

## Permanent Amendment for Publication in the NCAC

25 NCAC 01E .0210 is amended as published in 34:06 NCR 503 as follows:

### 25 NCAC 01E .0210 SEPARATION: PAYMENT OF VACATION LEAVE

(a) The agency shall pay an employee in a lump sum for vacation leave only at the time of separation. ~~separation, except as set forth in Paragraph (h) or (i) of this Rule.~~ ~~separation.~~

(b) When separated from ~~state~~State service due to resignation, dismissal, or death, an employee shall be paid in a lump sum for accumulated vacation leave not to exceed a maximum of 240 hours. The employee is not entitled to any ~~scheduled~~ holiday ~~pay occurring~~ after the ~~last day of work.~~ ~~date of separation.~~ The employee ~~shall~~ ~~ceases~~ ~~cease~~ to accumulate leave and ~~ceases to or~~ be entitled to take sick leave. ~~The last day of work is [shall be] the date of separation.~~

(c) When separated from ~~state~~State service due to service retirement, early retirement, or reduction in force, an employee may, at the discretion of the employee's supervisor, elect to exhaust vacation leave after the last day of work but prior to the effective date of the separation. All benefits shall accrue while leave is being ~~exhausted~~ exhausted, including holidays that occur during the period. Unused vacation leave not exhausted shall be paid in a lump sum not to exceed 240 hours. An employee who was reduced in force and who had over 240 hours of vacation leave at the time of separation shall have the excess leave reinstated when reemployed within one year. The date of separation ~~is~~ shall be determined as follows:

(1) If leave is exhausted, the last day of leave ~~is~~ shall be the date of separation.

(2) If no leave is exhausted, the last day of work ~~is~~ shall be the date of separation.

(d) If an employee separates and is overdrawn on any type of leave, the employing agency shall deduct the value of the overdrawn leave from the final salary check.

(e) The employing agency shall make a retirement deduction from all leave payments.

(f) Receipt of lump sum leave payment and retirement benefit ~~is~~ shall not be considered as dual compensation.

(g) In the case of a deceased employee, the employing agency shall make a payment for unpaid salary, vacation leave, and travel, upon establishment of a valid claim, to the deceased employee's administrator or executor. In the absence of an administrator or executor, the employing agency must make a payment in accordance with the provisions of G.S. 28A-25-6. ~~28A-25-6(a).~~ ~~28A-25-6.~~

(h) ~~In the case of an employee separated,~~ If the employee separates due to a workers' compensation injury pursuant to 25 NCAC 01C.1007(a)(3), leave shall be paid in a lump sum as follows:

(1) ~~Payment of used~~ Unused vacation leave earned (up to a maximum of 240 hours) and bonus leave granted and eligible for payout ~~already earned~~ as of the date of ~~injury.~~ injury.

(2) ~~Payment of used~~ Unused vacation and sick leave accumulated only during the first 12 months of workers' compensation ~~leave.~~ leave; and

(3) ~~Payment of any~~ Any unused bonus leave eligible for payout granted on or after the date of injury.

(i) If the employee returns to permanent duty after workers' compensation leave, vacation leave ~~remains~~ shall remain available for use after returning to work until the end of the calendar year, at which time any ~~excess~~ vacation leave over the 240-hour maximum shall be converted to sick leave. If the employee separates for any

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reason during the calendar year in which ~~they~~ he or she returned to work after workers' compensation leave, the employee shall be paid a lump sum for unused leave as follows:

- (1) ~~Payment of used~~ Unused vacation leave earned (up to a maximum of 240 hours) and bonus leave granted and eligible for payout ~~already earned~~ as of the date of ~~injury.~~ injury;
- (2) ~~Payment of used~~ Unused vacation leave accumulated during the first 12 months of workers' compensation ~~leave.~~ leave; and
- (3) ~~Payment of any~~ Any unused bonus leave eligible for payout granted on or after the date of injury.

*History Note: Authority G.S. ~~28A-25-6(a),(c);~~ 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1988; January 1, 1993;  
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Amended Eff. December 1, 2008; December 1, 2007; July 1, 1995; March 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016-2016;  
Amended Eff. February 1, 2020.*