

# Permanent Repeal of consecutive rules for publication in the NCAC

1 25 NCAC 01C .0303 - .0304 are repealed as published in 30:09 NCR 990 as follows:

2

3 **25 NCAC 01C .0303 PUBLIC INSPECTION**

4 **25 NCAC 01C .0304 CONFIDENTIAL INFORMATION IN PERSONNEL FILES**

5

6 *History Note: Authority G.S. 126-23; 126-26; 126-29(Rule .0304);*

7 *Eff. February 1, 1976;*

8 *Amended Eff. May 1, 2008(Rule .0304); October 1, 2004(Rule .0304); November 1, 1988; December 1,*

9 *1978(Rule .0304); October 1, ~~1977-1977~~;*

10 *Repealed Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01C .0405

**DEADLINE FOR RECEIPT: Friday, February 11, 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:

*In the introductory paragraph, please indicate that this is a readoption, rather than an adoption.*

*In (a), please delete or define "normally." Also, why is there a reference to three months? If the appointment is not to exceed a particular amount of time, why is it necessary to include a range of time? Please consider reworking this sentence to read: A temporary appointment is an appointment for a limited term ~~term, normally not to exceed three to six months~~, to a permanent or temporary ~~position~~ position, not to exceed six months.*

*Also in (a), does OSHR always approve a longer period of time upon request? In other words, is there truly only a requirement that it be requested in order to be approved?*

*In (a), is "student" defined elsewhere in rule or statute? If not, is this reference intended to include all students (including those who may be taking just one class) or is this intended to include a specific set of students?*

*Please consider making the exceptions contained in paragraph (a) into a list. A suggestion would be as follows:*

- (a) *Upon request, the Office of State Human Resources shall approve a longer period of time; but in no case shall the temporary employment period exceed 12 consecutive ~~months~~ months, subject to the following exceptions:*  
*(Exceptions for students and retired employees:*
- (1) Students ~~are~~ shall be exempt from the 12-months maximum ~~limit~~ limit;*  
*and*
  - (2) Retired employees may have temporary appointments for more than 12 months ~~if retired employees sign~~ if he or she signs a statement that ~~they are~~ he or she is not available ~~for~~ for, nor seeking permanent*

Amber Cronk May  
Commission Counsel

Date submitted to agency: February 29, 2016

~~employment, employment. they may have temporary appointments for more than 12 months. "Retired" "Retired employees" include those is defined as drawing a retirement income and or social security benefits.)~~  
benefits.

*Please note that this is only a suggestion and you are in no way required to use this language. Please be sure to change "are" to "shall be." Also, please be consistent in your use of exemption and exception.*

*In (b), please change "do not" to "shall not."*

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

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01C .405 is adopted with changes as published in 30:09 NCR 990 as follows:

2

3 **25 NCAC 01C .0405      TEMPORARY APPOINTMENT**

4 (a) A temporary appointment is an appointment for a limited term, normally not to exceed three to six months, to a  
5 permanent or temporary position. Upon request, the Office of State Human Resources shall approve a longer period of  
6 time; but in no case shall the temporary employment period exceed 12 consecutive months. (Exceptions for students and  
7 retired employees: Students are exempt from the 12-months maximum limit. If retired employees sign a statement that  
8 they are not available for nor seeking permanent employment, they may have temporary appointments for more than 12  
9 months. "Retired" is defined as drawing a retirement income ~~and~~ or social security benefits.)

10 (b) Employees with a temporary appointment do not earn leave, or receive total state service credit, health benefits,  
11 retirement credit, severance pay, or priority reemployment consideration.

12

13 *History Note:      Authority G.S. 126-4;*

14 *Eff. February 1, 1976;*

15 *Amended Eff. April 1, 2016; August 1, 1995; November 1, 1991; December 1, 1978.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01C .0407

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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 the introductory paragraph, please indicate that this is a readoption, rather than an adoption.*

*Are part-time and full-time defined elsewhere in rule or statute?*

*Line 4, please delete or define "normally." Also, why is there a reference to three months? If the appointment is not to exceed a particular amount of time, why is it necessary to include a range of time? Please consider reworking this sentence to read: A temporary part-time appointment is an appointment of less than full-time for a limited term normally not to exceed ~~three~~ to six months.*

*Please see the comments regarding the exceptions in the technical change request for 25 NCAC 01C .0405.*

*Why is the language regarding benefits different here than it was in 25 NCAC 01C .0405? Please consider adding consistent language with Rule .0405 as a separate Paragraph.*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01C .0407 is adopted with changes as published in 30:09 NCR 990 as follows:

2

## 3 **25 NCAC 01C .0407      TEMPORARY PART-TIME APPOINTMENT**

4 A temporary part-time appointment is an appointment of less than full-time for a limited term normally not to exceed  
5 three to six months. Upon request, the Office of State Human Resources shall approve a longer period of time; but in no  
6 case shall the temporary employment period exceed 12 consecutive months. (Exception for students and retired  
7 employees: Students are exempt from the 12-months maximum limit. If retired employees sign a statement that they are  
8 not available for nor seeking permanent employment, they may have temporary appointments for more than 12 months.  
9 "Retired" is defined as drawing a retirement income ~~and~~ or social security benefits.) Employees with temporary  
10 appointments receive no benefits.

11

12 *History Note:      Authority G.S. 126-4;*

13 *Eff. February 1, 1976;*

14 *Amended Eff. April 1, 2016; August 1, 1995; November 1, 1991; December 1, 1978.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01C .0504

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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 the introductory paragraph, please indicate that this is a readoption, rather than an adoption.*

*In (a), please add "the" before "deficit." Also, please indicate that deficit is being made up? Is it the deficit in working hours?*

*Also in (a), what is meant by "the appropriate leave category" and "appropriate action to correct any abuse or misuse..." Please define appropriate. Are there cross-references available to indicate what leave categories and corrective actions are available?*

*Please include either "an" or "the" before "employee" on line 7.*

*In (b), please change "he/she" to "he or she"*

*In (b), is whether to allow an employee to begin his or her workday early entirely left to the discretion of the supervisor? On what basis shall he or she make this decision? Is this based upon the needs of the agency?*

*In (c), from whom shall the employee receive permission? His or her supervisor? Also, in (c), please delete or define "if justified."*

*Please update your history note to show the readoption date.*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption for Publication in the NCAC

1 25 NCAC 01C .0504 is adopted as published in 30:09 NCR 990 as follows:

2

3 **25 NCAC 01C .0504      LIMITATIONS**

4 (a) An employee who arrives later than scheduled, may be permitted to make up deficit by working that much longer at the  
5 end of the workday if this is consistent with the work need of the agency. Otherwise, the tardiness shall be charged to the  
6 appropriate leave category. Supervisors shall be responsible for taking appropriate action to correct any abuse or misuse of  
7 this privilege which may include deductions from employee's pay.

8 (b) If an employee reports to work early he/she may, with the supervisor's permission, begin work at that time and leave at a  
9 correspondingly early hour; otherwise, the employee shall wait in a designated area away from the work station.

10 (c) If an employee leaves work early without permission, the time shall be deducted from the employee's pay or may be  
11 charged to the appropriate leave account if justified.

12 (d) An employee may not work later than scheduled unless the supervisor has approved it due to workload.

13

14 *History Note: Authority G.S. 126-4;*

15 *Eff. February 1, 1976;*

16 *Amended Eff. October 1, 1992; November 1, 1988; August 1, 1985; February 1, 1983.*



# Permanent Repeal of consecutive rules for publication in the NCAC

1 25 NCAC 01C .0902 - .0903 are repealed as published in 30:09 NCR 990 as follows:

2

3 **25 NCAC 01C .0902      AGENCY RESPONSIBILITY**

4 **25 NCAC 01C .0903      ELIGIBILITY REQUIREMENTS**

5

6 *History Note:      Authority G.S. 126-4;126-4(10)(Rule .0903);*

7 *Eff. February 1, 1976;*

8 *Amended Eff. December 1, 1995;*

9 *Recodified from 25 NCAC 01J .0404 Eff. December 29, ~~2003~~2003;*

10 *Amended Eff. October 1, 2006(Rule .0903);*

11 *Repealed Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01C .1007

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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 the introductory paragraph, please indicate that this is a readoption, rather than an adoption.*

*Are Subparagraphs (a)(1) through (a)(3) intended to explain what is meant by "unavailable" as stated in (a)(1)? Please provide some additional information for purposes of clarity.*

*In (a)(1), when would leave without pay not be granted? Is there a cross-reference available?*

*In (a)(2), are the "essential duties or work schedule" set forth in the job description?*

*In (a)(3), please add a comma in between "medical condition" and "a separation may occur.." Also, under what circumstances will a separation occur? Is this left to the discretion of the agency? Is this based upon the needs of the organization? Please provide some additional information.*

*In (c), line 1, page 2, please change "Such a separation is not a disciplinary dismissal..." to "Such a separation shall not be considered a disciplinary dismissal..."*

*In this history note, please delete "Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014." It appears as though this was inadvertently added by our office.*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01C .1007 adopted with changes as published in 30:09 NCR 990 as follows:

## 3 **25 NCAC 01C .1007 UNAVAILABILITY WHEN LEAVE IS EXHAUSTED SEPARATION**

4 (a) An employee may be separated ~~on the basis of unavailability~~ when:

5 (1) the employee remains unavailable for work after all applicable leave credits and leave benefits have  
6 been exhausted and agency management does not grant leave without pay, pay, if the employee is  
7 unable to return to all of the position's essential duties and work schedule due to a medical condition  
8 or the vagueness of a medical prognosis, and the employee and agency are unable to reach agreement  
9 on a return to work arrangement that meets both the needs of the agency and the employee's condition;

10 (2) notwithstanding any unexhausted applicable leave credits and leave benefits, if the employee is unable  
11 to return to all of the position's essential duties or work schedule due to a Court order, due to a loss of  
12 required credentials, due to a loss of other required certification, or due to other extenuating  
13 circumstances that renders the employee unable to perform the position's essential duties or work  
14 schedule, and the employee and the agency are unable to reach agreement on a return to work  
15 arrangement that meets both the needs of the agency and the employee's situation; or

16 (3) notwithstanding any unexhausted applicable leave credits and leave benefits, when an employee is on  
17 workers' compensation leave of absence, and the employee is unable to return to all of the position's  
18 essential duties and work schedule due to a medical condition or the vagueness of a medical prognosis,  
19 and the employee and the agency are unable to reach agreement on a return to work arrangement that  
20 meets both the needs of the agency and the employee's medical condition a separation may occur on  
21 the earliest of the following dates:

22 (i) after the employee has reached maximum medical improvement for the work  
23 related injury for which the employee is on workers' compensation leave of absence  
24 and the agency is unable to accommodate the employee's permanent work  
25 restrictions related to such injury; or

26 (ii) 12 months after the date of the employee's work related injury.

27 (b) ~~Prior to separation, the~~ The employing agency shall ~~notify~~ send the employee, in writing, employee written notice of  
28 the proposed separation, separation in a Pre Separation Letter. The letter shall include the employing agency's planned  
29 date of separation, the efforts undertaken to avoid separation, and why the efforts were unsuccessful. This letter shall be  
30 sent to the employee at least 15 calendar days prior to the employing agency's planned date of separation. This letter  
31 shall include a deadline for the employee to respond in writing no less than five calendar days prior to the employing  
32 agency's planned date of separation.

33 (c) If the agency and employee are unable to agree on terms of continued employment or the employee does not respond  
34 to the Pre Separation letter, the employing agency shall send the employee written notice in a Letter of Separation. The  
35 letter shall be sent no earlier than 20 calendar days after the Pre Separation letter is sent to the employee. The ~~letter~~ Letter  
36 of separation Separation to the employee shall state the actual date of separation, specific reasons for the separation and  
37 set forth the employee's right of appeal. Such a separation is not a disciplinary dismissal as described in G.S. 126-34.02

## Permanent Adoption with changes for Publication in the NCAC

1 or G.S. 126-35. It is an involuntary separation and may be grieved or appealed. The burden of proof on the agency in the  
2 event of a grievance is not to demonstrate just cause as that term exists in G.S. 126-34.02 or G.S. 126-35. Rather, the  
3 agency's burden shall be to prove that the employee was unavailable, that efforts were undertaken to avoid separation,  
4 and why the efforts were unsuccessful.

5 ~~(d) Definitions:~~

6 ~~(1) "Unavailability" is defined as:~~

7 ~~(A) the employee's inability to return to all of the position's essential duties and work schedule~~  
8 ~~due to a medical condition or the vagueness of a medical prognosis, and the employee and~~  
9 ~~the agency are unable to reach agreement on a return to work arrangement that meets both~~  
10 ~~the needs of the agency and the employee's medical condition; or~~

11 ~~(B) the employee's inability to return to all of the position's essential duties and work schedule~~  
12 ~~due to other extenuating circumstances, and the employee and the agency are unable to reach~~  
13 ~~agreement on a return to work arrangement that meets both the needs of the agency and the~~  
14 ~~employee's situation.~~

15 ~~(2)(d)~~ "Applicable leave credits and benefits" is defined as the sick, vacation, bonus, incentive, and  
16 compensatory leave that the employee ~~chose to exhaust prior to going on leave without pay, may earn,~~  
17 but does not include short-term or long-term disability.

18  
19 *History Note: Authority G.S. 126-4(7a); 126-35;*

20 *Eff. November 1, 1989;*

21 *Recodified from 25 NCAC 01D .0519 Eff. December 29, 2003;*

22 *Amended Eff. January 1, 2007; October 1, 2004.*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28,*  
24 *2014;*

25 *Amended Eff. April 1, 2016; April 1, 2015.*

# Permanent Repeal of consecutive rules for publication in the NCAC

1 25 NCAC 01O.0101 - .0106 are repealed as published in 30:05 NCR 542 as follows:

2

3 **25 NCAC 01O .0101 POLICY**

4 **25 NCAC 01O .0102 PURPOSE**

5 **25 NCAC 01O .0103 COMPONENTS OF A PERFORMANCE MANAGEMENT SYSTEM**

6 **25 NCAC 01O .0104 RATING SCALE**

7 **25 NCAC 01O .0105 DISPUTE RESOLUTION**

8 **25 NCAC 01O .0106 MONITORING, EVALUATING, REPORTING**

9

10 *History Note: Authority G.S. 126-4; 126-7;*

11 *Eff. August 1, 2007(Rule .0102, .0103, .0104, .0105, .0106); January 1, 1990(Rule .0101);*

12 *Amended Eff. August 1, 2007(Rule .0101); March 1, 2005(Rule .0101);*

13 *Repealed Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0107

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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:

*On line 4, please change "which" to "that."*

*Are the "performance management system," "integrated performance management system," and "Performance Management policy" all the same? If so, please use consistent terminology.*

*Given the definition of "policy" in G.S. 150B-2(7a), why is the reference to the policy on line 8 necessary? Rather than the policy, are you actually referring to the Rules in this Subchapter?*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption for Publication in the NCAC

1 25 NCAC 01O.0107 is adopted as published in 30:05 NCR 542 as follows:

2

3 **25 NCAC 01O.0107 PERFORMANCE MANAGEMENT POLICY**

4 It is the policy of North Carolina State Government to provide a performance management system which evaluates  
5 employees' accomplishments and behaviors related to goals and organizational values to achieve organizational  
6 mission, goals, and business objectives. An integrated performance management system enables employees to  
7 develop and enhance individual performance while contributing to the achievement of organizational mission, goals,  
8 and business objectives. Each agency shall implement the Performance Management Policy as approved by the State  
9 Human Resources Commission.

10

11 *History Note: Authority G.S. 126-4;*

12 *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0108

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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

*In (a), please add the word "shall" in between "Subchapter" and "apply" so that it reads "Rules in this Subchapter shall apply to the following:"*

*In (b), please change "do" to "shall" so that it reads "Rules in this Subchapter shall not apply to temporary employees."*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016



# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O.0108 is adopted with changes as published in 30:05 NCR 542 as follows:

2

## 3 **25 NCAC 01O .0108 PERFORMANCE MANAGEMENT COVERED EMPLOYEES**

4 (a) Rules in this Subchapter apply to the following:

5 (1) probationary, ~~trainee~~, time-limited and permanent employees; ~~and~~

6 (2) employees appointed to exempt policy-making positions, exempt managerial positions,  
7 confidential secretary, confidential assistant, and all chief deputy ~~positions~~; positions; and

8 (3) employees in trainee classifications.

9 (b) Rules in this subchapter do not apply to temporary employees.

10

11 *History Note: Authority G.S. 126-4;*

12 *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 010 .0109

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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

*On line 4, please insert "shall" in between "definition" and "apply" so that this line reads as follows: "The following definitions shall apply to all rules in this Subchapter:"*

*In Item (1), please delete or define "entire." If defining "entire", a cross-reference to 25 NCAC 010 .0110 is appropriate.*

*In Item (2), did you mean "collaboration session" rather than "calibration session"? Please note that "calibration session" is used elsewhere in these Rules; however, this does not appear to be the correct wording.*

*In (5), please change "which" to "that."*

*In Item (7), line 26, did you mean "manager," rather than "manage"?*

*In Item (7), line 26, what is meant by "any necessary adjustments"? Please delete or define "any necessary." Also, what is being adjusted?*

*In Item (10), please change "which" to "that." Please also delete or define "specific."*

*In Item (12), please change "which" to "that."*

*In Item (16), please change "which" to "that."*

*In Item (17), please change "provision" to "a provision."*

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

Amber Cronk May  
Commission Counsel

Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O.0109 is adopted with changes as published in 30:05 NCR 542 as follows:

2

## 3 **25 NCAC 01O.0109 PERFORMANCE MANAGEMENT DEFINITIONS**

4 The following definitions apply to all rules in this Subchapter:

5 (1) “Annual Performance Evaluation” means the comprehensive review of the employee’s  
6 performance, relative to the goals and values throughout the entire performance cycle. The annual  
7 performance evaluation contains a final overall rating.

8 (2) “Calibration Session” means a confidential discussion between same-level managers or  
9 supervisors facilitated by the next-level manager, supervisor or designated Human Resources  
10 representative, to evaluate work distribution, goal alignment, goal validity, results, and final  
11 ratings.

12 (3) “Coaching Session” means either a ~~documented~~ formal conversation with documentation or an  
13 ~~undocumented~~ informal conversation without documentation between a manager or supervisor and  
14 employee to provide feedback and reinforce desired work actions and behavior.

15 (4) “Counseling Session” means a formal ~~documented~~ conversation with documentation between a  
16 manager or supervisor and an employee to provide specific feedback and initiate a Performance  
17 Improvement Plan to develop a strategy for an employee to raise his or her performance to a  
18 minimum of “Meets Expectation.”

19 (5) “Goals” means organizational, division, work unit, and individual level outcomes which support  
20 the strategic mission of the organization. All goals must be relevant to agency goals/mission.

21 (6) “Individual Development Plan” means ~~the process~~ a plan used to identify areas of development so  
22 an employee will have the skills, knowledge and abilities he or she needs to meet the  
23 organization’s goals and objectives, and is given an opportunity to develop competencies that will  
24 allow him or her to be successful in the future.

25 (7) “Interim Review” means a formal discussion with documentation of such at the mid-point of the  
26 performance cycle between a manager or supervisor and an employee to review the employee’s  
27 progress and make any necessary adjustments, ~~including the initiation of an Individual~~  
28 ~~Development Plan or a Performance Improvement Plan if necessary.~~ or initiate additional  
29 performance-related documentation.

30 (8) “Permanent Employee” means an employee who is in a permanent position and has attained career  
31 status by being continuously employed by the State in a position subject to the State Human  
32 Resources Act for the immediate ~~24~~ 12 preceding months.

33 (9) “Performance ~~Expectation(s)~~ Expectation” means a goal, value, or both, defining outcomes and  
34 behaviors that are documented on a performance plan to identify results to be accomplished and  
35 how the work should be accomplished.

36 (10) “Performance Improvement Plan” means a written document issued to an employee by a manager  
37 or supervisor which provides specific instructions to the employee about the ~~action(s)~~ action or

# Permanent Adoption with changes for Publication in the NCAC

1            actions the employee shall take to improve performance or conduct deficiencies to the “Meets  
2            Expectations” level of performance. A performance improvement plan is issued to an employee  
3            who maintains employment and ~~is issued a written warning or other progressive disciplinary~~  
4            ~~action, such as suspension without pay or demotion.~~ serves as a disciplinary action.

5            (11)    “Performance Plan” means a description of the goals and values to be accomplished by the  
6            employee within the performance cycle, with emphasis on the goals and results to be achieved and  
7            how those results will be measured.

8            (12)    “Position Description” means a statement or set of duties and responsibilities that represents the  
9            major functions of a job which must be performed to meet the agency’s needs.

10          (13)    “Probationary Employee” means an employee who is in a permanent position but has not attained  
11          career status by being continuously employed by the State in a position subject to the State Human  
12          Resources Act for the immediate ~~24~~ 12 preceding months.

13          (14)    “Satisfactory Performance” means performance for which the employee consistently meets  
14          expectations and occasionally exceeds expectations.

15          (15)    “Time-Limited Employee” means an employee who is in a time-limited position and is not  
16          eligible for career status.

17          (16)    “Trainee Classification” means a classification with special recruitment qualifications that is  
18          approved for use by the Office of State Human Resources when a regular job classification has  
19          knowledge or skills not readily available from the labor market or which cannot be learned in a  
20          short period of time.

21          (17)    “Trainee Salary Progression” means a special salary plan with provision for scheduled but not  
22          automatic increases. These increases may occur at six-month intervals, prior to the employee  
23          reaching the minimum of the salary range for the classification involved.

24          ~~(16)~~(18) “Values” means qualitative behavioral attributes that document how work actions should be  
25          accomplished. Values reflect core organizational beliefs that guide and motivate actions  
26          supporting the accomplishment of the agency mission and goals.

27  
28          *History Note: Authority G.S. 126-4;*  
29          *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0110

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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, please change "is" to "shall be." On line 5, please also change "will" to "shall."*

*Also in (a), "constituent institutions of the University of North Carolina" is being used; however, elsewhere, university is used. Please be consistent in your terminology.*

*In (b), please set forth some additional information as to what is meant by "completed."*

*In (c), in what circumstances may the Director change the cycle? How will this be determined?*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

## Permanent Adoption for Publication in the NCAC

1 25 NCAC 01O.0110 is adopted as published in 30:05 NCR 542 as follows:

2

3 **25 NCAC 01O.0110 PERFORMANCE CYCLE**

4 (a) The standard State government performance cycle is from July 1 through June 30, with the exception of the  
5 constituent institutions of the University of North Carolina who will have a standard performance cycle from April 1  
6 through March 31.

7 (b) The annual performance evaluation shall be completed, approved, discussed with employees, and entered into  
8 the system of record within 60 calendar days of the cycle end date.

9 (c) The State Human Resources Director may change the dates of the standard performance cycle; however, all  
10 covered employees shall be notified a minimum of 60 calendar days prior to the start of the new performance cycle.

11

12 *History Note: Authority G.S. 126-4;*

13 *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0111

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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), are the templates referenced forms? What will be contained within the templates? Where can these be found?*

*In (a), are those individuals covered by this Subchapter those referenced in 25 NCAC 01C .0108?*

*In (c), how shall the Director publish and communicate the templates? Where can they be found? Are these available on your website? If so, please provide that information. Please note that it is not necessary to address the question of where the templates can be found in both (a) and (c), but some additional information needs to be provided for purposes of clarity.*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O.0111 is adopted with changes as published in 30:05 NCR 542 as follows:

2

## 3 **25 NCAC 01O.0111 DOCUMENTATION OF PERFORMANCE**

4 (a) The Office of State Human Resources shall provide a standard annual performance evaluation template,  
5 performance planning template, interim review template, individual development plan template, documented  
6 coaching session template, and Performance Improvement Plan template to be utilized by all agencies, universities  
7 and individuals covered by this Subchapter.

8 (b) The State Human Resources Director shall publish and communicate the standardized templates a minimum of  
9 90 calendar days prior to the start of the performance cycle.

10

11 *History Note: Authority G.S. 126-4;*

12 *Eff. April 1, 2016.*



REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0112

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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 Item (2), how will the training be made available? Will it be available on your website or will it be in-person training?*

*In Item (2), line 9, please delete or define "successfully."*

*Please add "and" at the end of Item (2).*

*In Item (3), how will the training be made available?*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O.0112 is adopted with changes as published in 30:05 NCR 542 as follows:

2

3 **25 NCAC 01O.0112 PERFORMANCE MANAGEMENT RESOURCES AND TRAINING**

4 Each agency and university shall:

5 (1) designate a person as its performance management coordinator, with responsibility for coordinating  
6 the development, implementation, and ongoing administration of performance management within  
7 the ~~organization~~ organization;

8 (2) provide performance management training, made available by the Office of State Human Resources,  
9 to all newly hired or promoted managers or supervisors, to be successfully completed within the  
10 first three months of the manager's or supervisor's new role;

11 (3) provide annual refresher training, made available by the Office of State Human Resources, to all  
12 employees.

13

14 *History Note: Authority G.S. 126-4;*

15 *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0113

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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), please change "are" to "shall be."*

*In (b), who whom will performance plans to visible? I understand that they will be visible internally, but to all employees or just to management? How does this comport with G.S. 126-24? It seems like these plans would be confidential and only available to the employee's supervisor.*

*In (c), please provide a cross reference regarding disciplinary actions.*

*In (d), please delete or define "securely."*

*In (d), please delete "at least."*

*In (d), please provide a cross-reference regarding the "applicable records retention schedule."*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O.0113 is adopted with changes as published in 30:05 NCR 542 as follows:

2

3 **25 NCAC 01O.0113 CONFIDENTIALITY AND RECORDS RETENTION**

4 (a) Performance evaluations are confidential documents under G.S. 126-22.

5 (b) To promote communication and coordination, agency management may make some version of performance plans  
6 visible internally; however, any information shared during calibration sessions shall be treated as confidential and  
7 shall not be shared outside of the calibration session.

8 (c) A breach of confidentiality shall be considered personal misconduct and may result in disciplinary action up to  
9 and including dismissal.

10 (d) Annual performance evaluations and supporting documentation shall be securely retained for at least three years,  
11 and then maintained according to the applicable records retention schedule.

12 (e) Hiring supervisors and managers shall be able to inspect and examine performance management documents of  
13 final job candidates who are current or former State employees during the hiring process.

14

15 *History Note: Authority G.S. 126-4; 126-24;*

16 *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0114

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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), what must the agency comply with? The rules of this Subchapter?*

*In (b), what are the performance management processes referenced? Those contained within this Subchapter? I see that there is a reference to the Rules in this Subchapter in (c), but you may want to consider moving this reference to (b) since (b) contains the first mention of "performance management processes."*

*In (b), by "should," do you mean "must" or "shall"?*

*In (c)(4), please delete or define "appropriate."*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 NCAC 01O.0114 is proposed for adoption with changes as published in 30:05 NCR 542 as follows:

2

## 3 **25 NCAC 01O.0114 PERFORMANCE MANAGEMENT COMPLIANCE**

4 (a) The Office of State Human Resources shall monitor and evaluate performance management records and data to  
5 ensure agency compliance.

6 (b) If an employee believes his or her manager or supervisor is failing to adhere to the performance management  
7 processes, the employee should notify the next-level manager or supervisor or the agency's Human Resources office.

8 (c) The failure of a manager or supervisor to carry out the performance management process in accordance with this  
9 Subchapter shall be addressed as a performance deficiency and shall result in one or more of the following:

- 10 (1) ~~coaching~~counseling from the next-level manager or supervisor to determine the cause(s) of the  
11 deficiency and implementation of a Performance Improvement Plan;
- 12 (2) participating in skills enhancement training;
- 13 (3) monitoring and documentation of manger or supervisor progress towards improving implementation  
14 of performance management; or
- 15 (4) the issuing of appropriate disciplinary action, up to and including dismissal.

16

17 History Note: Authority G.S. 126-4;

18 Eff. April 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0115

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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:

*Please add commas before and after "as defined in G.S. 126-1.1."*

*How does an employee know what the internal employee grievance process is?*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

## Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O.0115 is adopted with changes as published in 30:05 NCR 542 as follows:

2

3 **25 NCAC 01O.0115      PERFORMANCE RATING DISPUTE**

4 Career State employees as defined in G.S. 126-1.1 or former career State employees may grieve an overall  
5 performance rating of “Does Not Meet Expectations” using the agency’s or university’s internal employee grievance  
6 process.

7

8 *History Note:      Authority G.S. 126-4;*

9 *Eff. April 1, 2016.*



REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0207

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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:

*On line 6, please change "is" to "shall be" so that the sentence reads "A performance review shall be required in the following instances..."*

*In (2), line 16, please delete "at a minimum."*

*In (3), line 29, please change "must" to "shall."*

*In (5), please delete or define "completed."*

*In (7), please change "must" to "shall."*

*Also in (7), how will the approval by the Director occur? What will the approval be based upon?*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O.0207 is adopted with changes as published in 30:05 NCR 542 as follows:

2

## 3 **SECTION .0200 ~~THE PERFORMANCE MANAGEMENT SYSTEM~~ MANAGING AND EVALUATING**

### 4 **PERFORMANCE**

#### 5 **25 NCAC 01O.0207 FREQUENCY OF PERFORMANCE REVIEWS**

6 A Performance performance Reviews review are is required in the following instances:

7 (1) For permanent State employees, the manager or supervisor shall establish a performance plan for

8 the employee during the first ~~sixty (60)~~ 60 calendar days of the performance cycle. The manager or

9 supervisor shall conduct an interim review at the mid-point of the performance cycle and shall

10 conduct a final performance evaluation annually, within 60 calendar days of the end of the

11 performance cycle. The permanent employee shall have been functioning under an issued

12 performance plan for at least six months to receive an annual performance evaluation.

13 (2) For probationary employees, the manager or supervisor shall establish a performance plan for the

14 employee during the first 60 calendar days of employment. The manager or supervisor shall review

15 the probationary employee's performance by conducting quarterly documented performance

16 feedback discussions during the first 12 months of employment. If a probationary employee, at a

17 minimum, "Meets Expectations" on all individual goals and individual values, at the end of the first

18 performance cycle, then quarterly documented performance feedback discussions are no longer

19 required. The manager or supervisor shall establish a performance plan for the probationary

20 employee during the first 60 calendar days of the next performance cycle. The manager or

21 supervisor shall conduct an interim review at the mid-point of the performance cycle and shall

22 conduct a final performance evaluation annually, within ~~sixty~~ 60 calendar days of the end of the

23 performance cycle. The probationary employee shall have been functioning under an issued

24 performance plan for at least six months to receive his or her first annual performance ~~review~~

25 evaluation.

26 (3) For ~~trainee and~~ time-limited employees, the manager or supervisor shall establish a performance

27 plan for the employee during the first 60 calendar days of employment. The manager or supervisor

28 shall review the ~~trainee or~~ time-limited employee's performance by conducting quarterly

29 documented performance feedback discussions. The ~~trainee or~~ time-limited employee must have

30 been functioning under an issued performance plan for at least six months to receive his or her first

31 annual performance ~~review~~ evaluation. If the employee's performance indicates he or she is not

32 suited for the position and cannot be expected to meet satisfactory performance standards, the

33 employee shall be separated. If he or she meets satisfactory performance standards, the manager or

34 supervisor shall establish a performance plan for the employee during the first 60 calendar days of

35 the next performance cycle. The manager or supervisor shall conduct an interim review at the mid-

36 point of the performance cycle and shall conduct a final performance evaluation annually, within 60

37 calendar days of the end of the performance cycle.

# Permanent Adoption with changes for Publication in the NCAC

1 (4) Employees in trainee classifications will have either a probationary or permanent appointment type,  
2 depending on number of months of continuous service prior to and during the established trainee  
3 salary progression. A manager or supervisor shall follow the performance management process  
4 based on the appointment type for employees in trainee classifications.

5 ~~(4)~~(5) When an employee transfers to another position within state government, ~~a performance review~~  
6 ~~shall be completed~~ the existing manager or supervisor shall assess performance and document  
7 progress and ratings prior to the transfer. If the transfer occurs within 30 calendar days of the end of  
8 the interim review or annual performance evaluation, then a copy of the completed and signed  
9 interim review or the completed and signed annual performance evaluation shall be sent to the  
10 receiving manager or supervisor. If the transfer occurs more than 30 calendar days prior to the  
11 interim review or annual performance evaluation, the existing manager or supervisor shall provide  
12 written performance information accountable for ensuring continuity of performance documentation  
13 specific to the employee's achievement of established goals and values to the receiving manager or  
14 supervisor.

15 ~~(5)~~(6) When there is a change in the manager or supervisor, the existing manager or supervisor shall  
16 provide written performance information specific to the employee's achievement of established  
17 goals and values to the receiving manager or supervisor. If the change in the manager or supervisor  
18 occurs within 30 calendar days of the ~~annual performance evaluation or interim review, review or~~  
19 ~~annual performance evaluation,~~ then the existing manager or supervisor shall complete the ~~formal~~  
20 ~~performance evaluation or interim review, review or formal performance evaluation.~~

21 ~~(6)~~(7) When an employee separates from state government, the manager or supervisor shall assess  
22 performance and assign a final overall performance rating, unless the employee's separation is due  
23 to a documented disciplinary action, retirement, disability, illness, or death. The separating  
24 employee must have been functioning under an issued performance plan for at least six months to  
25 be assigned a final overall performance rating. For an employee who is separated for any reason  
26 other than documented disciplinary action, retirement, disability, illness, or death, any final overall  
27 performance rating of "Does Not Meet Expectations" must be approved by the agency Human  
28 Resources Director or his or her designee.

29  
30 *History Note:* Authority G.S. 126-4;  
31 Eff. April 1, 2016.

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0208

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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:

*Please add a comma before and after "but not more than five."*

*In (a), please delete or define "systematically."*

*In (b), how will the organizational values be published and communicated? Will they be available on your website?*

*In (d)(3), please add a comma after "trainee."*

*In (d)(4), please delete or define "significant."*

*In (e), line 25, please consider moving "on the performance plan" to the end of the Paragraph so that it reads "the manager or supervisor shall document the employee's refusal on the performance plan."*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O.0208 is adopted with changes as published in 30:05 NCR 542 as follows:

2

## 3 **25 NCAC 01O.0208 PERFORMANCE PLANNING**

4 (a) ~~Each~~ An employee shall have an annual Performance Plan to include at least three but not more than five  
5 strategically aligned critical individual goals, a description of how goals will be measured, and the level of  
6 performance required to meet expectations and values. Goals shall be written at the “Meets Expectation” level. The  
7 agency or university shall facilitate calibration discussions to systematically assess goal validity and ensure  
8 organizational consistency.

9 (b) Within 90 calendar days of the onset of a performance management cycle, the Office of State Human Resources  
10 (OSHR) will publish and communicate two to four organizational values, which will be standard for all employees  
11 subject to this Subchapter. Each agency or university may choose to add up to five additional organizational values,  
12 selected from a predefined list published and communicated by OSHR within 90 calendar days of the onset of the  
13 performance management cycle.

14 (c) Organizational values must be ~~50%~~ 50 percent of the total weight relative to overall performance and shall be  
15 equally weighted. Individual agencies or universities may determine weight of specific goals; however, goal weight  
16 shall be no more than ~~50%~~ 50 percent of the total weight relative to overall performance.

17 (d) ~~Managers/A manager or Supervisors~~ supervisor shall hold a performance planning discussion with each employee  
18 and put a performance plan in place with each employee within 60 calendar days of:

- 19 (1) the beginning of the performance management cycle;
- 20 (2) the employee’s entry into a position;
- 21 (3) a new probationary, trainee or time-limited employee’s date of employment; or
- 22 (4) any significant change to the performance expectations of the current Performance Plan.

23 (e) Once signed by the manager or supervisor and next-level manager or supervisor, the employee shall review,  
24 sign, and date the performance plan. If the employee refuses to sign the performance plan, the manager or supervisor  
25 shall document, on the performance plan, the employee’s refusal.

26 (f) ~~Each~~ An employee shall have physical or electronic ~~ready~~ access to his or her performance ~~plan~~ plan, ~~either via~~  
27 ~~paper or electronically~~.

28

29 *History Note: Authority G.S. 126-4;*

30 *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0209

**DEADLINE FOR RECEIPT: Friday, February 11, 2016**

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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), lines 4 and 6, please change "must" to "shall."*

*In (a), line 5, please delete or define "direct" on line 4 and "regular and consistent" on line 5.*

*In (a), line 7, please change "should" to "shall."*

*In (b), please change "must" to "shall." Please also delete the comma after "annually" on line 10.*

*In (b), what is meant by "formal performance discussions"? What is the difference between a formal and an informal discussion? I see some additional information is provided in lines 14 through 18 regarding formal discussions; however, the differences are unclear. Is the difference simply whether it is documented as indicated in Item (3) of .0109? If so, you may wish to add definitions for formal and informal discussions in your definition rule as the differences only appear to be set forth for coaching sessions.*

*Please add an "and" at the end of (b)(2).*

*In (b), line 14, please add a "shall" in between "formal discussions" and "provide" so that it reads "The formal discussions shall provide a manager or supervisor and the employee with an opportunity to discuss..."*

*On line 15, please move the comma from behind the "and" to behind "review progress."*

*On line 17, please change "should" to "shall."*

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

*In (c), please add a comma in between “formal counseling sessions” and “and formal performance discussions.”*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O .0209 is proposed for adoption with changes as follows:

2

## 3 **25 NCAC 01O.0209 PERFORMANCE FEEDBACK**

4 (a) Throughout the performance cycle, the manager or supervisor must document and validate, based on direct  
5 observation or feedback from others, employee performance results and behaviors on a regular and consistent basis.  
6 In addition, the manager or supervisor must provide feedback to the employee, both positive and corrective, when  
7 appropriate. Both the manager or supervisor and employee should document activities and accomplishments related  
8 to goals and behaviors during the performance cycle.

9 (b) ~~Managers~~ A manager or supervisors ~~supervisors~~ supervisor must conduct a minimum of three formal performance  
10 discussions annually, for ~~each~~ an employee and timed accordingly as follows:

11 (1) the initial planning discussion, at the beginning of the performance cycle;

12 (2) an interim review at the performance cycle midpoint;

13 (3) the annual performance evaluation, at the end of the performance cycle.

14 The formal discussions provide a ~~managers/~~ manager or supervisors ~~supervisors~~ supervisor and the employees ~~employee~~ with an  
15 opportunity to discuss any changes in organizational priorities or employee development goals, review progress and,  
16 if necessary, revise performance plans, initiate individual development plans, or address performance problems and  
17 identify steps the employee should take to improve or adjust priorities through the remainder of the performance  
18 cycle. Additional formal and informal discussions shall also be conducted as needed throughout the performance  
19 cycle to adjust cycle goals, document progression, or address ~~fluctuating~~ a change in business requirements.

20 (c) All formal coaching sessions, formal counseling sessions and formal performance discussions shall be  
21 documented.

22

23 *History Note: Authority: G.S. 126-4;*

24 *Eff. April 1, 2016.*



REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0210

**DEADLINE FOR RECEIPT: Friday, February 11, 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:

*In (b), for how long does the behavior have to be maintained? How and by whome is it determined whether this has occurred?*

*In (c), please see the previous comments regarding a "formal" session. Is the only requirement of making this session "formal" that it be documented?*

*In (d), what are the other disciplinary actions that this may be considered, other than a written warning? Is there a cross-reference available to the other types of disciplinary actions?*

*In (d)(7), when would it be appropriate to discuss the EAP? Please provide some additional information or a cross-reference if available.*

*In (e), (g), and (h), for how long does the behavior have to be maintained? How and by whom is it determined whether this has occurred?*

*In (i), please change "becomes" to "shall become."*

*In (k), please delete or define "successfully."*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O.0210 is proposed for adoption with changes as follows:

2

## 3 **25 NCAC 01O.0210 ADDRESSING POOR UNSATISFACTORY JOB PERFORMANCE**

4 (a) If at any time during the performance cycle an employee is not meeting expectations, the manager or supervisor  
5 shall ~~Conduct~~ conduct a documented coaching session ~~to~~ to:

6 ~~(a)~~(1) discuss ways to improve the employee’s performance or behavior;

7 ~~(b)~~(2) ~~see~~ seek input from the employee about whether the performance issue can be corrected through a  
8 process change or if the employee needs to receive additional training on current procedures or  
9 processes;

10 ~~(c)~~(3) outline the steps to be taken to improve performance, including the specific timeframe for  
11 improvement;

12 ~~(d)~~(4) identify the consequences, including progressive ~~corrective~~ disciplinary action, of failure to  
13 improve; and

14 ~~(e)~~(5) define a follow up date.

15 (b) If employee performance or behavior improves to the “Meets Expectation” level during the ~~defined~~ specific  
16 timeframe and performance or behavior is maintained, no further action is necessary.

17 ~~(2)~~(c) If employee performance or behavior does not improve to the “Meets Expectation” level during the  
18 ~~designated~~ specific timeframe ~~discussed during the formal coaching session~~, the manager or supervisor shall consult  
19 ~~his or her~~ the agency Human Resources representative, prepare a Performance Improvement Plan (PIP), and conduct  
20 and document a formal counseling session to review the PIP with the employee.

21 (d) The PIP ~~documentation~~ shall ~~serve as the first written warning~~, be considered equivalent to a disciplinary action  
22 and shall:

23 ~~(a)~~(1) be in writing and state that it is a ~~warning~~ disciplinary action;

24 ~~(b)~~(2) state the specific performance or behavior problem that is the reason for the ~~warning~~ disciplinary  
25 action;

26 ~~(c)~~(3) state the specific steps to be taken to improve performance, including the specific timeframe for  
27 improvement;

28 ~~(d)~~(4) state the consequences, including progressive disciplinary action, of failure to make the required  
29 improvements or corrections;

30 ~~(e)~~(5) define a follow-up ~~date(s)~~ date or dates

31 ~~(f)~~(6) tell the employee of any appeal rights provided by State law, and

32 ~~(g)~~(7) discuss the Employee Assistance Program (EAP) when appropriate.

33 ~~(3)~~(e) If employee performance or behavior improves to the “Meets Expectation” level after review of the PIP  
34 during the ~~designated~~ specific timeframe and performance or behavior is maintained, no further action is  
35 necessary.

36 ~~(4)~~(f) If employee performance or behavior does not improve to the “Meets Expectation” level after review of the  
37 ~~Performance Improvement Plan~~ PIP during the ~~designated~~ specific timeframe ~~outlined in the PIP~~ performance

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1 ~~Improvement Plan and discussed during the formal counseling session,~~ or if the employee performance or  
2 behavior fails to be maintained at the “Meets Expectations” level, the manager or supervisor shall begin the  
3 formal ~~corrective~~ progressive disciplinary action process as outlined in 25 NCAC 01J.0613 and contact ~~his~~  
4 ~~or her~~ the agency Human Resources representative.

5 (5)(g) If an employee receives a performance-based disciplinary action during the performance cycle, corrects, and  
6 maintains performance at the “Meets Expectations” level, then the employee shall be considered to have met  
7 expectations for the performance expectation(s) associated with the disciplinary action.

8 (6)(h) If an employee receives a performance-based disciplinary action during the performance cycle, corrects, and  
9 maintains performance at the “Meets Expectations” level, then the employee shall be considered to have met  
10 expectations for the goal or organizational value associated with the disciplinary action.

11 (7)(i) If ~~the~~ an employee receives ~~both~~ a “Meets Expectations” for the goal or organizational value cited in the  
12 warning or other disciplinary action and a “Meets Expectations” in the overall performance evaluation rating,  
13 the performance-based disciplinary action becomes inactive.

14 (8)(j) If the written warning is based on ~~the~~ an employee’s failure to complete tasks listed in the job description or  
15 is based on ~~the~~ an employee’s failure to respond to a direct order from the manager or supervisor, but these  
16 warnings are not linked to the goals or organizational values of the performance plan, then the written  
17 warning shall remain ~~active,~~ active, ~~according to the Office of State Human Resources disciplinary policy.~~

18 (9)(k) At the conclusion of the performance cycle, if ~~the~~ an employee has not successfully satisfied the terms of the  
19 PIP or has an active performance-based disciplinary action, the employee shall be considered not to have met  
20 expectations during the current cycle for the performance expectation(s) associated with the disciplinary  
21 action.

22  
23 *History Note: Authority G.S. 126-4;*

24 *Eff. April 1, 2016.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0211

**DEADLINE FOR RECEIPT: Friday, February 11, 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:

*In (b)(1), what is meant by "consistently"? Do you mean the dictionary definition of the word "consistent"? If not, please delete or define.*

*In (b)(1), line 18, please delete or define "exceptionally."*

*In (b)(1), line 21, please delete or define "readily."*

*In (b)(2), what is meant by "consistently" and "occasionally"? Do you mean the dictionary definition of the words "consistent" and "occasional"?*

*In (b)(3), is the "supervisory attempts to encourage performance" those contained within 25 NCAC 01O .0210?*

*In (b)(3), line 36, please delete or define "adequate."*

*In (c), please delete or define "appropriately" on lines 11 and 13.*

*In (c), line 14-15, please delete "at least."*

*In (d), line 21, please delete or define "appropriate."*

*In (f), please add a comma in between "sign" and "and date."*

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

Amber Cronk May  
Commission Counsel  
Date submitted to agency: February 29, 2016

# Permanent Adoption with changes for Publication in the NCAC

1 25 NCAC 01O .0211 is proposed for adoption with changes as follows:

2

## 3 **25 NCAC 01O .0211 ANNUAL PERFORMANCE EVALUATION**

4 (a) At the end of the performance cycle, the manager or supervisor shall evaluate employee performance relative to  
5 the three to five individual goals as well as the selected organizational values. ~~The Managers manager or supervisors~~  
6 supervisor shall use quantitative and qualitative information collected throughout the cycle and documented by various  
7 sources, including information documented by the employee, to determine the extent to which the employee's actual  
8 performance has met the expectations defined in the performance plan. The manager or supervisor shall evaluate  
9 performance based on the collected performance information and assign ratings to each goal and value to determine  
10 an overall annual performance evaluation rating. Agency or University Human Resources personnel shall facilitate  
11 calibration discussions to systematically assess rating validity and ensure organizational consistency.

12 (b) Each individual goal and value shall be rated using the standardized rating scale. The standardized rating scale  
13 will consist of three levels defined as follows:

14 (1) "Exceeds Expectations" means performance consistently exceeds documented expectations and  
15 measurements. The employee consistently does work going far beyond what is expected in terms  
16 such as quantity, quality, timeliness, cost, and customer satisfaction. Performance that "Exceeds  
17 Expectations" is due to the effort and skills of the employee. Performance is consistently  
18 characterized by exceptionally high quality work that requires little or no improvements or  
19 corrections. An employee at the "Exceeds Expectations" level repeatedly makes exceptional or  
20 unique contributions to the organization that are above the requirements of his/her duties and  
21 responsibilities. An employee performing at the "Exceeds Expectations" level should be readily  
22 recognized by their organization as an outstanding contributor to the organization's mission.

23 (2) "Meets Expectations" means performance consistently meets and occasionally exceeds the  
24 documented job expectations and measurements. The employee performs according to expectations.  
25 The employee does the job at the level expected for this position and consistently meets what is  
26 expected in terms such as quantity, quality, timeliness, cost and customer satisfaction. ~~The~~  
27 performance Performance that "Meets Expectations" is due to the employee's own effort and skills.  
28 An employee performing at ~~the "Meets Expectations"~~ this level is dependable and makes valuable  
29 contributions to the organization. His or her judgments are sound, and he or she demonstrates  
30 knowledge and mastery of duties and responsibilities. Most employees should meet expectations in  
31 a functional, performing work unit.

32 (3) "Does Not Meet Expectations" means performance does not meet job expectations and  
33 measurements and supervisory attempts to encourage performance improvement are unsuccessful.  
34 The employee is performing the job at an unsatisfactory performance level in terms such as quantity,  
35 quality, timeliness, cost, and customer satisfaction and performance improvement counseling by the  
36 manager or supervisor has not resulted in adequate employee performance improvement. The

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1           ~~Manager~~ manager or supervisors ~~supervisor~~ are required to ~~shall~~ continue to ~~addressing~~ address  
2           performance issues with the employee with this rating level, ~~documenting~~ document management  
3           efforts to encourage satisfactory performance, and ~~documenting~~ document subsequent results on a  
4           Performance Improvement Plan. Failure to perform is due to the employee's lack of effort or skills.  
5           Performance counseling sessions shall be guided by next-level management or Human Resources,  
6           and may result in additional disciplinary action for the employee who fails to demonstrate  
7           improvement.

8           (c) The employee's final ~~overall~~ annual performance evaluation rating shall be based on results achieved relative to  
9           ~~his or her~~ the employee's individual goals and organizational values. The final ~~overall~~ annual performance evaluation  
10          rating must reflect both quantity and quality of job performance relative to established goals and identified values. A  
11          final ~~overall~~ annual performance evaluation rating of "Exceeds Expectations" shall be supported by appropriately  
12          documented results and accompanied by demonstrated adherence to organizational values. A final annual performance  
13          evaluation rating of "Does Not Meet Expectations" shall be supported by appropriately documented failure to achieve  
14          results and accompanied by lack of demonstrated adherence to organizational values. An employee who does not at  
15          least "Meet Expectations" on all organizational values shall not be awarded a final ~~overall~~ annual performance  
16          evaluation rating of "Exceeds Expectations," regardless of level of results achieved on goals. An employee who  
17          receives a "Does Not Meet" on any goal or value shall not be awarded an ~~overall~~ annual performance evaluation rating  
18          of "Exceeds Expectations," regardless of the level of results achieved or adherence to values.

19          (d) Upon completion of calibration, the manager or supervisor shall hold an annual performance evaluation meeting  
20          with each employee, and a final overall annual performance evaluation rating shall be assigned and entered into the  
21          appropriate system of record. ~~The Managers~~ manager or supervisors ~~supervisor~~ shall not submit a final ~~overall~~ annual  
22          performance ratings rating for an ~~employees~~ employee unless an annual performance plan, supported by ongoing  
23          performance documentation, has been completed in compliance with this Subchapter.

24          (e) The manager or supervisor and the next-level manager or supervisor shall sign the annual performance evaluation.  
25          The employee shall review, sign and date the annual performance evaluation. If the employee refuses to sign the  
26          annual performance evaluation, the manager or supervisor shall document the refusal on the annual performance  
27          evaluation.

28          (f) The employee shall have physical or electronic access to the employee's annual performance evaluation.

29  
30          History Note:     Authority: G.S. 126-4;  
31                             Eff. April 1, 2016.