" and placed a question mark in the space provided for a date.

II.

55. Chief John Raynor of the Town of Whiteville was charged with a duty to fully investigate the offenses which Petitioner disclosed.

56. Chief Raynor called New Jersey about the alleged possession of stolen auto.

57. No documents were forthcoming from New Jersey from the phone call. Chief Raynor agrees that the standard way of obtaining such information is a letter or fax under the letterhead of the law enforcement agency. This is necessary to show an official need to know since such records are not regularly sent to civilians.

58. Chief Raynor never sent a letter or fax to New Jersey requesting the material, although Petitioner had correctly designated the name of the police department which had jurisdiction of this matter which occurred in Clinton, New Jersey.

59. Petitioner added a sheet to his F-3 form which described in some detail the circumstances of the stolen auto charge.

60. Chief Raynor spoke to Mrs. Outland, an agent of the Criminal Justice Standards Division, regarding the automobile offense described above and relayed to her the facts given Chief Raynor by Petitioner on the F-3 form.

61. Chief Raynor and Mrs. Outland concluded that the matter in question was more civil in nature, and it was agreed between them that the matter should be omitted from the Report of Appointment Form F-5A LE.

62. Chief Raynor requested that Petitioner send to New Jersey for records on the assault disclosed on the Form F-3. Petitioner did so. The records were forwarded to the Criminal Justice Standards Division.

63. Notwithstanding the disclosure of the Assault on a Female conviction, Petitioner was certified as a Law Enforcement Officer on May 22, 1991, and served as a patrolman with the agency City of Whiteville from May 21, 1991 until November 17, 1993, when he was discharged.

64. Charles R. Blackmon, former Sergeant with the Whiteville Police Department, testified that he conducted the background investigation on Petitioner for the City of Whiteville in April 1991. He stated that Petitioner told him of only one offense, simple assault, which Mr. Blackmon listed on the city background form. (Respondents' Exhibit 16).

65. During Petitioner's term of service in Whiteville, he received several commendations into his personnel record and received no write-ups or disciplinary actions until he sent an anonymous letter to the members of the City Council of the Town of Whiteville reporting Sergeant Charles Blackmon (not his supervisor) for fraud in connection with misuse of the official time clock and for receiving payment for hours not worked.

66. Shortly following this incident, Chief Raynor and Sergeant Blackmon resigned, both close, but short of earning retirement benefits with the Town of Whiteville.

67. Before he resigned, Chief Raynor undertook an investigation to determine who wrote the note and concluded that Richard Locklear did. Chief Raynor called Petitioner in to question him about it.

68. Petitioner refused to answer Chief Raynor's questions but stated willingness to speak in front of the City Manager.

69. Chief Raynor demanded that the City Manager fire Petitioner on the spot; the City Manager refused and required Chief Raynor to put his charges in writing. When completed, these consisted only of charges of refusal to answer questions about the note to City Council, questions which were answered in front of the City Manager, Jeff Emory, and in the presence of Chief Raynor.

70. By action of the City Manager, Petitioner was suspended from duty for three days.

71. Petitioner received numerous write-ups thereafter under the new Chief.

72. According to State Bureau of Investigation Special Agent David R. Marshall, when he interviewed Petitioner during a criminal investigation into Petitioner's conduct, he asked Petitioner if he had ever been arrested. Petitioner answered "yes, assault, 10-15 years ago" and then further indicated that he had no other arrests.

Class B Misdemeanors

I.

73. Within five years prior to his application to the Sheriffs' Standards Commission for certification, Richard Locklear was charged with two crimes: namely, the felonies of attempted rape and Second Degree Sex Offense on Laurie Ann Curtis, for which charges Locklear was tried and acquitted after brief jury deliberation in the Superior Court of Columbus County; and misdemeanor assault on Laura Yvette Casto, for which he was acquitted at the District Court of Columbus County. Both Casto and Curtis appeared and testified before the trier of fact.

74. Both charges were lodged after Richard Locklear sent the anonymous letter to the City Council, the Casto matter having allegedly occurred on June 20, 1991, nearly six months before her charges were brought.

II.

75. Laurie Ann Curtis (hereinafter referred to as Brown, her married name at the time of the hearings) moved to North Carolina from Michigan in 1992. In August 1993 she began residing at a mobile home in Whiteville, North Carolina, along with her then roommate Carol Sue Clark, and a pit bull dog.

76. Petitioner met Brown first briefly at the Sheriff's Department, then bumped into her at a gas station. They briefly talked in a parking lot, and later when she was employed at the Time Saver Convenience Store, Locklear would stop by while on duty on his route.

77. Brown gave Locklear directions to her mobile home.

78. According to Brown, Petitioner came by her home unannounced one day in August 1993 while she was getting ready for work. Petitioner followed her to the bathroom where they engaged in casual conversation. When she turned away from the mirror, Petitioner grabbed her and kissed her.

79. Brown testified that she told Petitioner "no, I have a boyfriend," and Petitioner left without further incident.

80. The next time Brown recalled seeing Petitioner was at her work as she was about to finish her shift. Petitioner asked Ms. Brown if he could follow her home and she agreed with the understanding that they were only going to talk.

81. Shortly thereafter, Petitioner returned to the Time Saver in uniform, complete with his gun and badge, but in his personal car and they drove to Ms. Brown's home.

82. Brown testified that when they entered Ms. Brown's house, they saw Carol Clark asleep on the living room couch. As Ms. Brown walked to her bedroom, Petitioner followed. Brown testified that once in her bedroom, Petitioner attempted to kiss Ms. Brown but stopped when Ms. Brown's pit bull dog growled and walked between the two. Ms. Brown rebuffed this advance. Ms. Brown refused to lock up the dog as Petitioner requested, and told Petitioner it was time for him to leave. As he left the house, she told Petitioner she was going to buy a dictionary so he could look up the word "no."

83. According to Ms. Brown she never invited Petitioner to engage in any sexual intimacies at her trailer and

neither party ever removed their clothes.

84. Carol Clark testified that she was sleeping the morning Petitioner followed Ms. Brown home from work. She heard Ms. Brown tell Petitioner as he was leaving that she was going to buy him a dictionary so he could look up the word "no."

85. The above events occurred after Locklear sent the letter to the City Council telling of the time card fraud.

86. Brown (then Curtis) told her then boyfriend (Reginald Brown, later her husband) about the relations that occurred between her and Locklear.

87. Since the incident in question, Laurie Ann Curtis has married Reginald Brown.

88. Reginald Brown, at that time and since, was a deputy sheriff with the Columbus County Sheriff's Department; Reginald Brown's brother, Willie Brown, was and is a patrolman with the Town of Whiteville, and had been under the supervision of Sergeant Charles Blackmon at the time of the time card incident.

89. An event involving Patrolman Willie Brown also was connected to the time card problems and such involvement was likewise reported by Officer Locklear; Sergeant Blackmon had marked one of Willie Brown's time cards showing the reason for a tardy one morning had been car trouble when in fact Officer Brown later stated to his fellow officers in the locker room that he did not remember having to come to work that day.

90. Just after Chief Raynor and Sergeant Blackmon resigned and the new Chief Aragon had been appointed, on or about October 20, 1993, Petitioner Locklear was on duty and making his rounds near the Time Saver where Ms. Brown (then Ms. Curtis) was on duty.

91. At about 3:00 a.m., Brown was alone at the Time Saver with two male and one female customers who made her nervous and uncomfortable. She saw out the window of the store a Whiteville police car passing by and waved for it to stop. When the police car pulled up to the store entrance, Ms. Brown went outside and saw that the officer driving the car was Petitioner.

92. Brown told Petitioner that two black males and one female were in the store and that she was scared. Just then the two black males came out leaving the black female inside.

93. At about that time, two acquaintances of the female customer arrived and escorted the customer away from the store.

94. Petitioner asked to borrow a broom to sweep out his car floorboard.

95. Ms. Brown entered the store and Petitioner followed her to a storage room in the back of the store.

96. Brown testified that once in the storage room, Petitioner faced her, put his hands on her shoulders and leaned toward her. Using both hands, Ms. Brown pushed Petitioner's chest in an effort to get away.

97. Brown testified that Petitioner grabbed her left arm and twisted it behind her back. He then kissed her.

98. Brown testified that she told Petitioner "no, let me go." Petitioner's body was pressed against Ms. Brown's body. She struggled to get away but could not move.

99. Petitioner pulled Ms. Brown's shirt out of her pants, ran his hand up her shirt and under her bra, and rubbed her breast with his hand. He then moved his hand down her back and inside her jogging pants.

100. At about that moment the gas pump buzzer rang indicating that someone was at the store's gas pump wanting gas. Ms. Brown testified that she told Petitioner that someone was here and to let her go.

101. Petitioner released Brown and she went to the store counter to press the necessary button to allow the customer outside to obtain gas.

102. Brown testified that she was terrified of Petitioner and scared, and she could not remember exactly what occurred next while Petitioner remained in the store. She remembered that he eventually left.

103. Petitioner testified that after the black female came out, he was under a duty to inspect the premises to find another person of whom Ms. Brown had spoken.

104. Petitioner testified that he went into the store and quickly to a back storage room which had no door but was configured such that a person might hide there.

105. Ms. Brown followed Petitioner into the room and they remained there about a minute and a half, during which the doors to the Time Saver were open and sixteen gas pumps were operational when customers electronically requested authorization to pump which was given from the counter. Ms. Brown was the lone employee in the store and was working the counter on this night.

106. Petitioner testified that Brown came to stand behind him while he was in the storage room; as he turned around in the narrow corridor of the storage room, Ms. Brown reached up and put her arms around his neck and kissed him and Locklear kissed her back and then reached and touched her breast with his left hand with no protest from Ms. Brown; the incident lasted only a few seconds during which Brown suggested to Locklear that a customer might be entering the store at any moment; then the two returned to the store.

107. A video tape (Exhibit Def. #4) taken by a security camera in the store shows that for the next twelve minutes Brown and Petitioner smoked cigarettes together and had unstrained conversation. Then the tape shows they went elsewhere in the store together. Petitioner had coffee while Brown drank Coca-Cola. After about ten minutes Locklear left.

108. Shortly after Petitioner left the Time Saver Store, Ms. Brown called the Whiteville Police Department and reported that she wished to file a complaint against a Whiteville Police Officer.

109. In about thirty minutes to one hour after calling the police department, Sergeant Price Carpenter with the Whiteville Police Department arrived at the Time Saver and obtained a statement from Ms. Brown regarding her complaint.

110. When Sergeant Carpenter arrived around 4:00 a.m., Brown appeared to him to be emotionally distraught. Brown complained that Locklear pulled her left arm around her back and forcibly held it there.

111. After discussing the incident with Sergeant Carpenter, Ms. Brown remained at work until her store manager, Kathy Avery, arrived at the store at about 6:00 a.m. She informed her manager as to what had occurred and then left.

112. Avery found Ms. Brown crying and very upset and nervous.

113. Brown went home after her shift ended, but later went to the hospital after talking to her then boyfriend Reginald Brown.

114. Brown was treated in the emergency room. No bruises were observed. No muscle spasms were detected objectively indicating pain in the left arm. Brown was treated by giving her a sling for her left arm.

115. The video tape shows that after the time Petitioner left, she used her left hand and arm vigorously to count money, reach for cigarettes over her head, operate the cash register and to handle and package merchandise. Brown was courteous to customers and at no time grimaced or acted as if her left arm was in pain.

116. Brown returned to the Time Saver at about 11:00 p.m. the next night for her regular shift accompanied by her roommate Carol Clark.

117. While Brown was discussing the alleged assault upon her with the assistant store manager, Jennifer Walker, who was completing her shift of work, the telephone rang. Upon answering the telephone, Ms. Brown discovered it was Petitioner calling her and motioned for Jennifer Walker to pick up the other telephone extension.

118. Ms. Walker, who testified that she knew Petitioner, picked up the telephone in time to hear him say to Ms. Brown, "I thought you liked it rough."

119. Brown later met with SBI Agent Dave Marshall.

120. Brown was not forthcoming to Agent Marshall's questions concerning her criminal record. Brown has been convicted of two misdemeanor larcenies and one obtaining property under false pretenses using a check (reduced from felony forgery and uttering). Brown told Agent Marshall only that she had been convicted of an assault in Shallotte.

121. Neither Brown nor Petitioner was offered a polygraph by Agent Marshall, even though his practice is to use the technique in fully forty percent (40%) of such cases involving accusations against police officers.

122. Ms. Brown gave essentially the same testimony in Columbus County Superior Court and the Court dismissed the sexual offense charge, and the jury acquitted Locklear on the attempted rape charge after a deliberation of less than fifteen minutes.

123. Petitioner testified that he first met Ms. Brown in the summer of 1993 in downtown Whiteville. He stated that Ms. Brown invited him to visit her at her mobile home and indicated to him that she wanted to go to bed with him. Prior to visiting at her mobile home, the Petitioner testified that they had spoken for a total of ten to fifteen minutes.

124. On one occasion, Petitioner drove to Ms. Brown's trailer in his personal vehicle, wearing shorts, a shirt and his sidearm as he was on his way to work security at Wilson's. He followed Ms. Brown back to her bathroom where she was fixing her hair in preparation for work. They talked for a few minutes and he left.

125. The next time Petitioner visited Ms. Brown in her home, he followed her home and from work while still dressed in a Whiteville Police Department uniform but in his personal car. According to Petitioner, he and Ms. Brown walked past her sleeping roommate Ms. Clark, into Ms. Brown's bedroom, began "kissing and touching," and eventually got completely undressed and into Ms. Brown's bed.

126. Petitioner stated that they ceased their sexual intimacy when Ms. Brown stated "she didn't like quickies" and he should come back later that night. Petitioner left and did not return that night.

127. According to Petitioner, at around 3:00 a.m. on October 20, 1993, while on duty with the Whiteville Police Department, Petitioner went inside the Time Saver store to look for other possible suspicious persons in the store. He went into the back storage room and Ms. Brown followed him. The Petitioner did not check the bathroom for suspects.

128. Petitioner stated that Ms. Brown put her arms around his neck and kissed him. He kissed her back, then lifted up the right side of her shirt, placed his hand on her bra and fondled her breast. He held her hands down by her side and kissed her some more. Petitioner then pulled the rest of her shirttail out of her pants.

129. Petitioner testified that the entire incident was consensual.

130. When asked whether such conduct while on duty was indicative of good character for a law enforcement officer, Petitioner replied that he "made a mistake."

III.

131. Laura Yvette Casto (hereinafter referred to as Pittman, her married name at the time of the hearing) moved to Whiteville in November 1992 and met Petitioner the same month when he responded to her call for assistance from the Whiteville Police Department in reference to her then boyfriend Gary Strickland.

132. In April 1993, Pittman again summoned the assistance of the Whiteville Police Department regarding a complaint of domestic physical abuse by her then boyfriend Billy Harris. Petitioner was the responding officer. It was comforting to Pittman that Petitioner was not afraid of Billy Harris.

133. Pittman often called the police department and requested assistance due to assaults and her fear of assaults by Harris.

134. From time to time, situations would arise requiring officers including Petitioner to confront Billy Harris or even remove him from the premises.

135. Pittman preferred Locklear as an officer to handle Harris because he was more firm with him and could get the results she wanted. Billy seemed to listen to Locklear more.

136. On June 11, 1993, a member of the Whiteville Police Department helped Pittman obtain an ex parte order restraining Billy Harris, with such order setting a court date of June 21, 1993.

137. Upon getting the order, Pittman attempted to stay away from Billy Harris by continuing to work as a waitress at the Waffle House and staying at night in the home of her manager, Penny Branton.

138. On or about June 18, 1993, Pittman requested the Whiteville Police Department send an officer to escort her and Ms. Branton to her house to pick up some personal items. Petitioner met the two women at Pittman's house. While at the house, he insisted that Pittman should not have to leave her house since she paid the rent. Nevertheless, Pittman returned with Branton to the Branton home.

139. On June 20, 1993, while working the second shift at the Waffle House, Pittman saw and spoke with Petitioner who indicated that he had just gone on duty with the police department and would be working until 7:00 a.m. Petitioner told Pittman that he would escort her to her house that night when she got off work at 10:00 p.m. and she should feel safe there because he would come by and check on her all night. Pittman agreed. Pittman called Branton and told her that, at the Petitioner's suggestion, she would stay at her own house that night.

140. At about 10:00 p.m. on June 20, 1993, Petitioner followed Pittman to her house in his patrol car, where he checked the yard before proceeding into the house.

141. Pittman testified at the hearing that the two walked into her bedroom for the purpose of Petitioner checking that part of the house. Pittman testified that Petitioner sat on Pittman's bed and patted his leg, indicating to her that he wanted her to sit on his lap.

142. Pittman ignored Petitioner and he got up from the bed.

143. Petitioner denied sitting on the bed and patting his lap.

144. Upon searching the bathroom, they discovered the bathroom window needed to be nailed closed so Petitioner promised to go get some nails and return to secure the window. Pittman was very nervous and frightened at this point in time.

145. Pittman and Petitioner walked into the kitchen. As Pittman turned from checking the back kitchen door, she found Petitioner standing right next to her. Pittman testified that Petitioner firmly gripped her arms with his hands and pulled her close to him. She felt his gun belt on her stomach.

146. Pittman testified that Petitioner told her she needed to get rid of Billy and get a "real man." Pittman pulled back from Petitioner, dropped her head and told him to get his hands off her. Petitioner told her she needed a man and needed one now. Petitioner added that she needed to relax, whereupon Pittman replied that she wanted him to get out of her house. Petitioner became angry and eventually left. Petitioner did not return with the nails to Pittman's house.

147. Pittman testified she did not consent to Petitioner grabbing her and was angry and upset that he made such advances toward her.

148. Petitioner testified that just before he left to get the nails, Pittman became very agitated and upset, apparently out of fear of Billy returning to beat her.

149. Petitioner testified that seeing Pittman in this emotional state, he placed his hands firmly on her upper arms between the elbow and the shoulder and said directly to her that he and other officers would check on her periodically through the night and for her not fear, or words to that effect. Petitioner then left.

150. Just after Petitioner left, and unknown to Petitioner, Billy Harris entered the house and beat Pittman badly.

151. After Billy had gone Pittman wandered out into the streets and noticed several Whiteville City Police vehicles and several officers apparently working a wreck.

152. Just after leaving Pittman's residence, Locklear had been dispatched within a short period of time to more than four calls including a wreck.

153. Pittman did not approach the police cars and officers she saw.

154. Pittman was extremely angry at the Whiteville Police Department because no officers were there when Mr. Harris assaulted her and she decided that thereafter she would handle the matter herself without calling the police.

155. In June 1993, Penny Branton lived in Whiteville and worked as manager at the Waffle House. She testified that she knew about Pittman's domestic problems with Billy Harris and helped Pittman with court proceedings against him. She allowed Pittman to stay at her home because of Harris.

156. On June 18, 1993, Branton went with Pittman and Petitioner to Pittman's house to get some personal belongings. While inside the house, Branton observed Petitioner sit on Pittman's bed and look through her personal items on a nearby bureau. Petitioner continually insisted that Pittman should stay in her own home.

157. On June 20, 1993, Pittman telephoned Branton from work and told her she would stay at her own home that night because Petitioner would be on duty and would look out for her. Branton tried to convince Pittman to stay another night at the Branton house, but to no avail.

158. The next day, June 21, 1993, Branton learned Pittman did not make her court date. Pittman was very upset when she arrived at work that day. She told Branton then that "Billy got her" and that Petitioner had grabbed her and told her she needed a man.

159. Within a couple of days, Pittman allowed Billy Harris to return to the house and for several months thereafter Pittman endured many beatings from Billy Harris. She did this so she could eventually save enough money to leave as she eventually did.

160. Just a few days after Pittman returned to her home and was beaten by Billy, Petitioner went to the Waffle House for a break. Pittman was there. Pittman publicly cursed the Whiteville Police Department and Locklear in particular for not protecting her from Billy on the night of the first beating after she returned home. Pittman never at this time accused Petitioner of touching her inappropriately.

161. Pittman testified that Petitioner's grabbing of her was not an "embrace of consolation," and that she felt his conduct was inappropriate and unprofessional.

162. The next day, Pittman told her supervisor and friend Ms. Branton what had occurred the night before. Pittman testified she did not report Petitioner's behavior and actions to the Whiteville Police Department because she did not believe they would help her.

163. Pittman reported the incident with Petitioner to the SBI at the end of October 1993. Pittman was prompted to report the incident because of a newspaper story she saw regarding Petitioner and the incident with Brown at the Time Saver on October 20, 1993.

164. Petitioner was found not guilty in District Court of the criminal charge of assaulting Pittman.

Good Moral Character

165. Former Chief John Raynor, Special Agent Dave Marshall and Chief Randall Aragon all testified that honesty and integrity are essential attributes of a law enforcement officer.

166. Lt. Jeff Martin testified that honesty and integrity are essential attributes of a jailer.

167. Richard Locklear's character was investigated by Sergeant Charles Blackmon at the time of Locklear's application to the Whiteville Police Department. Blackmon spoke with Locklear's minister and at least one neighbor in the community in which Locklear lived. Blackmon could find nothing in Locklear's background that would disqualify him from service because of bad moral character.

168. Chief Randall Aragon testified that while Petitioner was employed with the Whiteville Police Department, he had a reputation in the law enforcement community for routinely attempting to establish personal relationships with women, while being married.

169. The incidents Locklear listed on the F-3 form were never characterized by the Whiteville Police Department as matters of bad moral character.

170. Petitioner admits to a physical encounter with Ms. Brown on October 20, 1993 while he was on duty, in uniform, and married.

171. Locklear testified that his acts of returning affection to Ms. Brown, even though she initiated the same, was wrong, was a mistake in judgment, and should not have occurred while he was on duty.

172. Former Chief John Raynor, Special Agent Dave Marshall and Chief Randall Aragon all testified that it was improper conduct for a married law enforcement officer, in uniform and on duty, to attempt to be intimate with a member of the opposite sex.

173. Lieutenant Jeff Martin, Personnel Officer with the Robeson County Sheriff's Department, testified to Locklear's good character and reputation both in the Department and among those with whom he worked. He also cited a good character and reputation given Locklear during the background check done by the Robeson County Sheriff's Department. Lt. Martin cited a specific example that while on duty Locklear was offered a very large bribe by an alleged drug dealer who was under \$1,020,000.00 bond and wanted Locklear to help him escape. Locklear brought the matter immediately to the attention of his supervisors and aided in the investigation of the inmate.

174. The only write-ups Locklear has received on his personnel record since going to work for Robeson County have been for occasional instances of forgetting to enter an electronic signal during his jail rounds so that other officers can keep up with his position.

175. Locklear has contact with many female staff and fellow officers and sometimes female inmates at his job as a Robeson County jailer but there have been no complaints about his behavior.

176. Locklear came forward with information about irregularities on the Whiteville Police Department time keeping system involving a sergeant who resigned along with Chief Raynor after an inquiry.

Based upon the foregoing, the undersigned reaches the following:

CONCLUSIONS OF LAW

1. All parties are properly before this Administrative Law Judge in that jurisdiction and venue are proper and that both parties received proper notice of hearing.

2. The North Carolina Criminal Justice Education and Training Standards Commission has the authority granted under Chapter 17C of the North Carolina General Statutes to establish minimum standards for the certification of persons to be employed and retained as criminal justice officers.

3. The North Carolina Sheriffs' Education and Training Standards Commission has the authority granted under Chapter 17E of the North Carolina General Statutes to establish minimum standards for the certification of persons to be employed and retained as justice officers (deputy sheriffs and jailers).

4. The Criminal Justice Standards Commission must prove by the greater weight of the evidence that it has sufficient cause to take adverse action against Petitioner's certification as a criminal justice officer.

5. Petitioner must prove by the greater weight of the evidence that the Sheriffs' Education and Training Standards Commission does not have sufficient cause to deny Petitioner's application for certification.

6. Based upon observation of Brown, Petitioner and Carol Clark, both on the witness stand and in the hearing room; the testimony of the witnesses, the videotape of Brown and Petitioner on June 20, 1993, and the totality of the evidence, the undersigned concludes there is insufficient evidence to conclude that Petitioner assaulted Laurie Ann Curtis

Brown, a female, on October 20, 1993, which act is in violation of G.S. 14-33(b)(2).

7. On June 20, 1993, Petitioner did firmly grip Pittman's arms and pull her close to him. Petitioner did tell Pittman she needed to get rid of Billy and get a real man. Petitioner's touching of Pittman was for the purpose of initiating an intimate relationship.

8. Petitioner's touching of Pittman was not an intentional offer or attempt by force and violence to do injury to Pittman.

9. The evidence does not support a conclusion that Petitioner assaulted Laura Yvette Casto Pittman, a female, on June 20, 1993, which act would be in violation of G.S. 14-33(b)(2).

10. Petitioner knowingly made a material misrepresentation of information to the Criminal Justice Commission, by failing to list criminal charges for harassing communications in 1983, simple assault in 1983, worthless check in 1984 and assault in 1988 on Commission Form F-3 in violation of 12 NCAC 9A .0204(b)(6). The omissions on the F-3 are material, even though it is not submitted to the Criminal Justice Commission because the omissions precluded the Town of Whiteville from being able to fully complete the form F-5A LE which was the basis for certification.

11. Petitioner knowingly made material misrepresentations of information to the Sheriffs' Commission, by failing to list criminal charges for simple assault in 1983 and worthless check in 1984 on Commission Form F-3, in violation of 12 NCAC 10B .0204(c)(1) and (2).

12. No other omissions alleged by the Commissions were material.

13. Petitioner lacks the good moral character required of law enforcement officers and jailers as evidenced by his attempts at establishing personal, intimate relationships with women while on duty, in uniform, and married.

14. Petitioner's lack of good moral character is in violation of 12 NCAC 9A .0204(b)(2), 12 NCAC 9B .0101(3), and 12 NCAC 10B .0204(b)(2), and 12 NCAC 10B .0301(8).

15. Respondent, Criminal Justice Education and Training Standards Commission may properly suspend or revoke Petitioner's certification as a criminal justice officer.

16. Respondent, Sheriffs' Education and Training Standards Commission may properly deny Petitioner's certification as a justice officer (jailer).

Based upon the foregoing, the undersigned makes the following:

PROPOSED DECISION
(Criminal Justice Commission)

The North Carolina Criminal Justice Education and Training Standards Commission should suspend or revoke Petitioner's certification as a law enforcement officer.

PROPOSED DECISION
(Sheriffs' Commission)

The North Carolina Sheriffs' Education and Training Standards Commission should deny Petitioner's certification as justice officer (jailer).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions and proposed findings of fact and to present oral and written arguments to the agency. G.S. 150B-40(e).

A copy of the final agency decision or order shall be served upon each party personally or by certified mail addressed to the party at the latest address given by the party to the agency and a copy shall be furnished to his attorney of

record. G.S. 150B-42(a). It is requested that the agency furnish a copy to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the Criminal Justice Education and Training Standards Commission and the Sheriffs' Education and Training Standards Commission.

This the 30th day of October, 1995.

Thomas R. West
Administrative Law Judge

STATE OF NORTH CAROLINA
COUNTY OF WAKE

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
94 OSP 1530**

SHELIA M. THOMPSON,
Petitioner,

v.

N.C. DEPT. OF COMMUNITY COLLEGES,
Respondent.

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**RECOMMENDED DECISION:
ORDER ON SUMMARY JUDGMENT**

Respondent petitioned the court pursuant to N.C. R. Civ. P. 56 for summary judgment, in its Motion for Summary Judgment filed and served October 12, 1995. Petitioner, appearing *pro se*, did not file a written response, as required by Rule .0115 of the Rules of the Office of Administrative Hearings. The contested case hearing in this matter was scheduled for October 26, 1995. The undersigned conducted a hearing via telephone conference call on October 24, 1995 and, pursuant to his review of Respondent's motion with attachments and supporting Memorandum of Law and the arguments of both parties, makes the following findings of fact and conclusions of law:

UNDISPUTED MATERIAL FACTS

1. Petitioner Shelia M. Thompson filed a petition for a contested case hearing on or about November 14, 1994, alleging that DCC unlawfully discriminated against her on the basis of her race in denying her a promotion to the position of Personnel Assistant V.

2. Ms. Thompson, an African-American, held the position of Technical Support Specialist in Respondent's Personnel Services Section from December 1989 through December 1993, at pay grade 61. As of January 1994, Ms. Thompson was reassigned to Respondent's Public Relations Section as an Office Assistant IV, pay grade 59, earning the same salary she received as Technical Support Specialist. (Thompson Depo. at 26-28)⁺ Ms. Thompson's transfer to Public Relations was the result of a reorganization within the North Carolina Department of Community Colleges (DCC). (Affidavit of Rosalyn Comfort, ¶ 12)⁺⁺

3. In October 1994, Personnel Services advertised internally a vacancy in the position Personnel Assistant V, pay grade 61. Ms. Thompson was one of seven applicants for the Personnel Assistant V position. (Comfort Aff., ¶ 6) Rhonda Stephenson, a Caucasian then employed as Personnel Assistant IV in Personnel Services, also applied for the Personnel Assistant V position. (Comfort Aff., ¶ 12)

4. Rosalyn Comfort has been Director of Personnel Services from August 1993 to the present, and was Assistant Director of Personnel from 1984 to 1993. (Comfort Aff., ¶ 1) In those capacities Ms. Comfort was the direct supervisor of both Ms. Thompson and Ms. Stephenson during the employment in Personnel Services, as well as the direct supervisor of the incumbent of the Personnel Assistant V position. (Comfort Aff., ¶¶ 3-4) Ms. Comfort, assisted by Lori Grippo, Personnel Analyst for Personnel Services, was charged with reviewing the applications for the Personnel Assistant V position and making a recommendation for hiring to DCC's management. (Comfort Aff. ¶¶ 6-7) Ms. Comfort is African-American.

5. Following review of the applicant's experience and training, interview results, and demonstrated capacity, quality, and length of service, Ms. Comfort, with the concurrence of Ms. Grippo, determined that Ms. Stephenson was the best qualified candidate for the Personnel Assistant V position. (Comfort Aff. ¶ 9)

*Excerpts of the Thompson deposition are attached to Respondent's Motion for Summary Judgment at Exhibit 1.

+Rosalyn Comfort's Affidavit is attached to Respondent's Motion for Summary Judgment at Exhibit 1)

6. Ms. Thompson and Ms. Stephenson each met the minimum stated and advertised requirements for the Personnel Assistant V position, and both had performed back-up duties for the previous Personnel Assistant V. (Comfort Aff. ¶ 12) However, during her employment with DCC, including her employment in Personnel Services, Ms. Thompson had exhibited a chronic record of excessive unscheduled absences from the workplace. (Comfort Aff. ¶ 10) Ms. Comfort, as her supervisor, counselled Ms. Thompson repeatedly concerning her absences and their effect on the productivity of Personnel Services, and issued Ms. Thompson an oral warning on June 2, 1993. (Comfort Aff. ¶ 10, with Exh. 1-6 attached; Thompson Depo. at 62, 99-100) Ms. Thompson's performance rating declined in 1993, attributable to a diminished quality of work resulting from her excessive absenteeism. (Comfort Aff. ¶ 10)

7. Ms. Comfort had never had to counsel Ms. Stephenson concerning absences from the workplace. Ms. Comfort testified that she had found Ms. Stephenson to be consistently dependable, conscientious about her work and scheduling her absences, and highly competent. Ms. Stephenson maintained a consistently high performance rating during her employment with Personnel Services. (Comfort Aff. ¶ 11)

8. Ms. Comfort testified that considerations of race played no part in the decision whom to recommend for the Personnel Assistant V position. (Comfort Aff. ¶ 13)

9. Ms. Thompson testified that she could not claim that Ms. Comfort intentionally discriminated against her on the basis of her race in promoting Ms. Stephenson to the Personnel Assistant V position. (Thompson Depo. at 122-23)

CONCLUSIONS OF LAW

1. The Rules of Civil Procedure as contained in N.C.G.S. Chapter 1A-1, including Rule 56, apply in contested cases in the Office of Administrative Hearings. Rule .0101(1), Rules of the Office of Administrative Hearings.

2. A motion for summary judgment must be granted if there is no genuine issues as to any material fact and the moving party is entitled to a judgment as a matter of law. N.C. R. Civ. P. 56(c); Wilder v. Hobson, 101 N.C. App. 199, 398 S.E.2d 625 (1990). The moving party's burden to show that no genuine issue of material fact exists may be met by use of affidavits, exhibits, depositions, and other discovery materials, showing that an essential element of the non-movant's claim is nonexistent, or that the non-movant cannot produce evidence to support an essential element of his claim. Taylor v. Ashburn, 112 N.C. App. 604, 436 S.E.2d 276 (1993).

3. The party opposing summary judgment is entitled to have the evidence of record and all reasonable inferences read in her favor. Adickes v. S.H. Kress & Co., 398 U.S. 144, 90 S. Ct. 1598, 26 L. Ed. 2d 142 (1970) (construing Fed. R. Civ. P. 56, identical to the North Carolina rule). However, a party opposing a properly supported motion for summary judgment may not rest upon mere allegations of her pleading, but must set forth specific facts showing that there is a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986). This obligation is particularly strong when, as in the present case, the non-moving party bears the burden of proof. Celotex v. Catrett, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986). To defeat a motion for summary judgment, the non-moving plaintiff must present significant probative evidence tending to support the petition, and from which a reasonable factfinder could find for the non-movant. Zawacki v. City of Colorado Springs, 759 F. Supp. 655, 659 (D. Colo. 1991) (emphasis added) (citing Anderson v. Liberty Lobby, 477 U.S. at 249, 251, 106 S. Ct. at 2510-12). She cannot avoid summary judgment by reciting conclusory allegations. Beaver v. Hancock, 72 N.C. App. 306, 310, 324 S.E.2d 294 (1985).

4. N.C.G.S. § 126-16 requires all State agencies to give equal opportunity for employment and compensation without regard to race, religion, color, creed, national origin, sex, age or handicapping condition, to all persons otherwise qualified.

5. N.C.G.S. § 126-36 defines the scope of state employee claims in the Office of Administrative Hearings (OAH) that allege unlawful discrimination. See Batten v. North Carolina Dept. of Correction, 326 N.C. 338, 342-43, 389 S.E.2d 35 (1990) (jurisdiction of OAH over appeals of state employee grievances derives from N.C.G.S. Chapter 126). Section 126-36 permits an employee to appeal to the OAH certain adverse employment actions, including failure to promote, that she has reason to believe occurred because of her race or color. N.C.G.S. § 126-36 (1993). The ultimate purpose of G.S. § 126-36 is the same as the purpose of Title VII (42 U.S.C. § 2000e et seq.): the elimination of discriminatory practices in employment. E.g., North Carolina Dept. of Correction v. Gibson, 308 N.C. 131, 137, 310 S.E.2d 78, rev'd on other grounds, 308 N.C. 131, 301 S.E.2d 78 (1983). Therefore, the law governing Title VII claims also governs claims under Section 126-36. Id., 308 N.C. at 136-37.

6. The law interpreting Title VII provides that the employee has the ultimate burden of proof to show, by the preponderance of the evidence, that the employer intentionally discriminated against her in denying her a promotion. Gibson, *supra*, 308 N.C. at 138 (citing Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, 101 S. Ct. 1089, 67 L. Ed. 2d 27 (1981)); North Carolina Dept. of Correction v. Hodge, 99 N.C. App. 602, 606, 394 S.E.2d 285 (1990). The employee's threshold burden is to provide sufficient facts to raise an inference of racial discrimination in the employment action, by showing by a preponderance of the evidence (1) that she is a member of a protected class, such as a racial minority; (2) that she applied and was qualified for the job for which the employer was seeking applicants; (3) that, despite her qualifications, she was rejected in favor of a person of her qualifications who is not a member of the protected minority. Mallory v. Booth Refrigeration Supply Co., Inc., 882 F.2d 908, 910 n.1 (4th Cir. 1989); Gibson, *supra*, 308 N.C. at 137; Hodge, *supra*, 99 N.C. App. at 611. If the employee can make out this prima facie case of racial discrimination, the employer must articulate some legitimate non-discriminatory reason for the employment action. Upon that showing by the employer, the presumption created by the prima facie case is fully rebutted. St. Mary's Honor Center v. Hicks, 509 U.S. ___, 113 S. Ct. 2742, 2749, 125 L. Ed. 2d 407, 417-18 (1993).

7. Once the employer has articulated a legitimate, non-discriminatory reason for the adverse employment action complained of, the employee then assumes the ultimate burden to prove, by the preponderance of the evidence, that the employer's proffered reason is actually a pretext for intentional discrimination. St. Mary's Honor Center v. Hicks, 113 S. Ct. at 2749, 125 L. Ed. 2d at 418; Gibson, *supra*, 308 N.C. at 137-38. At this point, the case moves to "a new level of specificity." Lovelace v. Sherwin Williams Co., 681 F.2d 230, 239 (4th Cir. 1982) (quoting Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, 255, 101 S. Ct. 1089, 67 L. Ed. 2d 207, 216 (1981)). The employee must

show a connection between her race and her failure to be promoted. In other words, she would have to show that she was not promoted because of her race, not that she was a member of the black race and was not promoted.

Autry v. North Carolina Dept. of Human Resources, 820 F.2d 1384, 1386 (4th Cir. 1987) (emphasis in original) (citing Burdine, 450 U.S. 248). See also Theard v. United States Army, 653 F. Sup. 536, 549 (M.D.N.C. 1987) (applying "but for" test of causation to determine whether plaintiff demonstrated that employer's legitimate, non-discriminatory reason was mere pretext). In making this showing, the employee may not rest upon the mere allegations in her pleading. N.C.G.S. § 1A-1, Rule 56(e).

8. Assuming for purposes of summary judgment that Ms. Thompson has established a prima facie case of racial discrimination, in the affidavit of Rosalyn Comfort Respondent has asserted a legitimate, non-discriminatory reason for the decision not to appoint Ms. Thompson to the Personnel Assistant V position: she was not the most qualified applicant in terms of experience and demonstrated quality of performance, having proven herself to be less dependable than the successful candidate on account of her history of chronic excessive absenteeism from the workplace. See Mallory v. Booth Refrigeration, 882 F.2d 908, 910-11 (4th Cir. 1989) (absenteeism is among legitimate criteria on which to base a denial of promotion). Respondent has therefore fully rebutted Petitioner's prima facie case of unlawful discrimination. St. Mary's Honor Center v. Hicks, 113 S. Ct. at 2749, 125 L. Ed. 2d at 417-18.

9. Ms. Thompson has offered no forecast of evidence capable of showing that Respondent's legitimate non-discriminatory reason for its personnel decision was a pretext. Ms. Thompson conceded that her supervisors at DCC as far back as 1976, including Ms. Comfort, had counselled her about excessive absenteeism from the workplace, and that she was aware that her absenteeism could affect her performance. (Thompson Depo. at 62, 99-100, 86)

10. Assuming for purposes of summary judgment that Ms. Thompson could present evidence tending to show that Respondent's asserted reason for its personnel action was pretextual, the evidence of record establishes that she could not show that Respondent's true reason for its action was intentional racial discrimination. See St. Mary's Honor Center v. Hicks, 113 S. Ct. at 2749, 125 L. Ed. 2d at 418. Ms. Thompson testified, and reiterated at the motion hearing, that she could not claim that Ms. Comfort intentionally discriminated against her on the basis of her race in recommending that the Personnel Assistant V position be given to Ms. Stephenson. (Thompson Depo. at 122-23). In her deposition testimony and at the motion hearing, Ms. Thompson relied on her allegation that race must have been the reason for the non-promotion, since in her own opinion, unsupported by other evidence, she was more qualified than Ms. Stephenson for the position. (Thompson Depo. at 114-15). These unsupported opinions and conclusory deductions are not sufficient to impose liability on Respondent for a legitimate personnel decision based on the supervisor's reasoned professional judgment. See, e.g., Williams v. Cerberonics, Inc., 871 F.2d 452, 456 (4th Cir. 1989) (a plaintiff's own assertions of discrimination in and of themselves are insufficient to counter substantial evidence of legitimate non-discriminatory reasons for an adverse

employment action).

11. The forecast of evidence shows that, as a matter of law, Petitioner cannot surmount her burden to prove by the preponderance of the evidence that Respondent's asserted legitimate non-discriminatory reason for choosing another applicant for the Personnel Assistant V position was a pretext for intentional racial discrimination.

IT IS THEREFORE ORDERED that Respondent's Motion for Summary Judgment is GRANTED and the petition for a contested case hearing is dismissed.

RECOMMENDATION

The forecast of evidence shows that, as a matter of law, Petitioner cannot surmount her burden to prove by the preponderance of the evidence that Respondent's asserted legitimate non-discriminatory reason for choosing another applicant for the Personnel Assistant V position is a pretext for intentional racial discrimination.

Therefore, Respondent is entitled to summary judgment on all claims.

ORDER

It is hereby ordered that the agency serve a copy of the Final Decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, NC 27611-7447, in accordance with N.C. Gen. Stat. § 150B-36(b).

This the 1st day of November, 1995.

Sammie Chess, Jr.
Administrative Law Judge

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**UNIVERSITY OF NORTH CAROLINA-
CHAPEL HILL,
Respondent.**

**RECOMMENDED FOR
SUMMARY JUDGMENT**

ISSUE

The undersigned makes the following:

FINDINGS OF FACT

2. Petitioner appealed her discharge through Step 3 of the University's internal grievance procedure.

4. Petitioner was not represented by legal counsel at any phase of the grievance process; however, she engaged the services of legal counsel to advise her regarding the discharge and how to conduct the grievance.

5. The Grievance Procedure is not an adversarial judicial proceeding at any phase, including the Step 3 hearing.

6. Following the Step 3 grievance hearing, Petitioner was reinstated with back pay, in accordance with the recommendation of the University Staff Employee Grievance Committee (Grievance Committee) as accepted by UNC-CH Chancellor Paul Hardin.

7. Petitioner then requested that UNC-CH reimburse her for legal fees she incurred when she retained the services of an attorney during the time she was grieving her discharge. UNC-CH denied Petitioner's request.

8. N.C.G.S. 126-4(11) provides that the State Personnel Commission shall establish policies and rules governing "the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved," in cases where the Commission finds discrimination or orders reinstatement or back pay, whether heard by the Commission, appeal for limited review after settlement, or resolved at the agency level.

9. 25 NCAC 01B .0414, enacted pursuant to the enabling statute, G.S. 126-4(11), provides, in pertinent part, as follows:

Attorney's fees may be awarded by the commission only in the following situations:

- (1) the grievant is reinstated to the same or similar position from either a demotion or a dismissal;
- (2) the grievant is awarded back pay from either a demotion or a dismissal, without regard to whether the grievant has been reinstated;

Attorney's fees may be awarded when any of the above situations occur, whether within the agency internal grievance procedure or an appeal to the State Personnel Commission.

10. The Grievance Panel recommended three actions:

(a) that Petitioner's "dismissal be revoked and expunged from the record; that she be reinstated and given back pay; and that no disciplinary action be taken against her."

(b) "steps be taken which will insure strong, positive supervisory support for Grievant. If the supervisor and management at the Office of Undergraduate Admissions are unable to provide such a work atmosphere, it is recommended that they, rather than Grievant, be assigned other duties."

11. Respondent's wrongful discharge of Petitioner from her constitutionally protected employment was the reason Petitioner sought the assistance of counsel.

12. It was not unreasonable, nor unexpected for Petitioner to seek the assistance of counsel when she was wrongfully dismissed from her constitutionally protected employment with the State of North Carolina.

13. N.C.G.S. 126-41, consistent with 25 NCAC 01B .0414, recognizes that the Commission may assess or refuse to assess reasonable attorneys' fees as provided in N.C.G.S. 126-4(11), in its discretion, and that the Commission's decision is appealable under Article 4 of Chapter 150B of the General Statutes.

On the basis of careful consideration of the briefs and arguments of counsel regarding the above-referenced issues of law, the undersigned makes the following:

CONCLUSIONS OF LAW

1. Respondent acted erroneously.
2. Respondent acted arbitrarily or capriciously.
3. Respondent failed to act as required by law or rule, pursuant to N.C.G.S. 126-4(11).
4. Reasonable attorneys' fees are necessary to make Petitioner "whole" where reinstatement was ordered with back pay, under N.C.G.S. 126-4(11).
5. Respondent's refusal to even consider reasonable attorney's fees was arbitrary and capricious.

Based on the foregoing Findings of Fact and Conclusions of Law, the undersigned makes the following:

RECOMMENDATION

That the State Personnel Commission find that the Respondent should have considered reasonable attorney's fees pursuant to N.C.G.S. 126-4(11), where an employee has been dismissed and seeks the advice of counsel and is ordered reinstated with back pay to her constitutionally protected employment.

COMMENTS

It is reasonable for an employer to assume that a wrongfully dismissed employee, from constitutionally protected employment, may seek the advice and direction of counsel at the Step 3 Grievance. Therefore, it would be unreasonable not to require the employer to make the employee whole by allowing reasonable attorney's fees, caused by the employer's wrongful conduct, upon reinstatement with back pay.

Additionally, to argue that a supervisor and the grievant are treated equally in that "the agency will not provide legal representation for any party in the grievance procedure" is to say that the hen and the hog are treated equally as providers for a ham and egg breakfast; the hen is momentarily inconvenienced, the hog loses everything.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the State Personnel Commission.

This the 31st day of October, 1995.

Sammie Chess, Jr.
Administrative Law Judge

**JOHN W. VANHOY, JR. &
ADJACENT LAND OWNERS**
Petitioner,

NORTH CAROLINA DEPT. OF ENVIRONMENT,
HEALTH, AND NATURAL RESOURCES
Respondent,

SHUGART ENTERPRISES, INC.
Intervenor-Respondent.

RECOMMENDED DECISION

APPEARANCES

For Intervenor-
Respondent: Timothy P. Sullivan
Poyner & Spruill
Attorneys at Law
3600 Glenwood Avenue
Raleigh, NC 27605-0096

ISSUE

WITNESSES

Mike Mickey, Environmental Technician, North Carolina Division of Environmental Management (DEM), Winston-Salem Regional Office.

John F. Phillips, P.E., consultant to Intervenor, Shugart Enterprises.
Carla Sanderson, Head, Rapid Assessment Group, DEM.
Kenneth Vanhoy, Petitioner's son, geologist.

Richard Farris, Environmental Health Specialist (septic systems), Forsyth County Health Department.
K. Michael James, Environmental Health Specialist (water quality monitoring), Forsyth County Health Department.
William S. Berryhill, Jr., Water Resource Management Consultant.
Kerry Venable, downstream landowner and farmer.
Steve Myers, downstream landowner and farmer.

FOR RESPONDENT:

Coleen Sullins, P.E., Supervisor, Permits and Engineering Unit, DEM.
Carla Sanderson, Head, Rapid Assessment Group, DEM.
Michael Wicker, Hearing Officer, Regional Water Quality Supervisor, DEM.

FOR INTERVENOR-RESPONDENT:

John F. Phillips, P.E., consultant to Intervenor-Respondent.
Grover Shugart, Jr., Shugart Enterprises, Intervenor-Respondent.

EXHIBITS

JOINT EXHIBIT 1: Record of Decision (document tabs 1 through 19)

FOR PETITIONER:

Exhibit 1	Topographical map of area
Exhibit 1	Topographical map of area (reduced format)
Exhibit 2	Plat map of development
Exhibit 3	Guidance for Evaluation of Wastewater Disposal Alternatives
Exhibit 5	Berryhill resume
Exhibit 6	Kenneth Vanhoy resume
Exhibit 7	(Offer of Proof) Fecal coliform laboratory results, 2/92 - 5/95

FOR INTERVENOR-RESPONDENT:

Exhibit 1	Phillips resume
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JUDICIAL NOTICE

Judicial notice was taken of the North Carolina General Statutes Chapter 143 and administrative rules relating to the discharge of wastewater and subsurface sewage systems.

MOTION IN LIMINE GRANTED

On July 24, 1995, the undersigned Administrative Law Judge issued an Order Partially Granting Motion in Limine and concluded that as a matter of law that testimony regarding the non-compliance of other wastewater treatment plants not owned by Shugart Enterprises, Inc. and testimony regarding the lack of enforcement by the Respondent, DEM, of other wastewater treatment plants, although a serious matter, is not relevant to this proceeding. At the hearing, this Order was the basis for sustaining objections to testimony by Mr. James, Forsyth County Health Department. Petitioner made an offer of proof pursuant to G.S. 1A-1, Rule 43(c), consisting of a portion of the testimony of Mr. James and Petitioner's Exhibit 7 (Offer of Proof).

FINDINGS OF FACT

1. Petitioner, John W. ("Bill") Vanhoy, Jr., and his wife, Beulah, live in the community of Belews Creek in

Forsyth County.

2. On December 15, 1993, DEM received a permit application from Shugart Enterprises, Inc., for an NPDES permit for a discharge from a wastewater treatment facility of 60,000 gallons per day (gpd) into a small tributary to Belews Creek in northeastern Forsyth County which flows into Belews Lake. The proposed discharge is treated effluent from a residential subdivision of 140 residences on approximately 94 acres. The area is presently agricultural fields and woods.

3. The small receiving stream is referred to as an unnamed tributary to Belews Creek or as the Middle Creek. At the point of the proposed discharge, the stream has a 7Q10 (low flow conditions of seven days in a ten year period) of 0.1 cubic feet per second (cfs). The 60,000 gpd discharge would add .093 cfs to the stream flow. Witnesses testified that they could easily step across the Middle Creek at the discharge point. The proposed discharge would become approximately 48% of the combined receiving stream.

4. Both the DEM regional office and Technical Support Branch recommended denial of the permit in large part because available subsurface disposal and spray irrigation were environmentally feasible non-discharge options. Neither office reviewed the economic feasibility of the alternatives contained in the application or any other alternatives. The Respondent's Wasteload Allocation Summary states that the proposed treatment facility should be built above minimum standards "since area may have exhausted assimilative capacity (model portrays below 4.0 mg/l DO's upstream on Belews Creek) and background DO's are not documented for this proposed discharge." The Summary further states that the parameters are "water quality limited." For some parameters, the load capacity of the stream will be consumed which will "affect future water quality based effluent limitations for additional dischargers . . ." 15 NCAC 2B .0211(3)(b) requires the dissolved oxygen (DO) level to be not less than 5.0 mg/l with a minimum instantaneous value of not less than 4.0 mg/l for a non-trout stream.

5. After additional review, DEM publicized a notice of intent to issue the permit. Because of public and legislative interest, a public meeting was held on October 6, 1994, and Petitioner, among others, presented oral and written comments on the proposed permit. On October 28, 1994, the DEM hearing officer, Mr. Wicker, issued his report and recommended issuance of the permit with several conditions -- the installation of tertiary filters, an operational agreement, and residuals disposal. The permit was issued by DEM through its director, Preston Howard, on December 9, 1994. On January 5, 1995, Petitioner brought a Petition for Contested Case Hearing seeking administrative review of the issuance of the NPDES permit.

6. Mr. Vanhoy, the Petitioner, has lived adjacent to Middle Creek for his entire married life and he and his wife have raised their children in their present home. His children and now his grandchildren play in the stream. He raises sheep and Christmas trees on his farm and uses the stream for stock watering and irrigation. He testified that aquatic life, such as small fishes, have returned to the stream since farmers in the area have changed their farming practices. Petitioner and his family are concerned that they will be substantially prejudiced by the construction and operation of the wastewater treatment plant from odors, noise, greatly increased density from the development and unsanitary conditions in the stream.

7. Mrs. Tuttle and her family live on Belews Lake, which is four miles downstream from the proposed discharge. The lake is heavily used for recreation, such as boating, swimming, water skiing, and fishing, for research by Wake Forest University, and for cooling water by Duke Power Company. Based upon the substantial evidence presented by the Respondent, the proposed discharge will be completely assimilated prior to reaching Belews Lake, and therefore, the lake will not be affected by the discharge.

8. Mr. McMichael recently built a house which will be located less than 1000 feet from the proposed wastewater treatment plant. He played in the stream as a child and has observed wildlife in and around the stream. Mr. Kenneth Vanhoy grew up along the stream and played in it as a child. He has observed wildlife in and around the stream.

9. Mr. Venable is a downstream landowner who occasionally uses the stream to irrigate his tobacco crop during periods of drought. Mr. Myers is a downstream landowner who uses the stream for stock watering of his horses and cattle. Both have a considerable economic interest in preserving the water quality in the stream.

10. Middle Creek is a Class C stream and by rule, the water quality standards are established to protect the best usage of those waters, those being:

aquatic life propagation and maintenance of biological integrity (including fishing, and

fish), wildlife, secondary recreation, agriculture and any other usage except for primary recreation or a source of water supply of drinking, culinary or food processing purposes.

15 NCAC 2B .0211.

11. The NPDES permit contains discharge limitations for the various pollutants associated with the effluent from a residential subdivision. These limits were established from modeling conducted by the DEM Instream Assessment Unit. While the modeling showed that the operation of the wastewater treatment plant would not violate state standards for dissolved oxygen, staff for the Respondent did not investigate the actual downstream uses of the stream or determine if the discharge would adversely impact the actual uses. The modeling further assumes that the wastewater treatment plant will be operated in compliance with the limits, i.e., there will be no spills, accidents or defects, and that the limits will never be exceeded. As a result, the pollution discharge limitations in the permit also assume compliance in order to protect downstream uses of the water.

12. Mr. Berryhill testified that proper maintenance is crucial in meeting the limits. The operation is labor-intensive and chances are high that there will be a failure due to operator error. He and Mr. James testified as to possible operational failures from lack of maintenance and equipment failures. Mr. Phillips testified as to the possible adverse environmental effects of a failure, such as high pollutant loads and fish kills. If the wastewater treatment plant is not operated or maintained properly, the resulting discharge will greatly curtail or eliminate downstream uses of the stream and Belews Lake, including agriculture, recreation, and habitat for wildlife and aquatic life. (It is interesting to note, that even in Intervenor-Respondent's Proposed Recommended Decision, finding of fact #18 states that the "plant was designed to enable it, if properly operated, to comply with the limits established in the permit at issue." (emphasis added))

13. It is state policy that a direct discharge into a stream is the least preferred alternative. 15A NCAC 2H .0105(c)(2) requires

a summary of waste treatment and disposal options that were considered and why the proposed system and point of discharge were selected; the summary should have sufficient detail to assure that the most environmentally sound alternative was selected from the reasonably cost effective options. (emphasis added).

14. To assist applicants in finding non-discharge options, DEM prepared Guidance for Evaluation of Wastewater Disposal Alternatives (GEWDA; Petitioner's Exhibit 3). For subsurface disposal systems, the GEWDA requires a preliminary report from a soil scientist with a loading rate recommendation based on soil type, and a determination if adjacent land could be acquired through purchase or permanent easement.

15. Mr. Shugart is the principal officer in Shugart Enterprises, the Intervenor-Respondent, which had been developing subdivisions for over twenty years in the Forsyth County area. He testified that these subdivisions were on city sewer systems or had individual septic systems.

16. Mr. Shugart testified that he purchased the land for approximately \$360,000 and that he expected to build 140 houses on the site. These houses are expected to be three bedroom houses. He expected to net a reasonable profit of \$7,000 per house, with another \$8,000 per house to pay for developing the land.

17. In its application for the NPDES permit, Shugart Enterprises submitted cost analysis of the following alternatives: connection to public sewerage system (not available); central subsurface system (\$1,211,130); wastewater treatment plant (\$721,130); spray irrigation system (\$1,612,200). These figures include the cost of the project, the opportunity cost of the land, and the present worth of annual operation and maintenance. The opportunity cost of the land was determined as the loss of \$9,000 for each lot which could not be developed. Based on the comparisons of cost estimates, the developer selected the wastewater treatment plant. It is important to note that, when comparing the alternatives presented to the State agency, that the \$300,000 cost of installing the sewer collection system was not included; therefore, adding this amount to the wastewater treatment plant cost brings that figure to \$1,021,130. The cost consideration of individual septic systems was not even discussed.

18. Mr. Kenneth Vanhoy testified on the economics of subsurface drip irrigation systems, several of which are currently in operation within North Carolina. His conclusion was that the drip irrigation system was

between \$37,430 and 87,430 less than a wastewater treatment plant.

19. Mr. Shugart testified that he and his company had no experience with wastewater treatment plants. He further testified that he hired Mr. Phillips to design a wastewater treatment plant, and not look at any other alternative.

20. Shugart Enterprises did not present any information on single-family septic systems in its application.

21. Mr. Shugart testified that neither he nor any of his staff contacted any of the surrounding land-owners to determine if their land was available for purchase or suitable for individual septic fields.

22. Mr. Farris, Environmental Health Specialist with the Forsyth County Health Department, testified that if a developer wants to determine with certainty whether a site is suitable for septic systems, he or she needs to contact the County agency. Mr. Farris would come to the site, review the soil information provided by the developer, and then use a back hoe to locate suitable soil based on soil type and characterization. Mr. Farris testified that his agency had not been contacted by Mr. Shugart or his staff to determine if the land was suitable for septic fields.

23. 15A NCAC 18A .1955 describes the design criteria for conventional sewage systems, including descriptions of soil groups, soil texture classes (USDA classification) and long-term acceptance rates, i.e., ability to handle the wastewater. Mr. Kenneth Vanhoy testified as to the need for this information to determine with any degree of certainty if the soil was suitable for a subsurface septic field. He concluded that the soil survey was inadequate.

24. Mr. Phillips testified that the soil survey attached to the permit application had been conducted by a soil scientist, Mr. Beeson. Mr. Phillips admitted that the survey did not include a description of soil types, texture classes or long-term acceptance rates. He testified that the acceptance rate he used, 2.5 gpd/ft², was a conservative estimate and the actual rate could have been substantially higher, i.e., would allow more lots with individual septic fields.

25. The State agency did not conduct a soils analysis or soil survey on the site.

26. Through cross-examination, Mr. Phillips stated that at least 60 lots and as high as 80 lots would have suitable soils for conventional septic systems, and that low-pressure systems would be suitable and cost-effective for at least another 20 lots and as high as 30 lots.

27. The cost per house of installing a conventional septic system is approximately \$2,000 and the cost of a low-pressure system is \$5,000. If Mr. Phillips low estimate of 80 lots were suitable for individual septic fields, the cost would be 60 lots at \$2,000 for conventional systems, plus 20 lots at \$5,000 for low-pressure systems, for a total of \$220,000. The maintenance for a conventional system is \$25 per year and for low-pressure systems, it is \$400 per year. Using the same 20-year discount rate used by Mr. Phillips in presenting his alternatives, the total for operation and maintenance is \$100,643.

The opportunity cost for the 60 lots Mr. Shugart cannot build is \$15,000 per lot (again using Mr. Phillips assumptions which include a profit of \$9,000 per lot) for \$900,000. The total for individual septic systems is \$1,220,643, or even less when using the \$7,000 profit per lot in Mr. Shugart's testimony. The total for individual systems is then \$1,100,643. It should also be noted that Mr. Shugart testified that not all of his subdivisions netted any profit.

The Intervenor-Respondent assumes throughout its cost analysis an average sales price per lot of \$15,000. Logically, if the non-discharge alternatives dictate fewer lots, those lots will be larger and the sales price per lot will be higher. Thus, the calculations of loss would be incorrect. Comparable lot sell-out prices submitted by the Intervenor-Respondent in Joint Exhibit #1 show a range of \$15,000-\$19,000 per lot. Mr. Phillips contends that DEM procedure requires a costs analysis and not a profit analysis. However, a July 18, 1994 internal DEM memorandum discussing Petitioner's concerns states as responses the following: 1) Non-discharge alternatives "would reduce the number of available lots and reduce the profitability of the development;" and 2) referring to septic systems, "Again, this would reduce profitability."

28. The cost of individual systems, \$1,100,643, compares favorably with the cost of the wastewater treatment plant of \$721,130 plus the \$300,000 cost of installing sewer lines for a total of \$1,021,130. Additional lots suitable for conventional, low-pressure or other individual septic systems would make individual septic systems an even more cost-effective option.

29. Mr. Berryhill testified that there were several additional non-discharge options for single-family systems and recommended a mix of conventional, low-pressure and the other systems. This would increase the number of lots suitable for single-family systems and in the long run will be more reliable and cost-effective than a wastewater treatment plant.

30. Mr. Wicker, the DEM hearing officer, concluded that if he had been shown that single-family septic systems were a cost-effective alternative, he would have recommended that the permit application be denied.

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction to hear this case pursuant to G.S. 143-215.1(e) and Chapter 150B-23.

2. Petitioner is an aggrieved person who is directly and adversely affected by the proposed discharge and thus has standing to bring a petition for contested case hearing.

3. Petitioner has the burden of proving that the Respondent, State agency, in issuing an NPDES permit to Shugart Enterprises, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously, and/or failed to act as required by law or rule.

4. G.S. 143-215.1(b)(2) requires that "[a]ll permit decisions shall require that the practicable waste treatment and disposal alternative with the least adverse impact on the environment be utilized." This is the initial threshold which a permit applicant must cross. The permit applicant did not meet this initial requirement as evidenced by the Respondent's regional office and Technical Services Branch recommendations to deny the permit based upon available environmentally sound non-discharge alternatives.

5. The law is not designed to prevent development. However, a wastewater discharge is not permitted merely because the developer wants to obtain a greater lot density, i.e., 140 lots as opposed to 81 lots more or less. This is reflected in 15A NCAC 2H .0105(c)(2) which requires the applicant to submit a detailed analysis "to assure that the most environmentally sound alternative was selected from the reasonably cost effective options." The GEWDA requires an analysis of alternatives as part of the permit application. In this instance, the State agency erred in not requiring a full analysis of the alternatives in sufficient detail to assure making an informed selection of the best alternative. The permit was issued erroneously as there are several viable non-discharge alternatives readily available which are cost-effective. The option of a mixture of conventional single-family septic fields and low-pressure systems is both environmentally sound and reasonably cost effective.

6. The State's Antidegradation Policy at 15A NCAC 2B .0201(b) states that "[e]xisting uses . . . and the water quality to protect such uses shall be protected by properly classifying surface waters and having standards sufficient to protect these uses." Existing uses are defined as "uses actually attained in the water body, in a significant and not incidental manner, on or after November 28, 1975, whether or not they are included in the water quality standards, which either have been actually available to the public or are uses deemed attainable by the Environmental Management Commission." 15 NCAC 2B .0202(25). This is continued in 2B .0203 in that "[w]ater quality based effluent limitations or management practices for direct or indirect discharges of water of for out sources of water pollution will be developed by the division such that the water quality standards and best usage of receiving waters and all downstream waters will not be impaired." (emphasis added).

7. The NPDES permit in question allows an excessive discharge into a small stream. G.S. 143-215.3(a)(8) authorizes the State agency to deny the issuance of a permit when the pollution "will result in a generalized condition of water . . . pollution within the area contrary to the public interest, detrimental to the public health, safety, and welfare and contrary" to state policy.

8. This is not a case about property values or the prevention of development; it is about allowing an

unnecessary discharge of wastewater into a small creek in order that a tract of land can be developed at the highest density. It is also about preservation of a quality of life. This State's declaration of public policy on this issue is as follows:

It is hereby declared to be the public policy of this State to provide for the conservation of its water . . . resources. Furthermore, it is the intent of the General Assembly to achieve and to maintain for the citizens of the State a total environment of superior quality. [It is] the State's ultimate responsibility for the preservation and development of these resources in the best interest of all its citizens. . . . Standards of water . . . purity shall be designed to . . . insure the continued enjoyment of the natural attractions of the State, . . . and to secure for the people . . . , the beneficial uses of these great natural resources.

G.S. 143-211. Therefore, the issuance of this permit violates public policy as well as G.S. 143-215.1(b)(2) and 215.3(a)(8).

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned makes the following:

RECOMMENDED DECISION

IT IS HEREBY RECOMMENDED that the Environmental Management Commission find that in issuing an NPDES permit to Shugart Enterprises, the State agency acted erroneously, and failed to act as required by law or rule. Therefore, NPDES permit No. NC0083933 was issued improperly and should be made void.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, PO Drawer 27447, Raleigh, NC 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision.

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the Environmental Management Commission.

This the 3rd day of November, 1995.

Meg Scott Phipps
Administrative Law Judge

STATE OF NORTH CAROLINA
COUNTY OF SCOTLAND

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
95 OSP 0411**

DEBRA R. EMBDEN
Petitioner,

v.

**NORTH CAROLINA DEPARTMENT OF
MOTOR VEHICLES**
Respondent.

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RECOMMENDED DECISION

The appeal of Debra R. Embden, an employee of the North Carolina Department of Transportation, Division of Motor Vehicles, was heard by Fred G. Morrison Jr., Senior Administrative Law Judge, Office of Administrative Hearings, on September 5, 1995, in Raleigh, North Carolina.

APPEARANCES

FOR PETITIONER: Randolph C. Dow
 Attorney at Law
 P.O. Box 1373
 Southern Pines, NC 28388

FOR RESPONDENT: C. Norman Young
 Associate Attorney General
 N.C. Department of Justice
 P.O. Box 629
 Raleigh, NC 27602-0629

ISSUES

1. Whether Petitioner was denied a promotion by Respondent's failure to afford her priority consideration as a current state employee in violation of G.S. 126-7.1(c).
2. Whether Petitioner was the victim of political discrimination or arbitrary and capricious conduct in the denial of her request for a transfer to Laurinburg.

STIPULATED FACTS

1. Petitioner is a State employee and except for a voluntary break in service between 10/19/86 and 7/8/87 has been continuously employed as a driver's license examiner by the Department of Motor Vehicles since November 15, 1983.
2. That on July 24, 1990, Petitioner requested a transfer to the Laurinburg office of DMV as a driver's license examiner.
3. That on September 27, 1991, and October 4, 1991, Petitioner's supervisors S.E. Parker and Lt. L.B. Burleyson requested a transfer, on behalf of Debra Embden, to the Laurinburg office of DMV.
4. That on December 1, 1992, a driver's license examiner by the name of Rufus Graham began work in the Laurinburg office of the DMV as a result of an involuntary transfer from the Fayetteville DMV office.
5. On December 31, 1992, Petitioner filed a request for grievance hearing with Larry D. Billings, Director of Personnel, North Carolina Department of Transportation which was subsequently withdrawn.

6. On January 24, 1994, Petitioner filed a request and submitted an application concerning a request for a lateral transfer to the DMV office of Laurinburg.
7. That on November 16, 1994, Petitioner submitted a resignation effective January 31, 1995.
8. On January 5, 1995, Petitioner withdrew the resignation which was authorized or approved by the DMV sometime between January 5, 1995, and January 11, 1995, the date of Petitioner's letter of appreciation to Larry Daniel, Assistant Director of Driver's License Section, for having the resignation reversed.
9. The applicable policy for a transfer request is found in the Driver's License Examiner's Manual (revised 1/94) which provides as follows: "effective December 19, 1993 personnel transfers will be considered only after an employee has worked at their assignment (1) full year. Requests will be valid for (1) year from the date of the request. Employees desiring to transfer will be required to update their requests by December 1st of each year. All requests will be forwarded to the Assistant Director of Certification."
10. That on January 3, 1995, Respondent posted a vacancy notice for a driver's license examiner in the Laurinburg office which indicated that interested persons should submit an updated application between 1/3/95 and 1/11/95.
11. That effective March 1, 1995, an individual by the name of Michelle Padgett, a non-state employee was hired in the Laurinburg position.
12. The qualifications of Petitioner in January of 1995 were, at least substantially, equal to that of Michelle Padgett.
13. There was no grievance procedure applicable to Petitioner in any document, book or other publication located in the Aberdeen office of the DMV, the place of employment of Petitioner.

ADJUDICATED FACTS

14. Petitioner filed a Petition alleging political discrimination in the denial of her request for a transfer to Laurinburg. She had renewed this request in January of 1995 when the vacancy was announced.
15. Petitioner was not interviewed or considered for the subject position, even though her superiors knew of her interest. She was not one of the finalists considered even though her job performance had been exemplary.
16. Michelle Padgett did not meet the minimum requirements for the position. She was hired due to her political connections as her father is a prominent Democrat.
17. Petitioner testified that although she is a Republican, she is registered as a Democrat so that she can vote in city elections. This had no bearing in the matter.
18. Obtaining the Laurinburg position would not have constituted a promotion for Petitioner since she is the Lead Examiner in Aberdeen. Being stationed in Laurinburg would be more convenient for Petitioner and save her travel time as well as costs.
19. Petitioner also complained in her Petition that she was given no explanation as to why she was denied the Laurinburg position. Her repeated requests over the years generated only general responses from superiors that many factors were involved and would be considered.
20. Respondent assigned Petitioner to work in the Laurinburg office for approximately six weeks in early (January-February) 1995 before the vacancy was filled on March 1, 1995.
21. Respondent did not give fair and careful consideration to Petitioner's latest (1994 and 1995) requests for a transfer to her city of residence.
22. Petitioner's superiors discouraged her from filing an internal grievance. The Assistant Director stated, "You can if you want, but it will not do any good. It is above your head and is above mine. I can't touch it. It was done by the book." Respondent waived this procedure.

Based on the foregoing Stipulated and Adjudicated Facts, the Administrative Law Judge makes the following:

CONCLUSIONS

1. Petitioner was not the victim of intentional political discrimination in violation of G.S. 126-36.
2. Respondent did not violate G.S. 126-7.1(c) as a promotional decision required by G.S. 126-36.2 was not involved, rather, a lateral transfer request.
3. Respondent acted arbitrarily and capriciously in violation of G.S. 150B-23(a)(4) when it did not consider Petitioner for the Laurinburg position. A career State employee such as Petitioner is entitled to fair and careful consideration when requesting a transfer.

Based on the foregoing Stipulated and Adjudicated Facts and Conclusions, the Administrative Law Judge makes the following:

RECOMMENDED DECISION

Petitioner be transferred to the next available position in Laurinburg.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the State Personnel Commission.

This the 1st day of November, 1995.

Fred G. Morrison Jr.
Senior Administrative Law Judge

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16	Public Education	Landscape Architects	26
17	Revenue	Landscape Contractors	28
18	Secretary of State	Marital and Family Therapy	31
19A	Transportation	Medical Examiners	32
20	Treasurer	Midwifery Joint Committee	33
*21	Occupational Licensing Boards	Mortuary Science	34
22	Administrative Procedures	Nursing	36
23	Community Colleges	Nursing Home Administrators	37
24	Independent Agencies	Occupational Therapists	38
25	State Personnel	Opticians	40
26	Administrative Hearings	Optometry	42
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		Real Estate Appraisal Board	57
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Note: Title 21 contains the chapters of the various occupational licensing boards.

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.0701	10:07 NCR 585	10/01/95				
.0702 - .0704	10:16 NCR 2027	02/01/96				
.0705	10:17 NCR 2228					Rule-Making Proceeding
.0706 - .0707	10:16 NCR 2027	02/01/96				
.0709	10:17 NCR 2228					Rule-Making Proceeding
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02E .0403	10:07 NCR 587	01/01/96				
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5 NCAC 05 .0001	10:01 NCR 12	07/01/95			07/01/95	
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21 NCAC 14B .0604	10:12 NCR 985	12/01/95				
14J .0502	10:14 NCR 1380	01/01/96				
14L .0301 - .0302	10:14 NCR 1380	01/01/96				
14N .0106 - .0108	10:14 NCR 1380	01/01/96				
.0112	10:14 NCR 1380	01/01/96				
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7 NCAC 02F .0002	10:01 NCR 12	07/01/95			08/01/95	
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21 NCAC 17 .0101 - .0102	10:16 NCR 2046	02/01/96				
.0104	10:16 NCR 2046	02/01/96				
.0107	10:16 NCR 2046	02/01/96				
.0113 - .0114	10:16 NCR 2046	02/01/96				
.0301 - .0304	10:16 NCR 2046	02/01/96				
.0401 - .0402	10:16 NCR 2046	02/01/96				
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21 NCAC 16	10:16 NCR 2043	05/01/96				Notice on Subject Matter
21 NCAC 16H .0104	10:16 NCR 2043	05/01/96				
.0202 - .0203	10:16 NCR 2043	05/01/96				
16T .0001 - .0002	10:16 NCR 2043	05/01/96				
16U .0101 - .0102	10:16 NCR 2043	05/01/96				
.0201 - .0204	10:16 NCR 2043	05/01/96				
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21 NCAC 18B .0103	10:15 NCR 1579	02/01/96				
.0207	10:15 NCR 1579	02/01/96				
.0303	10:15 NCR 1579	02/01/96				
.0402	10:15 NCR 1579	02/01/96				
.0601	10:15 NCR 1579	02/01/96				
.0902 - .0903	10:15 NCR 1579	02/01/96				
.0905	10:15 NCR 1579	02/01/96				
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21 NCAC 19 .0104	10:11 NCR 907	12/01/95				
.0204	10:11 NCR 907	12/01/95				
.0616	10:11 NCR 907	12/01/95				
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15A NCAC 01C .0101	10:16 NCR 1828	02/01/96				
.0503 - .0504	10:16 NCR 1828	02/01/96				

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.0104	10:01 NCR 13					Correction to Notice
.0202	10:01 NCR 13					Correction to Notice
.0211	10:01 NCR 13					Correction to Notice
.0216	10:16 NCR 1838	02/01/96				
.0224 - .0225	10:16 NCR 1838	02/01/96				
.0301	10:01 NCR 13					Correction to Notice
.0303	10:08 NCR 661	11/01/95				
.0304	10:04 NCR 246	01/01/96				
.0304	10:05 NCR 301	11/01/95			11/01/95	
.0304	10:15 NCR 1515	04/01/96		x		
.0304	10:16 NCR 1846	05/01/96		x		
.0308 - .0310	10:08 NCR 661	11/01/95				
.0308	10:08 NCR 661	02/01/96				
.0313	10:11 NCR 901	02/01/96				
.0315 - .0316	10:08 NCR 661	11/01/95				
.0315	10:08 NCR 661	02/01/96				
.0315	10:16 NCR 1835	05/01/96				
.0316	10:04 NCR 246	01/01/96				
02C .0201 - .0216	10:16 NCR 1848	05/01/96				
02D .0101	10:16 NCR 1867	05/01/96				
.0501	10:16 NCR 1867	05/01/96				
.0516	10:16 NCR 1867	05/01/96				
.0518 - .0519	10:16 NCR 1867	05/01/96				
.0520	10:01 NCR 13	07/01/95	x	x		
.0520	10:16 NCR 1867	05/01/96				
.0521	10:16 NCR 1867	05/01/96				
.0524 - .0525	10:16 NCR 1867	05/01/96				
.0531	10:01 NCR 13	07/01/95	x	x	07/01/95	
.0531	10:15 NCR 1515	04/01/96				
.0533	10:16 NCR 1867	05/01/96				
.0535	10:16 NCR 1867	05/01/96				
.0537	10:16 NCR 1867	05/01/96				
.0539	10:16 NCR 1867	05/01/96				
.0601	10:16 NCR 1867	05/01/96				
.0604	10:16 NCR 1867	05/01/96				
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.0804 - .0805	10:15 NCR 1515	04/01/96		x		
.0901	10:15 NCR 1515	04/01/96				
.0902	10:01 NCR 13	07/01/95	x	x	07/01/95	
.0902	10:16 NCR 1867	05/01/96				
.0909	10:01 NCR 13	07/01/95	x	x	07/01/95	
.0917 - .0924	10:15 NCR 1515	04/01/96				
.0926 - .0928	10:15 NCR 1515	04/01/96				
.0929	10:16 NCR 1867	05/01/96				
.0934 - .0935	10:15 NCR 1515	04/01/96				
.0937	10:15 NCR 1515	04/01/96				
.0951	10:15 NCR 1515	04/01/96				
.0952	10:01 NCR 13	07/01/95	x	x	07/01/95	
.0953 - .0954	10:15 NCR 1515	04/01/96				
.1109 - .1111	10:16 NCR 1867	05/01/96				
.1202	10:16 NCR 1867	05/01/96				
.1204 - .1206	10:16 NCR 1867	05/01/96				
.1301 - .1302	10:15 NCR 1515	04/01/96				
.1304	10:15 NCR 1515	04/01/96				
.1402	10:01 NCR 13	07/01/95	x	x	07/01/95	
.1406	10:01 NCR 13	07/01/95	x	x		
.1409	10:01 NCR 13	07/01/95	x	x		
.1701 - .1702	10:01 NCR 13	07/01/95	x	x		
.1801 - .1803	10:01 NCR 13	07/01/95	x	x		
.1901 - .1906	10:16 NCR 1867	05/01/96		x		
02H .0219	10:14 NCR 1325	05/01/96				
.0610	10:16 NCR 1867	05/01/96				

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.0103	10:16 NCR 1867	05/01/96	x	x		
.0109	10:16 NCR 1867	05/01/96				
.0201 - .0204	10:16 NCR 1867	05/01/96				
.0207	10:16 NCR 1867	05/01/96				
.0302	10:16 NCR 1867	05/01/96				
.0311	10:16 NCR 1867	05/01/96				
.0401 - .0418	10:15 NCR 1515	04/01/96				
.0501 - .0503	10:16 NCR 1867	05/01/96				
.0507 - .0508	10:16 NCR 1867	05/01/96				
.0526	10:16 NCR 1867	05/01/96				
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03I .0001	10:14 NCR 1336	03/01/96				
.0005	10:14 NCR 1336	03/01/96				
.0018	10:14 NCR 1336	03/01/96				
03J .0103 - .0104	10:14 NCR 1336	03/01/96				
.0107	10:14 NCR 1336	03/01/96	x			
.0202	10:14 NCR 1336	03/01/96				
.0301	10:14 NCR 1336	03/01/96				
.0401	10:14 NCR 1336	03/01/96				
.0402	10:14 NCR 1336	03/01/96				
.0403	10:15 NCR 1515	03/01/96				
03K .0104 - .0105	10:14 NCR 1336	03/01/96				
.0201 - .0202	10:14 NCR 1336	03/01/96				
03L .0301 - .0302	10:14 NCR 1336	03/01/96				
03M .0202	10:14 NCR 1336	03/01/96				
.0204	10:14 NCR 1336	03/01/96				
.0301	10:14 NCR 1336	03/01/96				
.0501	10:14 NCR 1336	03/01/96				
.0503 - .0504	10:14 NCR 1336	03/01/96				
.0506 - .0507	10:14 NCR 1336	03/01/96				
.0510 - .0511	10:14 NCR 1336	03/01/96				
.0512	10:14 NCR 1336	03/01/96				
03R .0003 - .0005	10:14 NCR 1336	03/01/96				
.0007	10:14 NCR 1336	03/01/96				
.0011	10:14 NCR 1336	03/01/96				
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04A .0001	10:07 NCR 579	10/01/95			10/01/95	
.0005	10:07 NCR 579	10/01/95			10/01/95	
04B .0016	10:07 NCR 579	10/01/95			10/01/95	
.0020	10:07 NCR 579	10/01/95			10/01/95	
.0028	10:02 NCR 149	07/01/95			08/01/95	
.0029 - .0030	10:07 NCR 579	10/01/95			10/01/95	
04C .0007 - .0008	10:07 NCR 579	10/01/95			10/01/95	
.0010	10:07 NCR 579	10/01/95			10/01/95	
04D .0002 - .0003	10:07 NCR 579	10/01/95			10/01/95	
07B .0101	10:09 NCR 751	12/01/95	x	x		
.0201 - .0216	10:09 NCR 751	12/01/95	x	x		
.0401 - .0406	10:09 NCR 751	12/01/95	x	x		
.0501 - .0507	10:09 NCR 751	12/01/95	x	x		
07H .0106	10:16 NCR 1921	04/01/96				Notice on Subject Matter
.0208	10:03 NCR 197	12/01/95				
.0208	10:15 NCR 1552	03/01/96				
.0305	10:15 NCR 1552	03/01/96				
.0308	10:09 NCR 751	12/01/95				
.0308	10:15 NCR 1921	03/01/96				
.0309 - .0310	10:09 NCR 751	02/01/96				
.1705	10:09 NCR 751	12/01/95				
.2201 - .2202	10:03 NCR 204	12/01/95				
.2203	10:03 NCR 204	12/01/95	x			
.2204 - .2205	10:03 NCR 204	12/01/95				
.2301 - .2305	10:15 NCR 1552	03/01/96				
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.0400	10:16 NCR 1921	02/01/97				Notice of Subject Matter
10B .0115	10:06 NCR 338	10/01/95			11/01/95	
.0115 - .0116	10:16 NCR 1922	07/01/96				
.0201 - .0203	10:16 NCR 1923	07/01/96				
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.0202	10:04 NCR 249	08/01/95			09/01/95	
.0208 - .0209	10:16 NCR 1923	07/01/96				
.0214	10:01 NCR 26	07/01/95			07/01/95	
.0214	10:16 NCR 1923	07/01/96				
.0220	10:16 NCR 1923	07/01/96				
.0302 - .0303	10:16 NCR 1923	07/01/96				
10C .0205	10:16 NCR 1923	07/01/96				
.0301 - .0302	10:16 NCR 1923	07/01/96				
.0305	10:16 NCR 1923	07/01/96				
.0401	10:16 NCR 1923	07/01/96				
.0404	10:06 NCR 338	12/01/95			12/01/95	
.0404	10:16 NCR 1923	07/01/96				
.0407	10:06 NCR 338	12/01/95			12/01/95	
.0407	10:16 NCR 1923	07/01/96				
10D .0002 - .0003	10:01 NCR 26	07/01/95			07/01/95	
.0002 - .0004	10:16 NCR 1923	07/01/96				
.0003	10:04 NCR 250	08/01/95			09/01/95	
.0003	10:06 NCR 338	09/01/95				
10F .0313	10:06 NCR 338	10/01/95			10/01/95	
.0317	10:01 NCR 26	07/01/95			07/01/95	
.0323 - .0324	10:11 NCR 904	12/01/95				
.0339	10:13 NCR 1159	02/01/96				
.0339	10:15 NCR 1565	02/01/96				
.0360	10:13 NCR 1159	02/01/96				
10K .0003	10:13 NCR 1159	02/01/96				
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	10:03 NCR 195	04/15/95				
11 .0349	10:16 NCR 1958	05/01/96				
13A .0006	10:13 NCR 1160	01/01/96				
.0019	10:13 NCR 1160	01/01/96				
13B .0101	10:06 NCR 350	10/01/95			10/01/95	
.0103	10:06 NCR 350	10/01/95			10/01/95	
.0503	10:06 NCR 350	10/01/95			10/01/95	
.0802 - .0829	10:06 NCR 350	10/01/95			10/01/95	
.0901 - .0905	10:16 NCR 1959	04/01/96				
.1401 - .1409	10:16 NCR 1959	04/01/96				
.1627	10:06 NCR 350	10/01/95			N/A	Agency Did Not Adopt
16A .1001	10:07 NCR 582	01/01/96	x			
.1002 - .1006	10:07 NCR 582	01/01/96				
18A .1720	10:16 NCR 1977	04/01/96				
.1722 - .1723	10:16 NCR 1977	04/01/96				
.1725 - .1727	10:16 NCR 1977	04/01/96				
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.1818	10:13 NCR 1160	01/01/96				
.2508	10:06 NCR 350	01/01/96			01/01/96	
.2509	10:06 NCR 350	01/01/96				RRC Obj/Rule Withdrawn
.2510 - .2511	10:06 NCR 350	01/01/96			01/01/96	
.2516 - .2519	10:06 NCR 350	01/01/96			01/01/96	
.2521 - .2524	10:06 NCR 350	01/01/96			01/01/96	
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.2528 - .2535	10:06 NCR 350	01/01/96			01/01/96	
.2537	10:06 NCR 350	01/01/96			01/01/96	
.2540 - .2542	10:06 NCR 350	01/01/96			01/01/96	
.2543	10:06 NCR 350	01/01/96			N/A	Agency Did Not Adopt
.2601 - .2602	10:13 NCR 1160	01/01/96				
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.2635 - .2636	10:13 NCR 1160	01/01/96				
.2702	10:16 NCR 1977	04/01/96				
.3101 - .3106	10:16 NCR 1977	04/01/96				
19A .0401	10:06 NCR 350	10/01/95			10/01/95	
.0406	10:06 NCR 350	10/01/95			10/01/95	
.0502	10:06 NCR 350	10/01/95			10/01/95	
19C .0206	10:05 NCR 305	10/01/95	x			
.0601 - .0603	10:16 NCR 1977	04/01/96				
.0605 - .0609	10:16 NCR 1977	04/01/96				
.0611	10:16 NCR 1977	04/01/96				
19H .0702	10:07 NCR 582	10/01/95	x		N/A	Withdrawn by Agency
20D .0233 - .0234	10:13 NCR 1160	01/01/96				
.0236	10:13 NCR 1160	01/01/96				
.0241 - .0243	10:13 NCR 1160	01/01/96				
.0247 - .0252	10:13 NCR 1160	01/01/96				
21F .0801 - .0802	10:13 NCR 1160	01/01/96				
.0804	10:13 NCR 1160	01/01/96				
.1101 - .1103	10:13 NCR 1160	01/01/96				
.1105	10:13 NCR 1160	01/01/96				
24A .0102	10:13 NCR 1160	01/01/96				
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.0301	10:13 NCR 1160	01/01/95				
.0404	10:06 NCR 350	10/01/95	x		10/01/95	
25 .0213	10:16 NCR 1996	04/01/96				

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	10:10 NCR 825
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21 NCAC 12 .0302	10:11 NCR 906	12/01/95
.0410	10:11 NCR 906	12/01/95

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Number 74	10:02 NCR 54	03/27/95
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Number 79	10:07 NCR 427	06/07/95
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Number 82	10:10 NCR 823	07/27/95
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.0013 - .0014	10:16 NCR 2053	02/01/96
.0016	10:16 NCR 2053	02/01/96
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22I .0008 - .0009	10:16 NCR 2053	02/01/96
22K .0004 - .0005	10:16 NCR 2053	02/01/96
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.0009 - .0011	10:16 NCR 2053	02/01/96
.0013 - .0015	10:16 NCR 2053	02/01/96

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10 NCAC 03C .5301	10:14 NCR 1232	03/01/96
.5401 - .5414	10:14 NCR 1232	03/01/96
03D .0808	10:14 NCR 1238	02/01/96
.1301 - .1302	10:14 NCR 1238	02/01/96
.1401	10:08 NCR 641	11/01/95
.1401 - .1403	10:14 NCR 1238	02/01/96
.1501 - .1503	10:14 NCR 1238	02/01/96
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.0306 - .0318	10:02 NCR 58	09/01/95
.0407 - .0409	10:02 NCR 58	09/01/95
.0505 - .0507	10:02 NCR 58	09/01/95
.0510 - .0517	10:02 NCR 58	09/01/95
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.1003 - .1008	10:02 NCR 58	09/01/95
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.1204 - .1208	10:02 NCR 58	09/01/95
.1210	10:02 NCR 58	09/01/95
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.1405 - .1406	10:02 NCR 58	09/01/95
.1408 - .1410	10:02 NCR 58	09/01/95
.1501 - .1503	10:02 NCR 58	09/01/95
.1612 - .1613	10:02 NCR 58	09/01/95
.1703 - .1704	10:02 NCR 58	09/01/95
.1804 - .1807	10:02 NCR 58	09/01/95
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.2101 - .2110	10:02 NCR 58	09/01/95
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.2204 - .2205	10:02 NCR 58	09/01/95
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.2207 - .2211	10:02 NCR 58	09/01/95
.2212	10:02 NCR 58	09/01/95
.2301 - .2302	10:02 NCR 58	09/01/95
.2303 - .2307	10:02 NCR 58	09/01/95
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.2401	10:02 NCR 58	09/01/95
.2402	10:02 NCR 58	09/01/95
.2501	10:02 NCR 58	09/01/95
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.2701	10:02 NCR 58	09/01/95				
.2801 - .2802	10:02 NCR 58	09/01/95				
.2901 - .2902	10:02 NCR 58	09/01/95			01/01/96	
.3001	10:02 NCR 58	09/01/95			01/01/96	
.3002 - .3005	10:02 NCR 58	09/01/95				
.3011 - .3013	10:02 NCR 58	09/01/95				
.3014	10:02 NCR 58	09/01/95			01/01/96	
.3015 - .3016	10:02 NCR 58	09/01/95				
.3021	10:02 NCR 58	09/01/95				
.3022 - .3026	10:02 NCR 58	09/01/95			01/01/96	
.3027	10:02 NCR 58	09/01/95				
.3028 - .3030	10:02 NCR 58	09/01/95			01/01/96	
.3031	10:02 NCR 58	09/01/95				
.3032	10:02 NCR 58	09/01/95			01/01/96	
.3101 - .3103	10:02 NCR 58	09/01/95			01/01/96	
.3104	10:02 NCR 58	09/01/95			01/01/96	
.3201 - .3202	10:02 NCR 58	09/01/95			01/01/96	
.3301 - .3302	10:02 NCR 58	09/01/95			01/01/96	
.3401 - .3404	10:02 NCR 58	09/01/95			01/01/96	
03L .0901 - .0907	10:08 NCR 641	02/01/96				
.1001 - .1007	10:08 NCR 641	02/01/96				
.1101 - .1112	10:08 NCR 641	02/01/96				
.1201 - .1202	10:08 NCR 641	02/01/96				
.1301 - .1303	10:08 NCR 641	02/01/96				
.1401 - .1402	10:08 NCR 641	02/01/96				
03M .0202 - .0205	10:08 NCR 641	02/01/96			11/01/95	
.0207	10:08 NCR 641	02/01/96			11/01/95	
03R .0109 - .0111	10:14 NCR 1243	01/01/96				
.0213 - .0215	10:14 NCR 1243	01/01/96				
.0303 - .0305	10:14 NCR 1243	01/01/96				
.0317	10:14 NCR 1243	01/01/96				
.0904	10:14 NCR 1243	01/01/96				
.1003	10:14 NCR 1243	01/01/96				
.1113	10:14 NCR 1243	01/01/96				
.1115 - .1120	10:14 NCR 1243	01/01/95				
.1124 - .1127	10:14 NCR 1243	01/01/96				
.1214	10:14 NCR 1243	01/01/96				
.1216	10:14 NCR 1243	01/01/96				
.1218 - .1219	10:14 NCR 1243	01/01/96				
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.1304 - .1309	10:14 NCR 1243	01/01/96				
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.2004 - .2011	10:14 NCR 1243	01/01/96				
.2117	10:14 NCR 1243	01/01/96				
.2120	10:14 NCR 1243	01/01/96				
.2319 - .2320	10:14 NCR 1243	01/01/96				
.2402	10:14 NCR 1243	01/01/96				
.2404 - .2412	10:14 NCR 1243	01/01/96				
.2502 - .2512	10:14 NCR 1243	01/01/96				
.2603	10:14 NCR 1243	01/01/96				
.2605	10:14 NCR 1243	01/01/96				
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	.2809 - .2810	10:14 NCR 1243			01/01/96	
	.3103	10:14 NCR 1243			01/01/96	
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	.3706 - .3707	10:14 NCR 1243			01/01/96	
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	.0401 - .0403	10:14 NCR 1297			02/01/96	
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14B	.0501 - .0503	10:07 NCR 430			05/01/96	
	.0505 - .0509	10:07 NCR 430			05/01/96	
14C	.1001 - .1006	10:15 NCR 1435			02/01/96	
	.1008	10:15 NCR 1435			02/01/96	
	.1010 - .1018	10:15 NCR 1435			02/01/96	
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14D	.0006	10:15 NCR 1435			02/01/96	
14K	.0101 - .0103	10:07 NCR 430			05/01/96	
	.0201 - .0219	10:07 NCR 430			05/01/96	
	.0301 - .0310	10:07 NCR 430			05/01/96	
	.0312 - .0315	10:07 NCR 430			05/01/96	
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	.0333 - .0348	10:07 NCR 430			05/01/96	
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14L	.0101 - .0106	10:07 NCR 430			05/01/96	

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	.0310	10:07 NCR 430			05/01/96	
	.0401 - .0407	10:07 NCR 430			05/01/96	
	.0601 - .0606	10:07 NCR 430			05/01/96	
	.0609	10:07 NCR 430			05/01/96	
	.0611 - .0615	10:07 NCR 430			05/01/96	
	.0701 - .0709	10:07 NCR 430			05/01/96	
	.0711 - .0712	10:07 NCR 430			05/01/96	
14M	.0101 - .0113	10:07 NCR 430			05/01/96	
	.0501 - .0511	10:07 NCR 430			05/01/96	
	.0601 - .0602	10:07 NCR 430			05/01/96	
	.0604	10:07 NCR 430			05/01/96	
	.0606	10:07 NCR 430			05/01/96	
	.0608 - .0612	10:07 NCR 430			05/01/96	
	.0614 - .0615	10:07 NCR 430			05/01/96	
	.0617 - .0621	10:07 NCR 430			05/01/96	
	.0701 - .0716	10:07 NCR 430			05/01/96	
14N	.0101 - .0107	10:07 NCR 430			05/01/96	
	.0201 - .0207	10:07 NCR 430			05/01/96	
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	.0703 - .0705	10:07 NCR 430			05/01/96	
	.0801 - .0811	10:07 NCR 430			05/01/96	
	.0901 - .0905	10:08 NCR 656			05/01/96	
14O	.0301 - .0314	10:07 NCR 430			05/01/96	
	.0401 - .0409	10:07 NCR 430			05/01/96	
	.0411 - .0416	10:07 NCR 430			05/01/96	
	.0501 - .0505	10:07 NCR 430			05/01/96	
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14V		10:15 NCR 1479			05/01/96	Notice on Subject Matter
14V	.0101 - .0104	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.0101 - .0104	10:13 NCR 1085			05/01/96	
	.0201 - .0208	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.0201 - .0208	10:13 NCR 1085			05/01/96	
	.0301 - .0304	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.0301 - .0304	10:13 NCR 1085			05/01/96	
	.0401 - .0405	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.0401 - .0405	10:13 NCR 1085			05/01/96	
	.0501 - .0505	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.0501 - .0505	10:13 NCR 1085			05/01/96	
	.0601 - .0604	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.0601 - .0607	10:13 NCR 1085			05/01/96	
	.0701 - .0712	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.0701 - .0713	10:13 NCR 1085			05/01/96	
	.0801 - .0805	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.0801 - .0805	10:13 NCR 1085			05/01/96	
	.1101 - .1103	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.1101 - .1103	10:13 NCR 1085			05/01/96	
	.1201 - .1203	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.1201 - .1203	10:13 NCR 1085			05/01/96	
	.1301 - .1303	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.1301 - .1304	10:13 NCR 1085			05/01/96	
	.1401 - .1403	10:07 NCR 430			05/01/96	Agency Did Not Adopt
	.1401 - .1403	10:13 NCR 1085			05/01/96	
	.1501 - .1504	10:07 NCR 430			05/01/96	Agency Did Not Adopt
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	.2101 - .2104	10:07 NCR 430			05/01/96	Agency Did Not Adopt

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.2201 - .2204	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.2201 - .2204	10:13 NCR 1085	05/01/96				
.2301 - .2306	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.2301 - .2306	10:13 NCR 1085	05/01/96				
.2401 - .2404	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.2401 - .2404	10:13 NCR 1085	05/01/96				
.2501 - .2505	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.2501 - .2505	10:13 NCR 1085	05/01/96				
.3101 - .3103	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.3101 - .3103	10:13 NCR 1085	05/01/96				
.3201 - .3203	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.3201 - .3203	10:13 NCR 1085	05/01/96				
.3301 - .3303	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.3301 - .3303	10:13 NCR 1085	05/01/96				
.3401 - .3403	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.3401 - .3403	10:13 NCR 1085	05/01/96				
.3501 - .3503	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.3501 - .3503	10:13 NCR 1085	05/01/96				
.3601 - .3604	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.3601 - .3604	10:13 NCR 1085	05/01/96				
.3701 - .3703	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.3701 - .3703	10:13 NCR 1085	05/01/96				
.3801 - .3803	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.3801 - .3803	10:13 NCR 1085	05/01/96				
.3901 - .3903	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.3901 - .3903	10:13 NCR 1085	05/01/96				
.4001 - .4003	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.4001 - .4003	10:13 NCR 1085	05/01/96				
.4101 - .4104	10:07 NCR 430	05/01/96				Agency Did Not Adopt
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.4201 - .4203	10:13 NCR 1085	05/01/96				
.5001 - .5002	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.5001 - .5003	10:13 NCR 1085	05/01/96				
.5101 - .5104	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.5101 - .5104	10:13 NCR 1085	05/01/96				
.5201 - .5204	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.5201 - .5204	10:13 NCR 1085	05/01/96				
.5301 - .5303	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.5301 - .5303	10:13 NCR 1085	05/01/96				
.5401 - .5403	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.5401 - .5403	10:13 NCR 1085	05/01/96				
.5501 - .5503	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.5501 - .5503	10:13 NCR 1085	05/01/96				
.5601 - .5603	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.5601 - .5603	10:13 NCR 1085	05/01/96				
.5701 - .5703	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.5701 - .5703	10:13 NCR 1085	05/01/96				
.5801 - .5804	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.5801 - .5804	10:13 NCR 1085	05/01/96				
.5901 - .5903	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.5901 - .5903	10:13 NCR 1085	05/01/96				
.6001 - .6003	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.6001 - .6003	10:13 NCR 1085	05/01/96				
.6101 - .6103	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.6101 - .6103	10:13 NCR 1085	05/01/96				
.6201 - .6202	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.6201 - .6202	10:13 NCR 1085	05/01/96				
.6301 - .6303	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.6301 - .6303	10:13 NCR 1085	05/01/96				
.6401 - .6403	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.6401 - .6403	10:13 NCR 1085	05/01/96				
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.6601 - .6603	10:13 NCR 1085	05/01/96				
.6701 - .6702	10:07 NCR 430	05/01/96				Agency Did Not Adopt
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.6801 - .6802	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.6801 - .6802	10:13 NCR 1085	05/01/96				
.6901 - .6903	10:07 NCR 430	05/01/96				Agency Did Not Adopt
.6901 - .6903	10:13 NCR 1085	05/01/96				
15A .0115 - .0127	10:13 NCR 1085	01/01/96	x			
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18A .0124 - .0128	10:07 NCR 430	05/01/96				
.0130	10:07 NCR 430	05/01/96				
.0132 - .0133	10:07 NCR 430	05/01/96				
.0135 - .0136	10:07 NCR 430	05/01/96				
18D .0209	10:14 NCR 1311	01/01/96				
18F .0115 - .0117	10:14 NCR 1311	01/01/96				
18I .0114 - .0120	10:07 NCR 430	05/01/96				
18J .0110 - .0119	10:07 NCR 430	05/01/96				
.0212 - .0213	10:07 NCR 430	05/01/96				
.0304 - .0311	10:07 NCR 430	05/01/96				
.0507 - .0511	10:08 NCR 656	05/01/96				
.0601 - .0604	10:07 NCR 430	05/01/96				
.0701 - .0715	10:07 NCR 430	05/01/96				
.0801 - .0805	10:07 NCR 430	05/01/96				
.0803	10:02 NCR 118	07/01/95			07/01/95	
18K .0109 - .0116	10:07 NCR 430	05/01/96				
.0262 - .0263	10:08 NCR 656	05/01/96				
18L .0107 - .0108	10:07 NCR 430	05/01/96				
.0223 - .0224	10:07 NCR 430	05/01/96				
.0331 - .0336	10:07 NCR 430	05/01/96				
.0338 - .0339	10:07 NCR 430	05/01/96				
.0428 - .0434	10:07 NCR 430	05/01/96				
.0504	10:07 NCR 430	05/01/96				
.0511	10:07 NCR 430	05/01/96				
.0513	10:07 NCR 430	05/01/96				
.0601 - .0607	10:08 NCR 656	05/01/96				
.0701 - .0705	10:07 NCR 430	05/01/96				
.0707	10:07 NCR 430	05/01/96				
.0801	10:07 NCR 430	05/01/96				
.0803 - .0809	10:07 NCR 430	05/01/96				
.0901 - .0904	10:07 NCR 430	05/01/96				
.1001 - .1006	10:07 NCR 430	05/01/96				
.1101 - .1103	10:07 NCR 430	05/01/96				
.1105 - .1107	10:07 NCR 430	05/01/96				
.1201	10:07 NCR 430	05/01/96				
.1203 - .1206	10:07 NCR 430	05/01/96				
.1301 - .1309	10:07 NCR 430	05/01/96				
.1401 - .1403	10:07 NCR 430	05/01/96				
.1501 - .1525	10:07 NCR 430	05/01/96				
18M .0107 - .0110	10:07 NCR 430	05/01/96				
.0206 - .0213	10:07 NCR 430	05/01/96				
.0304 - .0307	10:07 NCR 430	05/01/96				
.0406 - .0409	10:07 NCR 430	05/01/96				
.0505 - .0506	10:07 NCR 430	05/01/96				
.0607 - .0608	10:07 NCR 430	05/01/96				
.0701	10:07 NCR 430	05/01/96				
.0703 - .0706	10:07 NCR 430	05/01/96				
.0708 - .0714	10:07 NCR 430	05/01/96				
.0801 - .0803	10:07 NCR 430	05/01/96				
.0817 - .0819	10:07 NCR 430	05/01/96				
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	.1203 - .1204	10:07 NCR 430			05/01/96	
	.1302 - .1305	10:07 NCR 430			05/01/96	
	.1401 - .1403	10:07 NCR 430			05/01/96	
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	.0204 - .0212	10:07 NCR 430			05/01/96	
	.0305 - .0306	10:07 NCR 430			05/01/96	
	.0601 - .0605	10:08 NCR 656			05/01/96	
	.0701 - .0709	10:08 NCR 656			05/01/96	
18O	.0517 - .0524	10:08 NCR 656			05/01/96	
18P	.0901 - .0903	10:07 NCR 430			05/01/96	
	.1001 - .1004	10:07 NCR 430			05/01/96	
18Q	.0284	10:07 NCR 430			05/01/96	
	.0286 - .0287	10:07 NCR 430			05/01/96	
	.0520 - .0521	10:07 NCR 430			05/01/96	
	.0538 - .0552	10:07 NCR 430			05/01/96	
19C	.0209	10:16 NCR 1708			02/01/96	
	.0408 - .0410	10:16 NCR 1708			02/01/96	
	.0504	10:16 NCR 1708			02/01/96	
	.0509 - .0512	10:16 NCR 1708			02/01/96	
	.0602	10:16 NCR 1708			02/01/96	
	.0604	10:16 NCR 1708			02/01/96	
	.0702 - .0703	10:16 NCR 1708			02/01/96	
19G	.0501 - .0502	10:14 NCR 1312			01/01/96	
	.0603	10:14 NCR 1312			01/01/96	
	.0606 - .0612	10:14 NCR 1312			01/01/96	
	.0803	10:14 NCR 1312			01/01/96	
	.0806	10:14 NCR 1312			01/01/96	
	.0817	10:14 NCR 1312			01/01/96	
	.0823	10:14 NCR 1312			01/01/96	
20A	.0102	10:16 NCR 1716			02/01/96	
20B	.0204 - .0206	10:16 NCR 1716			02/01/96	
	.0208 - .0210	10:16 NCR 1716			02/01/96	
	.0218	10:16 NCR 1716			02/01/96	
	.0222	10:16 NCR 1716			02/01/96	
	.0224	10:16 NCR 1716			02/01/96	
	.0226 - .0227	10:16 NCR 1716			02/01/96	
20C	.0205	10:16 NCR 1716	x		02/01/96	
	.0316	10:16 NCR 1716	x		02/01/96	
26B	.0110	10:08 NCR 660			10/01/95	
	.0112	10:16 NCR 1721			02/01/96	
	.0113	10:16 NCR 1721			02/01/96	
	.0124	10:02 NCR 118	x		07/01/95	
26G	.0703 - .0705	10:12 NCR 982			12/01/95	
26H	.0212 - .0213	10:13 NCR 1153	x		01/01/96	
	.0213	10:02 NCR 118			07/01/95	
	.0213	10:14 NCR 1317	x		01/01/96	
	.0302	10:04 NCR 228	x		08/01/95	
	.0304 - .0305	10:04 NCR 228	x		08/01/95	
	.0308 - .0309	10:04 NCR 228	x		08/01/95	
	.0508	10:12 NCR 982			12/01/95	
26I	.0101 - .0107	10:10 NCR 826			11/01/95	
26K	.0006	10:15 NCR 1479			02/01/96	
39D	.0302 - .0303	10:09 NCR 722			11/01/95	
	.0304	10:15 NCR 1483	x		02/01/96	
41F	.0706	10:03 NCR 196			08/01/95	
	.0812	10:03 NCR 196			08/01/95	
41I	.0100	10:17 NCR 2228				Rule-Making Proceeding
42B	.1209	10:13 NCR 1158			01/01/96	
42C	.2010	10:13 NCR 1158			01/01/96	

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42H .0911	10:09 NCR 722	12/01/95			12/01/95	
42W .0001 - .0002	10:10 NCR 828	11/01/95			11/01/95	
46A .0001	10:16 NCR 1724	02/01/96				
.0005	10:16 NCR 1724	02/01/96				
46C .0107	10:16 NCR 1724	02/01/96				
46D .0101	10:16 NCR 1724	02/01/96				
.0103	10:16 NCR 1724	02/01/96				
.0105 - .0107	10:16 NCR 1724	02/01/96				
.0202	10:16 NCR 1724	02/01/96				
46E .0108 - .0109	10:16 NCR 1724	02/01/96				
.0111	10:16 NCR 1724	02/01/96				
46F .0107 - .0108	10:16 NCR 1724	02/01/96				
.0110	10:16 NCR 1724	02/01/96				
46G .0110	10:16 NCR 1724	02/01/96				
.0113	10:16 NCR 1724	02/01/96				
.0214	10:16 NCR 1724	02/01/96				
46H .0101	10:16 NCR 1724	02/01/96				
.0103 - .0105	10:16 NCR 1724	02/01/96				
.0108	10:16 NCR 1724	02/01/96				
.0110	10:16 NCR 1724	02/01/96				
.0201 - .0203	10:16 NCR 1724	02/01/96				
.0206 - .0207	10:16 NCR 1724	02/01/96				
47B .0404 - .0405	10:15 NCR 1483	02/01/96				
49B .0102	10:15 NCR 1483	02/01/96				
49C .0107	10:16 NCR 1731	02/01/96	x			
50B .0313	10:14 NCR 1321	01/01/96				
50D .0101 - .0103	10:15 NCR 1479	02/01/96				
.0201	10:15 NCR 1479	02/01/96				
.0301 - .0302	10:15 NCR 1479	02/01/96				
.0401 - .0402	10:15 NCR 1479	02/01/96				
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11 NCAC 04 .0120 - .0124	10:15 NCR 1489	02/01/96				
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.0429 - .0430	10:15 NCR 1489	02/01/96				
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06A .0201	10:16 NCR 1738	02/01/96				
.0217	10:16 NCR 1738	02/01/96				
.0225 - .0226	10:16 NCR 1738	02/01/96				
.0234 - .0236	10:16 NCR 1738	02/01/96				
.0240	10:16 NCR 1738	02/01/96				
.0301 - .0302	10:16 NCR 1738	02/01/96				
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.0410	10:16 NCR 1738	02/01/96				
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.0808 - .0810	10:16 NCR 1738	02/01/96				
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.0813	10:16 NCR 1738	02/01/96				
.0901 - .0904	10:16 NCR 1738	02/01/96				
09 .0101 - .0104	10:15 NCR 1490	02/01/96				
.0201 - .0203	10:15 NCR 1490	02/01/96				
10 .0105	10:15 NCR 1492	02/01/96				
.0605	10:15 NCR 1492	02/01/96				
.1102 - .1103	10:15 NCR 1492	02/01/96				
.1110 - .1111	10:15 NCR 1492	02/01/96				
.1603	10:15 NCR 1492	02/01/96				
11B .0111	10:15 NCR 1503	02/01/96				

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	.0146	10:15 NCR 1503			02/01/96	
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	.0601 - .0602	10:16 NCR 1751			02/01/96	
	.0604	10:16 NCR 1751			02/01/96	
	.0607	10:16 NCR 1751			02/01/96	
	.0610	10:16 NCR 1751			02/01/96	
	.0612	10:16 NCR 1751			02/01/96	
	.0616 - .0617	10:16 NCR 1751			02/01/96	
11C	.0112 - .0113	10:15 NCR 1503			02/01/96	
	.0118	10:15 NCR 1503			02/01/96	
	.0132	10:15 NCR 1503			02/01/96	
	.0313	10:15 NCR 1503			02/01/96	
	.0504 - .0505	10:15 NCR 1503			02/01/96	
11D	.0108 - .0109	10:15 NCR 1503			02/01/96	
	.0302 - .0305	10:15 NCR 1503			02/01/96	
11F	.0401 - .0405	10:16 NCR 1756			02/01/97	
12	.0307	10:16 NCR 1764			02/01/96	
	.0326	10:16 NCR 1764			02/01/96	
	.0415 - .0416	10:16 NCR 1764			02/01/96	
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	.0562	10:16 NCR 1764			02/01/96	
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	.0835	10:16 NCR 1764			02/01/96	
	.0837	10:16 NCR 1764			02/01/96	
	.0839	10:16 NCR 1764			02/01/96	
	.0901	10:16 NCR 1787			03/01/96	
	.0918 - .0919	10:16 NCR 1787			03/01/96	
	.1004	10:16 NCR 1764			02/01/96	
	.1601 - .1604	10:16 NCR 1764			02/01/96	
	.1701 - .1709	10:16 NCR 1764			02/01/96	
13	.0317	10:15 NCR 1513			02/01/96	
	.0319	10:15 NCR 1513			02/01/96	
14	.0202	10:15 NCR 1503			02/01/96	
	.0430 - .0432	10:15 NCR 1503			02/01/96	
	.0603	10:15 NCR 1503			02/01/96	
	.0705	10:15 NCR 1503			02/01/96	
16	.0602	10:15 NCR 1514			02/01/96	
	.0704	10:11 NCR 900			12/01/95	
17	.0003	10:16 NCR 1787			02/01/96	
	.0006	10:16 NCR 1764			02/01/96	
20	.0101	10:16 NCR 1787			03/01/96	
	.0201 - .0205	10:16 NCR 1787			03/01/96	
	.0301 - .0304	10:16 NCR 1787			03/01/96	
	.0401 - .0410	10:16 NCR 1787			03/01/96	
	.0501 - .0511	10:16 NCR 1787			03/01/96	
	.0601 - .0602	10:16 NCR 1787			03/01/96	
	.0701 - .0703	10:16 NCR 1787			06/01/96	
21	.0101 - .0110	10:16 NCR 1787			03/01/96	
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12 NCAC 04E	.0104	10:07 NCR 573			10/01/95	
07D	.0201	10:07 NCR 575			10/01/95	
	.0204	10:11 NCR 900			12/01/95	
	.0301	10:07 NCR 575			10/01/95	
	.0401	10:07 NCR 575			10/01/95	

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	.0706	10:07 NCR 575			10/01/95	
	.0801	10:07 NCR 575			10/01/95	
	.0806	10:07 NCR 575			10/01/95	
	.0808	10:16 NCR 1796			02/01/96	
	.0902	10:07 NCR 575			10/01/95	
	.0904	10:07 NCR 575			10/01/95	
09A	.0204	10:02 NCR 122			08/01/95	
09B	.0113	10:02 NCR 122			08/01/95	
	.0201 - .0202	10:02 NCR 122			01/01/96	
	.0205	10:02 NCR 122			08/01/95	
	.0206	10:02 NCR 122			08/01/95	
	.0210	10:02 NCR 122			08/01/95	
	.0212 - .0214	10:02 NCR 122			08/01/95	
	.0226 - .0228	10:02 NCR 122			08/01/95	
	.0232 - .0233	10:02 NCR 122			08/01/95	
09C	.0401	10:02 NCR 122			08/01/95	
	.0601	10:02 NCR 122			08/01/95	
09D	.0102	10:02 NCR 122			08/01/95	
	.0104 - .0106	10:02 NCR 122			08/01/95	
09F	.0101 - .0107	10:16 NCR 1797			05/01/96	
10B	.0102 - .0103	10:09 NCR 723			01/01/96	
	.0105	10:09 NCR 723			01/01/96	
	.0204	10:09 NCR 723			01/01/96	
	.0301	10:09 NCR 723			01/01/96	
	.0304	10:09 NCR 723			01/01/96	
	.0307	10:09 NCR 723			01/01/96	
	.0401 - .0403	10:09 NCR 723			01/01/96	
	.0405	10:09 NCR 723			01/01/96	
	.0407 - .0409	10:09 NCR 723			01/01/96	
	.0502 - .0503	10:09 NCR 723			01/01/96	
	.0505	10:09 NCR 723			01/01/96	
	.0601 - .0607	10:09 NCR 723			01/01/96	
	.0702 - .0706	10:09 NCR 723			01/01/96	
	.0801 - .0803	10:09 NCR 723			01/01/96	
	.0901	10:09 NCR 723			01/01/96	
	.0903 - .0906	10:09 NCR 723			01/01/96	
	.0908 - .0912	10:09 NCR 723			01/01/96	
	.1004 - .1005	10:09 NCR 723			01/01/96	
	.1201 - .1205	10:09 NCR 723			01/01/96	
11	.0210	10:05 NCR 301			09/01/95	
LABOR						
13	NCAC	10:01 NCR 10			01/01/96	Notice on Subject Matter
		10:01 NCR 12			01/01/96	Notice on Subject Matter
		10:02 NCR 149			10/01/95	Notice on Subject Matter
		10:02 NCR 149			01/01/96	Notice on Subject Matter
		10:02 NCR 149			01/01/96	Notice on Subject Matter
		10:02 NCR 149			02/01/96	Notice on Subject Matter
		10:03 NCR 196			01/01/96	Notice on Subject Matter
		10:03 NCR 197			01/01/96	Notice on Subject Matter
06		10:16 NCR 1799			04/01/96	Notice on Subject Matter
07F	.0101	10:16 NCR 1800			04/01/96	
	.0201	10:16 NCR 1823			02/01/96	
12	.0101	10:02 NCR 142			08/01/95	
	.0303 - .0315	10:02 NCR 142			08/01/95	
	.0501 - .0502	10:02 NCR 142			08/01/95	
	.0803 - .0808	10:02 NCR 142			08/01/95	
15		10:16 NCR 1827			04/01/96	Notice on Subject Matter
18	.0101 - .0110	10:14 NCR 1323			01/01/96	
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21	NCAC 26 .0307	10:15 NCR 1583			02/01/96	

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10:02 NCR 167	Rules Filed 03/95
10:04 NCR 272	Rules Filed 04/95
10:06 NCR 392	Rules Filed 05/95
10:09 NCR 783	Rules Filed 06/95
10:10 NCR 845	Rules Filed 07/95
10:12 NCR 1017	Rules Filed 08/95
10:15 NCR 1585	Rules Filed 09/95

MARRIAGE AND FAMILY THERAPY LICENSURE BOARD

21 NCAC 31 .0102	10:16 NCR 2062	03/01/96
.0104	10:16 NCR 2062	03/01/96
.0201 - .0203	10:16 NCR 2062	03/01/96
.0301 - .0304	10:16 NCR 2062	03/01/96
.0401 - .0404	10:16 NCR 2062	03/01/96
.0501 - .0506	10:16 NCR 2062	03/01/96
.0601 - .0609	10:16 NCR 2062	03/01/96
.0701	10:16 NCR 2062	03/01/96
.0801	10:16 NCR 2062	03/01/96
.0901	10:16 NCR 2062	03/01/96

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21 NCAC 32B .0901 - .0902	10:10 NCR 831	11/01/95	
32F .0003	10:10 NCR 831	11/01/95	
32H .0102	10:02 NCR 151	07/01/96	07/01/96
.0201	10:02 NCR 151	07/01/96	07/01/96
.0203	10:02 NCR 151	07/01/96	
.0408	10:02 NCR 151	07/01/96	07/01/96
.0506	10:02 NCR 151	07/01/96	07/01/96
.0601	10:02 NCR 151	07/01/95	09/01/95
.0602	10:02 NCR 151	07/01/96	07/01/96
.0801	10:02 NCR 151	07/01/96	07/01/96
.1001	10:02 NCR 151	07/01/96	07/01/96
32I .0003 - .0004	10:02 NCR 151	07/01/95	09/01/95
32M .0001 - .0002	10:10 NCR 831	11/01/95	

MORTUARY SCIENCE

21 NCAC 34B .0401	10:13 NCR 1182	01/01/96
34D .0202	10:13 NCR 1182	01/01/96
.0301	10:13 NCR 1182	01/01/96

NURSING, BOARD OF

21 NCAC 36 .0109	10:11 NCR 908	01/01/96
.0202 - .0203	10:11 NCR 908	01/01/96
.0209	10:11 NCR 908	01/01/96
.0211	10:11 NCR 908	01/01/96
.0216 - .0219	10:11 NCR 908	01/01/96
.0221	10:11 NCR 908	01/01/96
.0225	10:11 NCR 908	01/01/96
.0227	10:11 NCR 908	01/01/96
.0228	10:16 NCR 2068	02/01/96
.0318	10:11 NCR 908	01/01/96
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.0322	10:11 NCR 908	01/01/96
.0401 - .0405	10:10 NCR 839	12/01/95

NURSING HOME ADMINISTRATORS

21 NCAC 37 .0101	10:04 NCR 262	08/01/95	08/01/95	
.0302	10:03 NCR 206	08/01/95	N/A	Agency withdrew Rule
.0404	10:03 NCR 206	08/01/95	N/A	Agency withdrew Rule
.0502	10:03 NCR 206	08/01/95	08/01/95	
.0603	10:03 NCR 206	08/01/95	08/01/95	

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	.0904	10:04 NCR 262			N/A	Agency withdrew Rule
	.0912	10:03 NCR 206			08/01/95	
	.0914	10:03 NCR 206			N/A	Agency withdrew Rule
37A	.0101	10:16 NCR 2069				
	.0108	10:16 NCR 2069				
	.0110	10:16 NCR 2069				
	.0208	10:16 NCR 2069				
	.0211	10:16 NCR 2069				
	.0306	10:16 NCR 2069				
	.0308	10:16 NCR 2069				
	.0506	10:16 NCR 2069				
	.0603 - .0604	10:16 NCR 2069				
	.0702 - .0707	10:16 NCR 2069				
	.0805	10:16 NCR 2069				
	.0901	10:16 NCR 2069				
	.0905	10:16 NCR 2069				
	.0907	10:16 NCR 2069				
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37B	.0101 - .0103	10:16 NCR 2069				
	.0201	10:16 NCR 2069				
	.0203	10:16 NCR 2069				
	.0205	10:16 NCR 2069				
37C	.0101 - .0103	10:16 NCR 2069				
37D	.0101 - .0102	10:16 NCR 2069				
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	.0501 - .0503	10:16 NCR 2069				
	.0601 - .0603	10:16 NCR 2069				
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	.0701 - .0703	10:16 NCR 2069				
37E	.0101 - .0102	10:16 NCR 2069				
37F	.0101 - .0102	10:16 NCR 2069				
37G	.0101 - .0102	10:16 NCR 2069				
	.0201 - .0202	10:16 NCR 2069				
	.0301	10:16 NCR 2069				
	.0401	10:16 NCR 2069				
37H	.0101 - .0104	10:16 NCR 2069				
37I	.0101	10:16 NCR 2069				

OPTICIANS

21 NCAC 40 .0314 10:16 NCR 2081 02/01/96

PASTORAL COUNSELORS, FEE-BASED PRACTICING

21 NCAC 45 .0101 10:16 NCR 2082 03/01/96
.0201 - .0203 10:16 NCR 2082 03/01/96
.0301 - .0303 10:16 NCR 2082 03/01/96
.0401 - .0402 10:16 NCR 2082 03/01/96
.0501 10:16 NCR 2082 03/01/96
.0601 10:16 NCR 2082 03/01/96
.0701 10:16 NCR 2082 03/01/96
.0801 - .0802 10:16 NCR 2082 03/01/96
.0901 10:16 NCR 2082 03/01/96
.1001 10:16 NCR 2082 03/01/96

PHARMACY, BOARD OF

21 NCAC 46 .1204 10:16 NCR 2085 05/01/96
.1317 10:16 NCR 2085 05/01/96
.1401 - .1404 10:16 NCR 2085 05/01/96
.1406 10:16 NCR 2085 05/01/96
.1408 10:16 NCR 2085 05/01/96
.1410 - .1417 10:16 NCR 2085 05/01/96

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.1701 - .1705	10:16 NCR 2085	05/01/96				
.1810 - .1811	10:16 NCR 2085	05/01/96				
.1910	10:16 NCR 2085	05/01/96				
.2104	10:16 NCR 2085	05/01/96				
.2403	10:16 NCR 2085	05/01/96				
.2502	10:16 NCR 2085	05/01/96				
.2504	10:16 NCR 2085	05/01/96				
.2506	10:16 NCR 2085	05/01/96				
.2602	10:16 NCR 2085	05/01/96				
.2609	10:16 NCR 2085	05/01/96				
.2611	10:16 NCR 2085	05/01/96				
PHYSICAL THERAPY EXAMINERS						
21 NCAC 48A .0001	10:16 NCR 2107	02/01/96				
.0004	10:16 NCR 2107	02/01/96				
48B .0002	10:16 NCR 2107	02/01/96				
48C .0103	10:08 NCR 671	10/01/95			N/A	Agency withdrew Rule
48D .0006	10:08 NCR 671	10/01/95			10/01/95	
.0008	10:08 NCR 671	10/01/95			10/01/95	
.0009 - .0011	10:16 NCR 2107	02/01/96				
.0011	10:08 NCR 671	10/01/95			10/01/95	
48E .0101	10:16 NCR 2107	02/01/96				
.0104	10:16 NCR 2107	02/01/96				
.0110	10:08 NCR 671	10/01/95			10/01/95	
.0110	10:16 NCR 2107	02/01/96				
48F .0002	10:08 NCR 671	10/01/95			10/01/95	
.0003	10:16 NCR 2107	02/01/96				
48G .0501 - .0516	10:08 NCR 671	10/01/95			10/01/95	
.0504	10:16 NCR 2107	02/01/96				
.0509	10:16 NCR 2107	02/01/96				
.0601	10:08 NCR 671	10/01/95			10/01/95	
.0601	10:16 NCR 2107	02/01/96				
48H .0102	10:16 NCR 2107	02/01/96				
.0104	10:08 NCR 671	10/01/95			10/01/95	
.0701 - .0704	10:08 NCR 671	10/01/95			10/01/95	
.0701	10:16 NCR 2107	02/01/96				
PLUMBING, HEATING & FIRE SPRINKLER CONTRACTORS						
21 NCAC 50 .0402	10:01 NCR 39	09/01/95			09/01/95	
.0505	10:01 NCR 39	09/01/95			N/A	Agency Did Not Adopt
PROFESSIONAL COUNSELORS						
21 NCAC 53 .0204 - .0211	10:01 NCR 40	07/01/95			07/01/95	
.0301	10:01 NCR 40	07/01/95			07/01/95	
.0305 - .0309	10:01 NCR 40	07/01/95			07/01/95	
.0310	10:01 NCR 40	07/01/95				
.0403 - .0405	10:01 NCR 40	07/01/95			07/01/95	
.0601 - .0604	10:01 NCR 40	07/01/95			07/01/95	
PROFESSIONAL ENGINEERS AND LAND SURVEYORS						
21 NCAC 56 .0802	10:11 NCR 934	12/01/95				
.0804	10:11 NCR 934	12/01/95				
.0902	10:11 NCR 934	12/01/95				
.1103	10:11 NCR 934	12/01/95				
.1301	10:11 NCR 934	12/01/95				
.1602	10:11 NCR 934	12/01/95				
.1604	10:11 NCR 934	12/01/95				
.1608	10:11 NCR 934	12/01/95				
.1707	10:11 NCR 934	12/01/95				

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21 NCAC 54 .1604 - .1605	10:16 NCR 2111	03/01/96				
.1608	10:16 NCR 2111	03/01/96				
.1610	10:16 NCR 2111	03/01/96				
.1701	10:11 NCR 929	12/01/95				
.1703 - .1705	10:16 NCR 2111	03/01/96				
.1707	10:11 NCR 929	12/01/95				
.1801 - .1803	10:16 NCR 2111	03/01/96				
.1901	10:16 NCR 2111	03/01/96				
.1904	10:16 NCR 2111	03/01/96				
.2001 - .2005	10:16 NCR 2111	03/01/96				
.2007 - .2009	10:16 NCR 2111	03/01/96				
.2101	10:16 NCR 2111	03/01/96				
.2103	10:16 NCR 2111	03/01/96				
.2201 - .2204	10:16 NCR 2111	03/01/96				
.2704 - .2706	10:11 NCR 929	12/01/95				
PUBLIC EDUCATION						
16 NCAC 06A .0001 - .0002	10:16 NCR 1997	04/01/96				
06B .0001 - .0002	10:16 NCR 1997	04/01/96				
.0004 - .0006	10:16 NCR 1997	04/01/96				
06C .0101	10:15 NCR 1565	04/01/96				
.0313	10:15 NCR 1565	04/01/96				
.0401	10:17 NCR 2229				11/15/95	Temporary Amendment Rule
06D .0102	10:16 NCR 1997	04/01/96				
.0104	10:16 NCR 1997	04/01/96				
.0106	10:07 NCR 584	11/01/95				
.0301 - .0302	10:16 NCR 1997	04/01/96				
06E .0101 - .0102	10:16 NCR 1997	04/01/96				
.0104	10:16 NCR 1997	04/01/96				
.0202	10:16 NCR 1997	04/01/96				
06G .0301 - .0303	10:16 NCR 1997	04/01/96				
06H .0001	10:16 NCR 1997	04/01/96				
.0006 - .0008	10:16 NCR 1997	04/01/96				
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21 NCAC 58A .0104	10:16 NCR 2124	03/01/96				
.0107	10:16 NCR 2124	03/01/96				
.0110	10:02 NCR 157	07/01/95			07/01/95	
.0113	10:16 NCR 2124	03/01/96				
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.0401 - .0402	10:16 NCR 2124	03/01/96				
.0403	10:04 NCR 263	08/01/95			08/01/95	
.0502	10:16 NCR 2124	01/01/97				
.0503	10:04 NCR 263	08/01/95			08/01/95	
.0503 - .0506	10:16 NCR 2124	03/01/96				
.0504 - .0506	10:02 NCR 157	07/01/95			07/01/95	
.0505	10:04 NCR 263	08/01/95			08/01/95	
.0510	10:16 NCR 2124	03/01/96				
.0610	10:16 NCR 2124	03/01/96				
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.1703	10:02 NCR 157	07/01/95			07/01/95	
.1707 - .1708	10:02 NCR 157	07/01/95			07/01/95	
.1708	10:16 NCR 2124	03/01/96				
.1710 - .1711	10:02 NCR 157	07/01/95			07/01/95	
.1711	10:16 NCR 2124	03/01/96				
58C .0104	10:16 NCR 2124	03/01/96				
.0305 - .0307	10:16 NCR 2124	03/01/96				
.0311 - .0312	10:16 NCR 2124	03/01/96				
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.0302 - .0304	10:16 NCR 2124	03/01/96				
.0303 - .0305	10:02 NCR 157	07/01/95			07/01/95	
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.0406 - .0407	10:02 NCR 157	07/01/95			07/01/95	
.0406 - .0407	10:16 NCR 2124	03/01/96				
.0411	10:16 NCR 2124	03/01/96				
.0503	10:16 NCR 2124	03/01/96				
.0506	10:02 NCR 157	07/01/95			07/01/95	
.0511	10:16 NCR 2124	03/01/96				
.0515	10:02 NCR 157	07/01/95			07/01/95	
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21 NCAC 60 .0102	10:04 NCR 264	08/01/95			08/01/95	
.0105	10:09 NCR 781	11/01/95			11/01/95	
.0204	10:04 NCR 264	08/01/95			08/01/95	
.0314	10:04 NCR 264	08/01/95			08/01/95	
.1102	10:04 NCR 264	08/01/95			08/01/95	
.1103	10:09 NCR 781	11/01/95			11/01/95	
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Tax Review Board	10:07 NCR 428					
Tax Review Board	10:09 NCR 716					
Tax Review Board	10:11 NCR 890					
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17 NCAC 09G .0102	10:16 NCR 2006	11/30/96				
.0104 - .0105	10:16 NCR 2006	11/30/96				
.0107	10:16 NCR 2006	11/30/96				
.0201 - .0203	10:16 NCR 2006	11/30/96				
.0301 - .0304	10:16 NCR 2006	11/30/96				
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.0402 - .0404	10:16 NCR 2006	11/30/96				
.0502 - .0509	10:16 NCR 2006	11/30/96				
.0512	10:16 NCR 2006	11/30/96				
.0514	10:16 NCR 2006	11/30/96				
.0516	10:16 NCR 2006	11/30/96				
09H .0102 - .0103	10:16 NCR 2006	11/30/96				
.0105	10:16 NCR 2006	11/30/96				
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.0206 - .0210	10:16 NCR 2006	11/30/96				
.0302 - .0303	10:16 NCR 2006	11/30/96				
.0305 - .0306	10:16 NCR 2006	11/30/96				
.0409	10:16 NCR 2006	11/30/96				
09K .0201 - .0206	10:16 NCR 2006	01/01/96				
.0401	10:16 NCR 2006	01/01/96				
.0501 - .0513	10:16 NCR 2006	01/01/96				
.0601 - .0602	10:16 NCR 2006	01/01/96				
09L .0301 - .0302	10:16 NCR 2006	01/01/96				
.0401 - .0404	10:16 NCR 2006	01/01/96				
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18 NCAC	10:16 NCR 2015	04/01/96				Notice on Subject Matter
04 .0102	10:15 NCR 1567	02/01/96				
.0201	10:15 NCR 1567	02/01/96				
.0203	10:15 NCR 1567	02/01/96				
.0205 - .0206	10:15 NCR 1567	02/01/96				
.0302 - .0308	10:15 NCR 1567	02/01/96				
.0311 - .0314	10:15 NCR 1567	02/01/96				
.0316 - .0318	10:15 NCR 1567	02/01/96				
.0401 - .0402	10:15 NCR 1567	02/01/96				
.0501 - .0504	10:15 NCR 1567	02/01/96				
05 .0101	10:15 NCR 1573	02/01/96				

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	.0304 - .0305	10:15 NCR 1573			02/01/96	
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06	.1205 - .1206	10:05 NCR 306			09/01/95	
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	.1302 - .1305	10:05 NCR 306			09/01/95	
	.1313	10:05 NCR 306			09/01/95	
	.1402	10:11 NCR 906			12/01/95	
	.1601 - .1602	10:15 NCR 1575			02/01/96	
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	.1607	10:15 NCR 1575			02/01/96	
07	.0302	10:15 NCR 1578			02/01/96	
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21 NCAC 63	.0306	10:13 NCR 1185			01/01/96	
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25 NCAC 01B	.0201	10:16 NCR 2155			02/01/96	
	.0203 - .0207	10:16 NCR 2155			02/01/96	
	.0213	10:16 NCR 2155			02/01/96	
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	.0431	10:16 NCR 2155			02/01/96	
	.0437 - .0439	10:16 NCR 2155			02/01/96	
01C	.0207	10:04 NCR 264			08/01/95	
	.0402 - .0408	10:04 NCR 264			08/01/95	
	.0412	10:16 NCR 2155			02/01/96	
01D	.0201	10:04 NCR 264			08/01/95	
	.0205	10:04 NCR 264			08/01/95	
	.0207	10:04 NCR 264			08/01/95	
	.0211	10:04 NCR 264			08/01/95	
	.0401	10:12 NCR 986			12/01/95	
	.0406	10:12 NCR 986			12/01/95	
	.0504	10:12 NCR 986			12/01/95	
	.0509	10:07 NCR 588			10/01/95	
	.0510 - .0511	10:12 NCR 986			12/01/95	
	.0515	10:12 NCR 986			12/01/95	
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	.0910	10:12 NCR 986			12/01/95	
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	.2301 - .2305	10:16 NCR 2155			02/01/96	
	.2601 - .2604	10:12 NCR 986			12/01/95	
01E	.0304 - .0305	10:12 NCR 986			12/01/95	
	.0804	10:04 NCR 264			08/01/95	
	.1001 - .1002	10:12 NCR 986			12/01/95	
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	.1402 - .1411	10:07 NCR 588			10/01/95	
01H	.0628	10:12 NCR 986			12/01/95	
01I	.2301 - .2310	10:12 NCR 986			12/01/95	
01J	.0401 - .0413	10:12 NCR 986			12/01/95	
	.0501 - .0511	10:12 NCR 986			12/01/95	
	.0604 - .0606	10:07 NCR 588			10/01/95	
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.0801 - .0809	10:12 NCR 986	12/01/95				
01K .0312	10:04 NCR 264	08/01/95				
.0318	10:12 NCR 986	12/01/95				
.0701 - .0705	10:12 NCR 986	12/01/95				
.0707 - .0708	10:12 NCR 986	12/01/95				
01L .0101 - .0106	10:12 NCR 986	12/01/95				
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21 NCAC 68 .0501 - .0511	10:14 NCR 1382	02/01/96				
.0601 - .0610	10:14 NCR 1382	02/01/96				
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21 NCAC 65 .0004	10:16 NCR 2140	02/01/96				
.0006 - .0007	10:16 NCR 2140	02/01/96				
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19A NCAC 02D .0415	10:12 NCR 984	12/31/95				
.0801	10:04 NCR 254	09/01/95			10/01/95	
.1101 - .1112	10:16 NCR 2015	03/01/96				
03D .0517	10:16 NCR 2020	02/01/96				
.0549	10:16 NCR 2020	02/01/96				
.0551 - .0553	10:16 NCR 2020	02/01/96				
04A .0004	10:10 NCR 829	12/01/95				
06B .0401 - .0417	10:16 NCR 2023	03/01/96		x		
VETERINARY MEDICAL BOARD						
21 NCAC 66 .0101	10:16 NCR 2143	04/01/96				
.0105 - .0106	10:16 NCR 2143	04/01/96				
.0108	10:16 NCR 2143	04/01/96				
.0201 - .0203	10:16 NCR 2143	04/01/96				
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.0301	10:16 NCR 2143	04/01/96				
.0303 - .0308	10:16 NCR 2143	04/01/96				
.0310 - .0311	10:16 NCR 2143	04/01/96				
.0601	10:16 NCR 2143	04/01/96				
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.0703	10:16 NCR 2143	04/01/96				

BARCLAYS OFFICIAL NORTH CAROLINA ADMINISTRATIVE CODE - 1995

DESCRIPTION	CODE	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE
Title 1 - Dept. of Administration - Full Title	201 00 00	\$63.00	\$90.00
Division of Purchase & Contract	201 10 06	\$21.00	\$30.00
Federal Block Grant Funds	201 10 33	\$17.50	\$25.00
Title 2 - Dept. of Agriculture - Full Title	202 00 00	\$98.00	\$140.00
Food & Drug Protection Division	202 15 09	\$28.00	\$40.00
Structural Pest Control Committee	202 15 34	\$21.00	\$30.00
Agricultural Markets	202 15 43	\$21.00	\$30.00
Plant Industry	202 15 48	\$21.00	\$30.00
Animal Industry	202 15 52	\$21.00	\$30.00
Title 3 - Dept. of State Auditor - Full Title	203 00 00	\$7.00	\$10.00
Title 4 - Dept. of Commerce - Full Title	204 00 00	\$87.50	\$125.00
Alcoholic Beverage Control Commission	204 15 02	\$12.00	\$40.00
Banking Commission	204 15 03	\$24.50	\$35.00
Credit Union Division	204 15 06	\$14.00	\$20.00
Savings & Loan Division	204 15 09	\$14.00	\$20.00
Industrial Commission/Workers Compensation	204 15 10	\$14.00	\$20.00
Savings Institutions Division	204 15 18	\$24.50	\$35.00
Title 5 - Dept. of Corrections - Full Title	205 00 00	\$56.00	\$80.00
Division of Prisons	205 15 02	\$24.50	\$35.00
Title 6 - Council of State - Full Title	206 00 00	\$21.00	\$30.00
Title 7 - Dept. of Cultural Resources - Full Title	207 00 00	\$21.00	\$30.00
Title 8 - State Board of Elections - Full Title	208 00 00	\$7.00	\$10.00
Title 9 - Offices of the Governor & Lt. Governor - Full Title	209 00 00	\$31.50	\$45.00
Title 10 - Dept. of Human Resources - Full Title	210 00 00	\$346.50	\$495.00
Licensing of Health Facilities	210 20 10	\$45.50	\$65.00
Detention Facilities	210 20 20	\$31.50	\$45.00
Mental Health & Rehabilitation Services	210 20 30	\$77.00	\$110.00
Social Services	210 20 40	\$119.00	\$170.00
Children Services/Day Care	210 20 41	\$31.50	\$45.00
Services for the Aging	210 20 42	\$31.50	\$45.00
Services for the Blind	210 20 43	\$28.00	\$40.00
Services for the Deaf & Hard of Hearing	210 20 44	\$17.50	\$25.00
Employment Opportunities	210 20 45	\$35.00	\$50.00
Title 11 - Dept. of Insurance - Full Title	211 00 00	\$63.00	\$90.00
Insurance	211 10 01	\$66.00	\$80.00
Consumer Services	211 10 04	\$24.50	\$35.00
Fire & Rescue Services	211 10 05	\$17.50	\$25.00
Agent Services	211 10 06	\$28.00	\$40.00
Engineering & Building Codes	211 10 08	\$21.00	\$30.00
Title 12 - Dept. of Justice - Full Title	212 00 00	\$63.00	\$90.00
Private Protective Services	212 10 07	\$21.00	\$30.00
Police & Sheriff's Education & Training Standards	212 10 09	\$31.50	\$45.00
NC Alarm Systems Licensing Board	212 10 11	\$17.50	\$25.00
Title 13 - Dept. of Labor - Full Title	213 00 00	\$77.00	\$110.00
Mine & Quarry Safety	213 15 06	\$14.00	\$20.00
General Safety/OSHA	213 20 00	\$31.50	\$45.00
Wage & Hour Rules	213 15 12	\$14.00	\$20.00
Boiler & Pressure Vessel Safety	213 15 13	\$14.00	\$20.00
Apprenticeship & Training	213 15 14	\$14.00	\$20.00
Elevator & Amusement Device Safety	213 15 15	\$14.00	\$20.00
Title 14A - Dept. of Crime Control & Public Safety - Full Title	214 00 00	\$31.50	\$45.00
Alcohol Law Enforcement	214 00 08	\$17.50	\$25.00
Victims Compensation Fund	214 00 11	\$14.00	\$20.00
Title 15A - Dept. of Environ., Health, & Nat. Resources - Full Title	215 00 00	\$276.50	\$395.00
Environmental Management	215 15 00	\$115.50	\$165.00
Air Quality	215 15 10	\$49.00	\$70.00
Water Quality	215 15 20	\$49.00	\$70.00
Land & Waste Management	215 15 30	\$58.00	\$80.00
Solid Waste Management	215 15 31	\$35.00	\$50.00
Underground Storage Tanks	215 15 32	\$17.50	\$25.00

DESCRIPTION	CODE	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE
Coastal Management	215 15 40	\$31.50	\$45.00
Environmental Health	215 25 00	\$105.00	\$150.00
Radiation/Nuclear Waste	215 25 10	\$42.00	\$60.00
Sanitation	215 25 20	\$35.00	\$50.00
Public Health	215 25 30	\$59.50	\$85.00
Intoxilizer & Breathalyzer	215 25 31	\$17.50	\$25.00
Title 16 - Dept. of Public Instruction - Full Title	216 00 00	\$21.00	\$30.00
Elementary & Secondary Education	216 10 06	\$21.00	\$30.00
Title 17 - Dept. of Revenue - Full Title	217 00 00	\$91.00	\$130.00
Taxes on Individuals	217 15 10	\$31.50	\$45.00
Taxes on Business	217 15 20	\$56.00	\$80.00
Sales & Use Tax Division	217 15 27	\$31.50	\$45.00
Motor Fuels Tax Division	217 15 29	\$21.00	\$30.00
Title 18 - Secretary of State - Full Title	218 00 00	\$21.00	\$30.00
Securities Division	218 10 06	\$21.00	\$30.00
Title 19A - Dept. of Transportation - Full Title	219 00 00	\$63.00	\$90.00
Division of Highways	219 10 02	\$28.00	\$40.00
Division of Motor Vehicles	219 10 03	\$35.00	\$50.00
Title 20 - Dept. of the State Treasurer - Full Title	220 00 00	\$31.50	\$45.00
Title 21 - Occupational Licensing Boards - Full Title	221 00 00	\$143.50	\$205.00
Title 22 - Administrative Procedures Act - Repealed	222 00 00	\$0.00	\$0.00
Title 23 - Dept. of Community Colleges - Full Title	223 00 00	\$7.00	\$10.00
Title 24 - Independent Agencies - Full Title	224 00 00	\$7.00	\$10.00
Title 25 - Office of State Personnel - Full Title	225 00 00	\$42.00	\$60.00
Title 26 - Office of Administrative Hearings - Full Title	226 00 00	\$7.00	\$10.00
Title 27 - North Carolina State Bar - Full Title	227 00 00	\$42.00	\$60.00
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