

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .2701

DEADLINE FOR RECEIPT: Friday, January 15, 2016

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

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

In reviewing these rules, the staff determined that the following technical changes need to be made:

The first four lines of this Rule very closely follow the language in G.S. 126-8.5. Why do you need to repeat it here?

On line 10, "Section" should be capitalized. Since it was published capitalized in the Register, you do not need to show the change – simply do it.

What is your authority for the sentence on lines 10 and 11? Are you relying upon 126-8.5(a) highlighted below?

(a) When the Director of the Budget determines that the closing of a State institution or a reduction in force will accomplish economies in the State Budget, he shall pay either a discontinued service retirement allowance or severance wages to any affected State employee, provided reemployment is not available. As used in this section, "economies in the State Budget" means economies resulting from elimination of a job and its responsibilities or from a lack of funds to support the job. **In determining whether to pay a discontinued service retirement allowance or severance wages, the Director of the Budget shall consider** the recommendation of the department head involved and any recommendation of the Director of the Office of State Human Resources. Severance wages shall not be paid to an employee who chooses a discontinued service retirement. Severance wages shall not be subject to employer or employee retirement contributions. Severance wages shall be paid according to the policies adopted by the State Human Resources Commission.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 31, 2015

Permanent Adoption for Publication in the NCAC

25 NCAC 01D.2701 is amended as published in 30:04 NCR 464 as follows:

25 NCAC 01D .2701 SEVERANCE SALARY CONTINUATION POLICY

~~G.S. 143-27.2~~ G.S. 126-8.5 provides for severance salary continuation or a discontinued service retirement allowance when the Director of the Budget determines that the closing of a State institution or a reduction-in-force will accomplish economies in the State Budget, provided reemployment is not available. "Economies in the State Budget" means economies resulting from elimination of a job and its responsibilities or from a lack of funds to support the job. ~~The provisions outlined below provide for uniform application of severance salary continuation for eligible employees.~~ Severance salary continuation shall be paid to eligible employees as defined in 25 NCAC 01D .2702 in accordance with the rules in this section. Severance pay shall be subject to available funding and approval by the Office of State Budget and Management.

~~(1)~~ Eligible Employees:

- ~~(a)~~ A full time or part time (20 hours or over) employee with a permanent appointment who does not obtain another permanent or time limited permanent job in State government or any other permanent position that is funded in part or in whole by the State by the effective date of the separation shall be eligible for severance salary continuation. Also eligible are employees with trainee appointments who have completed six 24 months of service, and employees who had a permanent appointment prior to entering a trainee appointment;
- ~~(b)~~ An employee with a probationary, temporary or intermittent appointment is not eligible for severance salary continuation;
- ~~(c)~~ An employee separated from a time limited permanent appointment is not eligible for severance salary continuation. If the appointment extends beyond three years, the appointment is made permanent and the employee becomes eligible for severance salary continuation;
- ~~(d)~~ An employee who is separated or scheduled to be separated due to reduction in force and who applies for retirement benefits based on early retirement, service retirement, long term disability or a discontinued service retirement as provided by G.S. 143-27.2 shall not be eligible for severance salary continuation. An employee who is eligible for early or service retirement may elect to delay retirement and receive severance salary continuation;
- ~~(e)~~ An employee who is reemployed from any retired status with the State and who is subsequently terminated as a result of reduction in force shall be eligible for severance salary continuation;
- ~~(f)~~ An employee who is receiving workers' compensation or short term disability payments is eligible for severance salary continuation;

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- (g) ~~An employee on leave with pay or leave without pay shall be separated on the effective date of the reduction in force, the same as other employees, and shall be eligible to receive severance salary continuation;~~
- (h) ~~An employee with a permanent appointment separated by reduction in force, may accept a temporary State position and remain eligible to receive severance salary continuation in accordance with this Section;~~
- (i) ~~An employee may continue to receive severance salary continuation if reemployed under a contractual arrangement in a State university or community college in accordance with G.S. 143-27.2. However, an employee receiving salary continuation may not be reemployed in any other State agency until 12 months have elapsed since the separation; and~~
- (j) ~~An employee with a permanent appointment scheduled to be separated through reduction in force may decline a lower level position with regard to salary grade (or salary grade equivalency), salary rate or appointment type and retain eligibility for severance salary continuation.~~

~~(2) Amount and Method of Payment:~~

- (a) ~~Severance salary continuation shall be based on total State service and supplemented by an age adjustment factor as follows:~~

~~(i) Amount of Salary Continuation:~~

<u>Years of Service</u>	<u>Payment</u>
Less than 1 year	2 weeks
1 but less than 5 years	1 month
5 but less than 10 years	2 months
10 but less than 20 years	3 months
20 or more years	4 months

~~(ii) Age Adjustment Factor:~~

~~An employee qualifies for the age adjustment factor at 40 years of age. To compute the amount of the adjustment, 2.5 percent of the annual base salary shall be added for each full year over 39 years of age; however, the total age adjustment factor payment shall be limited by the service payment and cannot exceed the total service payments;~~

- (b) ~~When calculating severance, the employee's annual salary at the time of separation shall be used except when the employee has received a promotion to a higher salary grade (or salary grade equivalency) and salary rate within the previous 12 months. If an employee has been promoted within the last 12 months, the salary used to calculate severance is the~~

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- 1 employee's salary rate prior to the promotion, including any across the board legislative
2 salary increases since the promotion;
- 3 ~~(c) — Severance salary continuation shall be paid on a pay period basis and is not subject to~~
4 ~~employee or employer retirement contributions, and as a result, shall not be included in~~
5 ~~computing average final compensation for retirement purposes;~~
- 6 ~~(d) — Any period covered by severance salary continuation shall not be credited as a period of~~
7 ~~state service;~~
- 8 ~~(e) — An employee who is reemployed in any permanent position with the State or any other~~
9 ~~permanent position that is paid in part or in whole by the State while receiving severance~~
10 ~~salary continuation will no longer be eligible for such pay effective on the date of~~
11 ~~reemployment;~~
- 12 ~~(f) — If an employee dies while receiving severance salary continuation, the balance of such~~
13 ~~payment shall be made to the deceased employee's death benefit beneficiary as~~
14 ~~designated with the Teachers' and State Employees' Retirement System in a lump sum~~
15 ~~payment; and~~
- 16 ~~(g) — Funds for severance salary continuation shall be provided as directed by the Office of~~
17 ~~State Budget and Management.~~
- 18 ~~(3) — For each employee who receives severance salary continuation, agencies shall show on the~~
19 ~~separate form, Form PD 105, the calculation and amount of such payment.~~

21 *History Note:* Authority *G.S. 126-4(10); ~~143-27.2; 126-8.5;~~*

22 *Eff. October 1, 1985;*

23 *Amended Eff. October 1, 1995; September 1, 1991; November 1, 1990; November 1, 1988;*

24 *Recodified from 25 NCAC 01D .0509 Eff. December 29, 2003;*

25 *Amended Eff. February 1, 2016; March 1, 2009.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .2702

DEADLINE FOR RECEIPT: Friday, January 15, 2016

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

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, replace "to" before "another position" with "in" or "with"

On line 5, I suggest stating "funded in whole or in part"

I think the language "as follows" at the end of line 6 does not read very well. I suggest stating "The following type of employee who has been reduced in force... shall be eligible for severance salary continuation."

In (a)(1), should "half-time" be hyphenated?

In (a)(3), you may wish to put "break in service" in quotation marks, since that is a defined term.

In (a)(4) and elsewhere in the Rule, what is "continuous"? Is this term used in Rule because it, or a variation of the word ("continuously"), is used throughout Chapter 126?

In Paragraph (d), line 25, (e), line 27 and (f), line 30, "Paragraph" should be capitalized. Since it was published capitalized in the Register, you do not need to show the change – simply do it.

In Paragraph (e), line 27, end the sentence with a period, not a semicolon. And as you published with a period, you do not need to show the change – simply do it.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 31, 2015

Permanent Adoption with changes for Publication in the NCAC

25 NCAC 01D.2702 is adopted with changes as published in 30:04 NCR 466 as follows:

25 NCAC 01D .2702 SEVERANCE SALARY CONTINUATION ELIGIBILITY

(a) An employee who has been reduced in force and who does not obtain employment to another position in State government or any other position that is funded in part or in whole by the State by the effective date of the separation shall be eligible for severance salary continuation as follows:

- (1) full-time and part-time (half time or more) permanent employees;
- (2) trainee employees with ~~24~~ 12 or more months of State service;
- (3) trainee employees who obtained career status with no break in service, as defined in 25 NCAC 01D .0114, prior to entering a trainee appointment;
- (4) time-limited employees with 36 or more months of continuous State service; and
- (5) employees in exempt policymaking or exempt managerial positions as defined in G.S. 126-5(b) are eligible for severance salary continuation if the position is abolished as result of a reduction in force.

(b) Trainee employees with less than ~~24~~ 12 continuous months of service, time-limited employees with less than 36 continuous months of service, probationary, and temporary employees are not eligible for severance salary continuation.

(c) An employee who is separated, or who has received written notification of separation due to reduction in force and who applies for or begins receiving retirement benefits based on early retirement, service retirement, long term disability, or a discontinued service retirement as provided by G.S. 126-8.5 shall not be eligible for severance salary continuation. An employee who is eligible for early or service retirement may elect to delay retirement and receive severance salary continuation.

(d) An employee who is reemployed from any retired status with the State and who is subsequently terminated as a result of reduction in force shall be eligible for severance salary continuation if the employee meets the eligibility requirements in paragraph (a) of this Rule.

(e) An employee who is receiving workers' compensation or short-term disability payments is eligible for severance salary continuation if the employee meets the eligibility requirements in paragraph (a) of the Rule;

(f) An employee on leave with or without pay shall be separated on the effective date of the reduction-in-force, the same as other employees, and shall be eligible to receive severance salary continuation if the employee meets the eligibility requirements in paragraph (a) of this Rule.

*History Note: Authority G.S. 126-4(10); 126-8.5;
Eff. February 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .2703

DEADLINE FOR RECEIPT: Friday, January 15, 2016

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

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (a), line 4, I suggest stating "funded in whole or in part"

On line 6, I recommend deleting "on"

In Paragraph (b), what is your authority for this sentence? Are you relying upon G.S. 126-7.1 as amended by SL 2015-241 (excerpted below)?

PART V. ORGANIZATIONAL AND EMPLOYEE POLICY CHANGES

SECTION 5.1. G.S. 126-7.1 reads as rewritten:

"§ 126-7.1. Posting requirement; State employees receive priority consideration; reduction-in-force; Work First ~~hiring-hiring~~; reorganization through reduction.

(f1) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force accepts or rejects an offer for a position of State employment that is equal to or higher than the position held or equal to or higher than the salary earned by the employee at the time of separation or notification, then the employee's acceptance or rejection of that offer shall satisfy and terminate the one-time, 12-month priority granted by subsection (f) of this section.

(f2) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force and who applies for a position equal to or higher than the position held by the employee at the time of separation or notification, but declines an interview for the position for which the employee applied, then the employee's rejection of an offer of the interview for the position shall satisfy and terminate the one-time, 12-month priority granted by subsection (f) of this section. The State Human Resources Commission shall adopt a policy to carry out this subsection.

However, that only applies to the priority position, not the severance, correct? So, what authority are you relying upon for this Rule?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 31, 2015

In (c), line 12, replace “should” with “shall” And I take it that date is the date the employee begins working at the new agency?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 31, 2015

Permanent Adoption for Publication in the NCAC

25 NCAC 01D.2703 is adopted as published in 30:04 NCR 466 as follows:

25 NCAC 01D .2703 EFFECTS OF REEMPLOYMENT ON SEVERANCE PAY

(a) An employee who is reemployed in any position with the State, or any other position that is funded in part or in whole by the State, while receiving severance salary continuation, shall not be eligible for severance salary continuation effective on the date of reemployment.

(b) An eligible employee who is offered employment in any position with the State and declines to accept the employment offer, either prior to or following separation, shall not be eligible for severance salary continuation effective on the date that the offer is declined.

(c) The agency offering employment or reemployment is responsible for determining if an employee is receiving severance salary continuation payments and shall notify the separating agency of the date severance salary continuation should be terminated.

History Note: Authority G.S. 126-4(10); 126-8.5;

Eff. February 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .2704

DEADLINE FOR RECEIPT: Friday, January 15, 2016

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

In reviewing these rules, the staff determined that the following technical changes need to be made:

Paragraph (a) closely recites the language in 126-8.5. Why do you need to repeat it here?

Assuming you need to retain the language in (a), please consider these suggestions:

In (a), line 4, I suggest replacing "is" with "shall be"

Also on line 4, replace "upon" with "at the time of"

On line 12, you refer to "previous" 12 months and "last" 12 months. Assuming you are referring to the same time frame, please use the same term.

In (b), I do not understand the cross-reference. That rule defines "break in service" but I do not see that it defines total state service.

25 NCAC 01D .0114 BREAK IN SERVICE

A break in service occurs when an employee is in non-pay status for more than 31 calendar days. (An employee is in pay status when working, when on paid leave or when on workers' compensation leave. An employee is not in pay status after the last day of work when separated because of resignation, dismissal, death, retirement or reduction in force.) Periods of leave without pay do not constitute a break in service.

In (b)(1), so that I understand, the payment will be the amount that individual would have earned during that time? So, an employee of less than one year will receive 2 weeks salary as severance?

Also, in (b)(1), how can someone who has worked for the State less than one year qualify under Rule 25 NCAC 01D .2702 for severance?

In (b)(2), what is happening here? An employee over the age of 40 receives an additional 2.5 percent for every full year over 40? But this is capped by the percentage determined by (b)(1)? How does this adjustment work?

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Commission Counsel
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In (b)(2), line 22, I suggest ending the sentence after “age” and then stating “However, the total...”

End (b)(2), line 23, with a period.

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

Permanent Adoption for Publication in the NCAC

25 NCAC 01D.2704 is adopted as published in 30:04 NCR 466 as follows:

25 NCAC 01D .2704 AMOUNT AND METHOD OF PAYMENTS FOR SEVERANCE

(a) The salary used to determine severance salary continuation is the last annual salary in effect upon separation unless the employee was promoted within the previous 12 months. If the employee was promoted within the last 12 months, the salary used to calculate severance salary continuation is the annual salary prior to the promotion plus any across-the-board legislative salary increases.

(b) Severance salary continuation shall be based on total State service as defined in 25 NCAC 01D .0114 and supplemented by an age adjustment factor as follows:

(1) Amount of Severance Salary Continuation:

<u>Years of Service</u>	<u>Payment</u>
<u>Less than 1 year</u>	<u>2 weeks</u>
<u>1 but less than 2 years</u>	<u>1 month</u>
<u>2 but less than 5 years</u>	<u>1 month</u>
<u>5 but less than 10 years</u>	<u>2 months</u>
<u>10 but less than 20 years</u>	<u>3 months</u>
<u>20 or more years</u>	<u>4 months</u>

(2) An employee qualifies for the age adjustment factor at 40 years of age. To compute the amount of the adjustment, 2.5 percent of the annual base salary shall be added for each full year over 39 years of age; however, the total age adjustment factor payment shall be limited by the service payment and cannot exceed the total service payments;

(c) Severance salary continuation shall be paid on a pay period basis.

(d) Any period covered by severance salary continuation shall not be credited as a period of State service.

(f) If an employee dies while receiving severance salary continuation, the balance of the severance salary continuation shall be made to the deceased employee's death benefit beneficiary as designated with the Teachers' and State Employees' Retirement System in a lump sum payment.

History Note: Authority G.S. 126-4(10); 126-8.5;

Eff. February 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01H .0801

DEADLINE FOR RECEIPT: Friday, January 15, 2016

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

In reviewing these rules, the staff determined that the following technical changes need to be made:

I believe from the content of the fiscal note that either this Rule or Rule .0902 of this Subchapter affects state funds. Shouldn't this be reflected on the Submission for Permanent Rule forms for this Rule or Rule .0902?

In (a), line 7 why is "(salary grade equivalency)" in parenthesis? What does this term mean?

On line 8, what does the "outside applicants" mean? Individuals not currently employed by the State or that have been reduced in force and are eligible under G.S. 126-7.1(f)? And if that is the case, should this Rule still be named "Promotional Priority Consideration for Current State Employees"?

In Paragraph (c), define "reasonable" and "justifiable" Are these terms known to your regulated public?

In the History Note, G.S. 126-1A was repealed in 1996. Please delete it.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 31, 2015

Permanent Amendment for Publication in the NCAC

25 NCAC 01H .0801 is amended as published in 30:04 NCR 467 as follows:

SECTION .0800 - PROMOTIONAL PRIORITY

25 NCAC 01H .0801 PROMOTIONAL PRIORITY CONSIDERATION FOR CURRENT EMPLOYEES

(a) Promotional priority consideration shall be provided when a career State employee, as defined in G.S. 126-1.1, applies for a position that is a higher salary grade (salary grade equivalency) or has a higher ~~statewide journey~~ market rate and the eligible employee is in competition with outside applicants.

(b) If it is determined that an eligible employee and an outside applicant have "substantially equal qualifications," then the eligible employee ~~must~~ shall receive the job offer over an outside applicant.

(c) "Substantially equal qualifications" occur when the employer cannot make a reasonable or justifiable determination that the job-related qualifications held by one applicant are significantly better suited for the position than the job-related qualifications held by another applicant.

(d) For purposes of this Rule, an outside applicant is any applicant who is not a member of the State government workforce as defined in 25 NCAC 01H .0631(c).

History Note: Authority G.S. 126-1A; 126-4; 126-7.1;

Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;

ARRC Objection January 21, 1988;

Curative Eff. November 1, 1988;

Amended Eff. March 1, 1994;

Recodified from 25 NCAC 01H .0625 Eff. December 29, 2003;

Amended Eff. February 1, 2016; February 1, 2007.

Permanent Repeal for Publication in the NCAC

25 NCAC 01H .0802 is repealed as published in 30:04 NCR 467 as follows:

25 NCAC 01H .0802 RELATIONSHIP TO OTHER EMPLOYMENT PRIORITY CONSIDERATIONS

History Note: Authority G.S. 126-4; 126-7.1; 126-16;

Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;

Eff. March 1, 1988;

Amended Eff. June 1, 1992;

Recodified from 25 NCAC 01H .0626 Eff. December 29, 2003;

Amended Eff. February 1, 2007;

Repealed Eff. February 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01H .0902

DEADLINE FOR RECEIPT: Friday, January 15, 2016

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

In reviewing these rules, the staff determined that the following technical changes need to be made:

I believe from the content of the fiscal note that either this Rule or Rule .0801 of this Subchapter affects state funds. Shouldn't this be reflected on the Submission for Permanent Rule forms for this Rule or Rule .0801?

On line 5, should "State" be capitalized in "career state employee"? It is in G.S. 126-1.1 and Rule .0801 of the Subchapter.

On line 6 what is "salary grade equivalency"? And why is it in parenthesis?

On line 7, do you mean Section or Rule? If you mean Section, please state "the rules of this Section."

In Item (1), line 17, please remove the errant hyphen between "rate" and "of"

In Item (4), line 23, you have "to"; however, this was not original language in the Rule, nor was it published in the Register. Please just remove it.

On line 24, please remove the errant hyphen between "for" and "permanent"

In Item (6), what is the difference between a salary grade and a salary rate? Are these terms defined elsewhere?

What is the statutory authority for Item (9)? Are you relying upon G.S. 126-7.1(f)?

(f) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force:

- (1) Applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and
 - (2) Has substantially equal qualifications as any other applicant;
- then within all State agencies, the State employee who has been notified of or

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 31, 2015

separated due to a reduction in force shall receive priority consideration over all other applicants. This priority shall remain in effect for a period of 12 months from the date the employee receives notification of separation by reduction in force. State employees separated due to reduction in force shall receive higher priority than other applicants with employment or reemployment priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be considered as equal.

In Sub-Item (11)(a), line 10 of Page 10, delete the “or” after “separation”

In Sub-Item (11)(b), line 13, please state “in accord with Item (4) of this Rule,”

In Sub-Item (11)(d), insert an “of” between “months” and “priority.” And I take it you are saying this occurs if the 12 months passes without receiving a new position?

Please end Sub-Item (11)(d) with an “or”

In the History Note, please state “G.S. 126-4(6); G.S. 126-4(10); G.S. 126-7.1;”

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

Permanent Amendment for Publication in the NCAC

25 NCAC 01H.0902 is amended as published in 30:04 NCR 467 as follows:

25 NCAC 01H .0902 REQUIREMENTS FOR REDUCTION IN FORCE PRIORITY CONSIDERATION

Upon written notification of imminent separation through reduction in force (RIF), a career state employee shall receive priority consideration for positions at an equal or lower salary grade (or salary grade equivalency) for a period of 12 months pursuant to G.S. 126-7.1, unless the priority has been satisfied in accordance with this section.

The following conditions apply:

- (1) For employees receiving notification of imminent separation from trainee or flat rate positions, the salary grade for which priority is to be afforded shall be determined as follows: For employees in flat rate positions, the salary grade shall be the grade that has as its maximum a rate nearest to the flat rate salary of the eligible employee. For eligible employees in trainee status, the salary grade shall be the salary grade of the full class;
- (2) For employees receiving notification of imminent separation through reduction in force while actively possessing priority consideration from a previous reduction in force shall retain the initial priority for the remainder of the 12-month priority period. A new priority consideration period shall then begin at the salary grade (or salary grade equivalency), or salary rate-of the position held at the most recent notification of separation and shall expire 12 months from the most recent notification date;
- (3) If after receiving formal notice of imminent reduction in force, an employee retires or applies for retirement prior to the separation date, an employee shall have no right to priority consideration;
- (4) Employees notified of separation from permanent full-time positions shall have priority consideration ~~to~~ for permanent full-time and permanent part-time positions. Employees notified of separation from permanent part-time positions shall have priority consideration for-permanent part-time positions only;
- (5) Employees who have priority consideration at the time of application for a vacant position, and who apply during the designated agency recruitment period, shall be continued as priority applicants until the selection process is complete;
- (6) If an employee with priority consideration applies for a position but declines an interview or offer of the position, the employee loses priority if the position is at a salary grade (or salary grade equivalency), market rate or salary rate equal to or greater than that held at the time of notification;
- (7) If an employee with priority consideration is placed in another position prior to the separation due to reduction in force, the employee does not lose priority if the position is at a lower salary grade (or salary grade equivalency), market rate or salary rate less than that held at the time of notification and if the position is at the same appointment status;
- (8) An employee with priority consideration may accept a temporary position at any level and retain priority consideration;

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- (9) When priority has been granted for a lower salary grade (or salary grade equivalency) or lower market rate and lower salary rate than that held at the time of notification, the employee retains priority for higher salary grades (or salary grade equivalencies) or higher market rate up to and including that held at the time of the notification of separation;
- (10) An employee with priority consideration may accept employment outside State government or in a State position not subject to the State Human Resources Act and retain the priority consideration through the 12-month priority period;
- (11) Priority consideration for an eligible employee is terminated when:
- (a) an employee accepts a permanent or time-limited position with the State at the same salary rate or higher rate than the salary rate at the time of notification of separation; or
 - (b) an employee accepts a permanent or time-limited position with the State equal to or greater than the employee's salary grade (or salary grade equivalency) of the full-time or part-time position held at the time of notification, in accord with subparagraph (4) above;
 - ~~(c) an employee accepts a career banded position at the same or higher competency level in the same banded classification as held at the time of notification;~~
 - ~~(d)(c)~~ an employee accepts a career banded position ~~in a different banded classification~~ with the same or higher ~~journey~~ market rate than that held at the time of notification;
 - ~~(e)(d)~~ an employee has received 12 months priority consideration;
 - ~~(f)(e)~~ an employee applies for retirement or retires from State employment
- (12) Priority consideration for employees notified of or separated through reduction in force shall not include priority to any exempt positions;
- (13) When an employee with priority consideration accepts a position at a lower salary rate or lower employee's salary grade (or salary grade equivalency) and is subsequently terminated by disciplinary action, any remaining priority consideration ceases; and
- (14) An employee with priority consideration shall serve a new probationary period when there is a break in service, as defined in 25 NCAC 01D .0114.

History Note: Authority G.S. 126-4(6),(10); G.S. 126-7.1;
Eff. March 1, 1987;
Amended Eff. December 1, 1995; April 1, 1993; June 1, 1992; January 1, 1990;
Recodified from 25 NCAC 01D .0511 Eff. December 29, 2003;
Amended Eff. February 1, 2007;
Temporary Amendment Eff. May 23, 2014;
Amended Eff. February 1, 2016; April 1, 2015.