

# Permanent Amendment with changes for Publication in the NCAC

1 25 NCAC 01D.2701 is amended with changes as published in 30:04 NCR 464 as follows:

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## 3 25 NCAC 01D .2701 SEVERANCE SALARY CONTINUATION POLICY

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

12 (1) ~~Eligible Employees:~~

13 (a) ~~A full time or part time (20 hours or over) employee with a permanent appointment who~~  
14 ~~does not obtain another permanent or time limited permanent job in State government or~~  
15 ~~any other permanent position that is funded in part or in whole by the State by the~~  
16 ~~effective date of the separation shall be eligible for severance salary continuation. Also~~  
17 ~~eligible are employees with trainee appointments who have completed six 24 months of~~  
18 ~~service, and employees who had a permanent appointment prior to entering a trainee~~  
19 ~~appointment;~~

20 (b) ~~An employee with a probationary, temporary or intermittent appointment is not eligible~~  
21 ~~for severance salary continuation;~~

22 (c) ~~An employee separated from a time limited permanent appointment is not eligible for~~  
23 ~~severance salary continuation. If the appointment extends beyond three years, the~~  
24 ~~appointment is made permanent and the employee becomes eligible for severance salary~~  
25 ~~continuation;~~

26 (d) ~~An employee who is separated or scheduled to be separated due to reduction in force and~~  
27 ~~who applies for retirement benefits based on early retirement, service retirement, long~~  
28 ~~term disability or a discontinued service retirement as provided by G.S. 143-27.2 shall~~  
29 ~~not be eligible for severance salary continuation. An employee who is eligible for early~~  
30 ~~or service retirement may elect to delay retirement and receive severance salary~~  
31 ~~continuation;~~

32 (e) ~~An employee who is reemployed from any retired status with the State and who is~~  
33 ~~subsequently terminated as a result of reduction in force shall be eligible for severance~~  
34 ~~salary continuation;~~

35 (f) ~~An employee who is receiving workers' compensation or short term disability payments~~  
36 ~~is eligible for severance salary continuation;~~

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

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

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

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

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<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

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27           ~~(ii) — Age Adjustment Factor:~~

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

- 33           ~~(b) — When calculating severance, the employee's annual salary at the time of separation shall~~  
34           ~~be used except when the employee has received a promotion to a higher salary grade (or~~  
35           ~~salary grade equivalency) and salary rate within the previous 12 months. If an employee~~  
36           ~~has been promoted within the last 12 months, the salary used to calculate severance is the~~  
37

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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           ~~(e) — 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.

20

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.*

## Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01D.2702 is adopted with changes as published in 30:04 NCR 466 as follows:

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### 3 **25 NCAC 01D .2702 SEVERANCE SALARY CONTINUATION ELIGIBILITY**

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

7 (1) full-time and part-time ~~(half-time~~(half-time or more) permanent employees;

8 (2) trainee employees with ~~24-12~~ or more months of continuous State service;

9 (3) trainee employees who obtained career status with no ~~break in service~~, “break in service,” as  
10 defined in 25 NCAC 01D .0114, prior to entering a trainee appointment;

11 (4) time-limited employees with 36 or more months of continuous State service; and

12 (5) employees in exempt policymaking or exempt managerial positions as defined in G.S. 126-5(b)  
13 are eligible for severance salary continuation if the position is abolished as result of a reduction in  
14 force.

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

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

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

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

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

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

33 *Eff. February 1, 2016.*

## Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01D.2703 is adopted with changes as published in 30:04 NCR 466 as follows:

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### 3 **25 NCAC 01D .2703 EFFECTS OF REEMPLOYMENT ON SEVERANCE PAY**

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

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

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

13

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

15 *Eff. February 1, 2016.*

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01D.2704 is adopted with changes as published in 30:04 NCR 466 as follows:

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## 3 **25 NCAC 01D .2704 AMOUNT AND METHOD OF PAYMENTS FOR SEVERANCE**

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

8 ~~(b)~~(a) In accordance with G.S. 126-8.5, Severanceseverance salary continuation shall be based on total State service  
9 as defined in ~~25 NCAC 01D .0114~~25 NCAC 01D .0112 and supplemented by an age adjustment factor as follows:

10 (1) Amount of Severance Salary Continuation:

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12	Years of Service	Payment
13	Less than 1 year	2 weeks
14	1 but less than 2 years	1 month
15	2 but less than 5 years	1 month
16	5 but less than 10 years	2 months
17	10 but less than 20 years	3 months
18	20 or more years	4 months

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19

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

24 ~~(e)~~(b) Severance salary continuation shall be paid on a pay period basis.

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

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

29

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

31 *Eff. February 1, 2016.*

# Permanent Amendment with changes for Publication in the NCAC

1 25 NCAC 01H .0801 is amended with changes as published in 30:04 NCR 467 as follows:

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## SECTION .0800 - PROMOTIONAL PRIORITY

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### 5 **25 NCAC 01H .0801 PROMOTIONAL PRIORITY CONSIDERATION FOR CURRENT EMPLOYEES**

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

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

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

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

16

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

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

19 *ARRC Objection January 21, 1988;*

20 *Curative Eff. November 1, 1988;*

21 *Amended Eff. March 1, 1994;*

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

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

## Permanent Amendment with changes for Publication in the NCAC

1 25 NCAC 01H.0902 is amended with changes as published in 30:04 NCR 467 as follows:

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### 3 **25 NCAC 01H .0902 REQUIREMENTS FOR REDUCTION IN FORCE PRIORITY**

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#### CONSIDERATION

5 Upon written notification of imminent separation through reduction in force (RIF), a career stateState employee  
6 shall receive priority consideration for positions at an equal or lower salary grade (or salary grade equivalency) for a  
7 period of 12 months pursuant to G.S. 126-7.1, unless the priority has been satisfied in accordance with the rules of  
8 this ~~section~~-Section. The following conditions apply:

9

(1) For employees receiving notification of imminent separation from trainee or flat rate positions,  
10 the salary grade for which priority is to be afforded shall be determined as follows: For employees  
11 in flat rate positions, the salary grade shall be the grade that has as its maximum a rate nearest to  
12 the flat rate salary of the eligible employee. For eligible employees in trainee status, the salary  
13 grade shall be the salary grade of the full class;

14

(2) For employees receiving notification of imminent separation through reduction in force while  
15 actively possessing priority consideration from a previous reduction in force shall retain the initial  
16 priority for the remainder of the 12-month priority period. A new priority consideration period  
17 shall then begin at the salary grade (or salary grade equivalency), or salary rate of rate of the  
18 position held at the most recent notification of separation and shall expire 12 months from the  
19 most recent notification date;

20

(3) If after receiving formal notice of imminent reduction in force, an employee retires or applies for  
21 retirement prior to the separation date, an employee shall have no right to priority consideration;

22

(4) Employees notified of separation from permanent full-time positions shall have priority  
23 consideration for permanent full-time and permanent part-time positions. Employees notified of  
24 separation from permanent part-time positions shall have priority consideration for permanent for  
25 permanent part-time positions only;

26

(5) Employees who have priority consideration at the time of application for a vacant position, and  
27 who apply during the designated agency recruitment period, shall be continued as priority  
28 applicants until the selection process is complete;

29

(6) If an employee with priority consideration applies for a position but declines an interview or offer  
30 of the position, the employee loses priority if the position is at a salary grade (or salary grade  
31 equivalency), market rate, or salary rate equal to or greater than that held at the time of  
32 notification;

33

(7) If an employee with priority consideration is placed in another position prior to the separation due  
34 to reduction in force, the employee does not lose priority if the position is at a lower salary grade  
35 (or salary grade equivalency), market rate, or salary rate less than that held at the time of  
36 notification and if the position is at the same appointment status;

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

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31 *History Note:* Authority G.S. 126-4(6), ~~(10);~~ G.S. 126-4(10); G.S. 126-7.1;

32 *Eff. March 1, 1987;*

33 *Amended Eff. December 1, 1995; April 1, 1993; June 1, 1992; January 1, 1990;*

34 *Recodified from 25 NCAC 01D .0511 Eff. December 29, 2003;*

35 *Amended Eff. February 1, 2007;*

36 *Temporary Amendment Eff. May 23, 2014;*

37 *Amended Eff. February 1, 2016; April 1, 2015.*