

Permanent Readoption with changes for Publication in the NCAC

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

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

4 (a) A temporary appointment is an appointment for a limited ~~term, 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 position, not to exceed 12 consecutive months. months,~~
7 subject to the following exemptions: (Exceptions for students and retired employees:

8 (1) ~~Students are~~ shall be exempt from the 12-months maximum limit. “Students” include those
9 undergraduate students taking at least 12 semester hours or graduate students taking at least nine
10 semester hours.

11 (2) ~~If retired Retired employees sign a statement that they are not available for nor seeking permanent~~
12 ~~employment, they~~ may have temporary appointments for more than 12 months. months if he or she
13 signs a statement that he or she is not available for, nor seeking permanent employment. “Retired”
14 “Retired employees” include those is defined as drawing a retirement income and or social security
15 benefits.) benefits.

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

18
19 *History Note: Authority G.S. 126-4;*
20 *Eff. February 1, 1976;*
21 *Amended Eff. August 1, 1995; November 1, 1991; December 1, ~~1978.~~1978;*
22 *Readopted Eff. April 1, 2016.*

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

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

4 (a) 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.~~ months, subject to the following
7 exemptions: (Exception for students and retired employees:

8 (1) Students ~~are~~ shall be exempt from the 12-months maximum limit. “Students” include those
9 undergraduate students taking at least 12 semester hours or graduate students taking at least nine
10 semester hours.

11 (2) ~~If retired~~ Retired employees ~~sign a statement that they are not available for nor seeking permanent~~
12 ~~employment, they~~ may have temporary appointments for more than 12 ~~months.~~ months if he or she
13 signs a statement that he or she is not available for, nor seeking permanent employment. “Retired”
14 “Retired employees” include those is defined as drawing a retirement income and or social security
15 benefits.) benefits.

16 (b) Employees with a temporary part-time ~~appointments~~ appointment ~~receive no benefits.~~ shall not earn or accrue leave,
17 or receive total state service credit, retirement credit, severance pay, or priority reemployment consideration.

18
19 *History Note:* Authority G.S. 126-4;
20 Eff. February 1, 1976;
21 Amended Eff. August 1, 1995; November 1, 1991; December 1, ~~1978.~~1978;
22 Readopted Eff. April 1, 2016.

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

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

4 (a) An employee who arrives later than scheduled, may be permitted by his or her supervisor to make up the deficit of
5 working hours by working that much longer at the end of the workday if this is consistent with the work need of the agency.

6 Otherwise, the tardiness shall be charged to the ~~appropriate~~ the employee's leave category in accordance with 25 NCAC 01E
7 .0207. Supervisors shall be responsible for taking ~~appropriate~~ action to correct any abuse or misuse of this privilege which
8 may include deductions from the employee's pay or a disciplinary action in accordance with 25 NCAC 01J .0604.

9 (b) If an employee reports to work early ~~he/she he or she may,~~ may be permitted by his or her supervisor with the supervisor's
10 permission, to begin work at that time and leave at a correspondingly early hour; hour if this is consistent with the work need
11 of the agency. otherwise, Otherwise, the employee shall wait in a designated area away from the work station.

12 (c) If an employee leaves work early without permission from his or her supervisor, the time shall be deducted from the
13 employee's pay or may be charged to the ~~appropriate~~ employee's leave account if justified account.

14 (d) An employee may not work later than scheduled unless ~~the~~ permitted by his or her supervisor has approved it due to
15 workload. if this is consistent with the work need of the agency.

16

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

18 *Eff. February 1, 1976;*

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

20 *Readopted Eff. April 1, 2016.*

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

25 NCAC 01C .1007 ~~UNAVAILABILITY WHEN LEAVE IS EXHAUSTED~~ SEPARATION

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

(1) the employee remains unavailable for work after all applicable leave credits and leave benefits have been exhausted and agency management does not grant leave without pay- pay, as defined in 25 NCAC 01E .1101, if the employee is unable to return to all of the position's essential duties as set forth in the employee's job description or designated work schedule due to a medical condition or the vagueness of a medical prognosis, and the employee and agency are unable to reach agreement on a return to work arrangement that meets both the needs of the agency and the employee's condition;

(2) notwithstanding any unexhausted applicable leave credits and leave benefits, the employee is unable to return to all of the position's essential duties as set forth in the employee's job description or designated work schedule due to a court order, due to a loss of required credentials, due to a loss of other required certification, or due to other extenuating circumstances that renders the employee unable to perform the position's essential duties as set forth in the employee's job description or designated work schedule, and the employee and the agency are unable to reach agreement on a return to work arrangement that meets both the needs of the agency and the employee's situation; or

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

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

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

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

(c) If the agency and employee are unable to agree on terms of continued employment or the employee does not respond to the Pre Separation letter, the employing agency shall send the employee written notice in a Letter of Separation. The letter shall be sent no earlier than 20 calendar days after the Pre Separation letter is sent to the employee. The ~~letter~~ Letter

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1 of ~~separation~~ Separation to the employee shall state the actual date of separation, specific reasons for the separation and
2 set forth the employee's right of appeal. Such a separation is shall not be considered a disciplinary dismissal as described
3 in G.S. 126-34.02 or G.S. 126-35. It is an involuntary separation and may be grieved or appealed. The burden of proof
4 on the agency in the event of a grievance is not to demonstrate just cause as that term exists in G.S. 126-34.02 or G.S.
5 126-35. Rather, the agency's burden shall be to prove that the employee was unavailable, that efforts were undertaken to
6 avoid separation, and why the efforts were unsuccessful.

7 ~~(d) Definitions:~~

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

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

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

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

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

22 *Eff. November 1, 1989;*

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

24 *Amended Eff. April 1, 2015; January 1, 2007; October 1, ~~2004, 2004~~;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28,*
26 *2014;*

27 *Amended Eff. April 1, 2015.*

28 *Readopted Eff. April 1, 2016.*

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1 25 NCAC 01O.0107 is adopted with changes 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 an integrated performance management system

5 ~~which that~~ evaluates employees' accomplishments and behaviors related to goals and organizational values to

6 achieve organizational mission, goals, and business objectives. An integrated performance management system

7 enables employees to develop and enhance individual performance while contributing to the achievement of

8 organizational mission, goals, and business objectives. ~~Each agency shall implement the Performance Management~~

9 ~~Policy as approved by the State Human Resources Commission.~~

10

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

12 *Eff. April 1, 2016.*

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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 shall 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~~ shall not apply to temporary employees.

10

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

12 *Eff. April 1, 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:

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

4 The following definitions shall 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 as defined in
7 25 NCAC 01O .0110. The annual 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~~ discussion with
13 documentation or an ~~undocumented~~ informal ~~conversation~~ discussion without documentation
14 between a manager or supervisor and employee to provide feedback and reinforce desired work
15 actions and behavior.

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

20 (5) “Formal Discussion” means a discussion with documentation between a manager or supervisor
21 and employee.

22 ~~(5)(6)~~ (6) “Goals” means organizational, division, work unit, and individual level outcomes ~~which that~~
23 support the strategic mission of the organization. All goals must be relevant to agency
24 goals/mission.

25 ~~(6)(7)~~ (7) “Individual Development Plan” means ~~the process a plan~~ a plan used to identify areas of development so
26 an employee will have the skills, knowledge and abilities he or she needs to meet the
27 organization’s goals and objectives, and is given an opportunity to develop competencies that will
28 allow him or her to be successful in the future.

29 (8) “Informal Discussion” means a discussion without documentation between a manager or
30 supervisor and employee.

31 ~~(7)(9)~~ (9) “Interim Review” means a formal discussion with documentation of such at the mid-point of the
32 performance cycle between a ~~manager~~ manager or supervisor and an employee to review the
33 employee’s progress and make any necessary adjustments (e.g., adding new goals and tasks or
34 canceling existing goals and tasks if priorities have changed, changing the weights assigned to
35 goals and tasks), ~~including the initiation of an Individual Development Plan or a Performance~~
36 ~~Improvement Plan if necessary.~~ or initiate additional performance-related documentation.

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- 1 ~~(8)~~(10) “Permanent Employee” means an employee who is in a permanent position and has attained career
2 status by being continuously employed by the State in a position subject to the State Human
3 Resources Act for the immediate ~~24~~ 12 preceding months.
- 4 ~~(9)~~(11) “Performance ~~Expectation(s)~~ Expectation” means a goal, value, or both, defining outcomes and
5 behaviors that are documented on a performance plan to identify results to be accomplished and
6 how the work should be accomplished.
- 7 ~~(10)~~(12) “Performance Improvement Plan” means a written document issued to an employee by a manager
8 or supervisor ~~which that~~ provides ~~specific~~ instructions to the employee about the ~~action(s)~~ action
9 or actions the employee shall take to improve performance or conduct deficiencies to the “Meets
10 Expectations” level of performance. A performance improvement plan is issued to an employee
11 who maintains employment and is ~~issued a written warning or other progressive disciplinary~~
12 ~~action, such as suspension without pay or demotion.~~ serves as a disciplinary action.
- 13 (13) “Performance Plan” means a description of the goals and values to be accomplished by the
14 employee within the performance cycle, with emphasis on the goals and results to be achieved and
15 how those results will be measured.
- 16 ~~(12)~~(14) “Position Description” means a statement or set of duties and responsibilities that represents the
17 major functions of a job ~~which that~~ must be performed to meet the agency’s needs.
- 18 ~~(13)~~(15) “Probationary Employee” means an employee who is in a permanent position but has not attained
19 career status by being continuously employed by the State in a position subject to the State Human
20 Resources Act for the immediate ~~24~~ 12 preceding months.
- 21 (16) “Satisfactory Performance” means performance for which the employee consistently meets
22 expectations and occasionally exceeds expectations.
- 23 ~~(15)~~(17) “Time-Limited Employee” means an employee who is in a time-limited position and is not
24 eligible for career status.
- 25 (18) “University” means the constituent institutions of the University of North Carolina.
- 26 ~~(16)~~(19) “Values” means qualitative behavioral attributes that document how work actions should be
27 accomplished. Values reflect core organizational beliefs that guide and motivate actions
28 supporting the accomplishment of the agency mission and goals.

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

Permanent Adoption for Publication in the NCAC

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

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

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

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

10 (c) The State Human Resources Director may change the dates of the standard performance cycle for business-
11 related reasons with a statewide impact; however, all covered employees shall be notified a minimum of 60 calendar
12 days prior to the start of the new performance cycle. The need to change the dates of the standard performance
13 cycle will be determined through consultation with the statewide Performance Management Program Manager.

14

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

16 Eff. April 1, 2016.

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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. These templates shall be available in the performance
10 management system through an employee's online portal.

11

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

13 *Eff. April 1, 2016.*

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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; and

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.*

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:

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

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

5 (b) To promote communication and coordination during calibration sessions, agency management may make some
6 version of performance plans visible internally to management; however, any information shared during calibration
7 sessions shall be treated as confidential and 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 as defined in 25 NCAC 01J .0604.

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~~. Article 7 of G.S. 126.

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.*

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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 with rules in this Subchapter.

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

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

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

17

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

19 Eff. April 1, 2016.

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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~~ 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.*

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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 shall be 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,~~
17 employee at a minimum, "Meets Expectations" or "Exceeds Expectations" on all individual goals
18 and individual values, at the end of the first performance cycle, then quarterly documented
19 performance feedback discussions are no longer required. The manager or supervisor shall establish
20 a performance plan for the probationary employee during the first 60 calendar days of the next
21 performance cycle. The manager or supervisor shall conduct an interim review at the mid-point of
22 the performance cycle and shall conduct a final performance evaluation annually, within ~~sixty~~ 60
23 calendar days of the end of the performance cycle. The probationary employee shall have been
24 functioning under an issued performance plan for at least six months to receive his or her first annual
25 performance review 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 shall~~
30 have been functioning under an issued performance plan for at least six months to receive his or her
31 first 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.

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- 1 (4) When an employee transfers to another position within state government, ~~a performance review~~
2 ~~shall be completed~~ the existing manager or supervisor shall assess performance and document
3 progress and ratings prior to the transfer. If the transfer occurs within 30 calendar days of the end of
4 the interim review or annual performance evaluation, then a copy of the completed and signed
5 interim review or the completed (i.e., documentation provided and ratings assigned) and signed
6 annual performance evaluation shall be sent to the receiving manager or supervisor. If the transfer
7 occurs more than 30 calendar days prior to the interim review or annual performance evaluation, the
8 existing manager or supervisor shall provide written performance information accountable for
9 ensuring continuity of performance documentation specific to the employee's achievement of
10 established goals and values to the receiving manager or supervisor.
- 11 (5) When there is a change in the manager or supervisor, the existing manager or supervisor shall
12 provide written performance information specific to the employee's achievement of established
13 goals and values to the receiving manager or supervisor. If the change in the manager or supervisor
14 occurs within 30 calendar days of the ~~annual performance evaluation or interim review,~~ review or
15 annual performance evaluation, then the existing manager or supervisor shall complete the ~~formal~~
16 ~~performance evaluation or interim review,~~ review or formal performance evaluation.
- 17 (6) When an employee separates from state government, the manager or supervisor shall assess
18 performance and assign a final overall performance rating, unless the employee's separation is due
19 to a documented disciplinary action, retirement, disability, illness, or death. The separating
20 employee shall have been functioning under an issued performance plan for at least six months to
21 be assigned a final overall performance rating. For an employee who is separated for any reason
22 other than documented disciplinary action, retirement, disability, illness, or death, any final overall
23 performance rating of "Does Not Meet Expectations" must be approved by the agency Human
24 Resources Director or his or her ~~designee,~~ designee, based on performance documentation provided
25 by the separating employee and his or her manager or supervisor.

26
27 History Note: Authority G.S. 126-4;
28 Eff. April 1, 2016.

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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~~ 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~~, 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,~~ document the employee’s ~~refusal~~. refusal on the performance plan.

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.*

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

9 (b) ~~Managers~~ A manager or ~~supervisors~~ supervisor ~~must~~ shall conduct a minimum of three formal performance
10 discussions ~~annually~~; 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; and

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

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

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

23

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

25 *Eff. April 1, 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~~" "Meets Expectations" level during
16 the ~~defined~~ specific timeframe and performance or behavior is maintained as determined by management, no further
17 action is necessary.

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

22 (d) The PIP ~~documentation~~ shall serve as the first written warning, be considered equivalent to a disciplinary action
23 as defined in 25 NCAC 01J .0604 and shall:

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

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

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

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

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

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

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

34 (e) If employee performance or behavior improves to the "~~Meets Expectation~~" "Meet Expectations" level after
35 review of the PIP during the ~~designated~~ specific timeframe and performance or behavior is maintained as
36 determined by agency management, no further action is necessary.

Permanent Adoption with changes for Publication in the NCAC

- 1 ~~(4)~~(f) If employee performance or behavior does not improve to the “Meets Expectations” level after review of the
2 Performance Improvement Plan PIP during the designated specific timeframe outlined in the PIP~~Performance~~
3 ~~Improvement Plan and discussed during the formal counseling session,~~ or if the employee performance or
4 behavior fails to be maintained at the “Meets Expectations” level, the manager or supervisor shall ~~begin~~
5 continue the formal ~~corrective~~ progressive disciplinary action process as outlined in 25 NCAC 01J.0613 and
6 contact ~~his or her~~ the agency Human Resources representative.
- 7 ~~(5)~~(g) If an employee receives a performance-based disciplinary action during the performance cycle, corrects, and
8 maintains performance at the “Meets Expectations” level, then the employee shall be considered to have met
9 expectations for the performance expectation(s) associated with the disciplinary action.
- 10 ~~(6)~~(h) If an employee receives a performance-based disciplinary action during the performance cycle, corrects, and
11 maintains performance at the “Meets Expectations” level, then the employee shall be considered to have met
12 expectations for the goal or organizational value associated with the disciplinary action.
- 13 ~~(7)~~(i) If ~~the~~ an employee receives ~~both~~ a “Meets Expectations” for the goal or organizational value cited in the
14 warning or other disciplinary action and a “Meets Expectations” in the overall performance evaluation rating,
15 the performance-based disciplinary action ~~becomes~~ shall become inactive.
- 16 ~~(8)~~(j) If the written warning is based on ~~the~~ an employee’s failure to complete tasks listed in the job description or
17 is based on ~~the~~ an employee’s failure to respond to a direct order from the manager or supervisor, but these
18 warnings are not linked to the goals or organizational values of the performance plan, then the written
19 warning shall remain ~~active,~~ active. ~~according to the Office of State Human Resources disciplinary policy.~~
- 20 ~~(9)~~(k) At the conclusion of the performance cycle, if ~~the~~ an employee has not ~~successfully~~ satisfied the terms of the
21 PIP or has an active performance-based disciplinary action, the employee shall be considered not to have met
22 expectations during the current cycle for the performance expectation(s) associated with the disciplinary
23 action.

24
25 *History Note: Authority G.S. 126-4;*
26 *Eff. April 1, 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 in accordance with
34 25 NCAC 01O .0210 are unsuccessful.
35 The employee is performing the job at an unsatisfactory performance level in terms such as quantity,

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1 quality, timeliness, cost, and customer satisfaction and performance improvement counseling by the
2 manager or supervisor has not resulted in ~~adequate~~ employee performance improvement. The
3 Manager manager or supervisors supervisor are required to shall continue to addressing address
4 performance issues with the employee with this rating level, ~~documenting~~ document management
5 efforts to encourage satisfactory performance, and ~~documenting~~ document subsequent results on a
6 Performance Improvement Plan. Failure to perform is due to the employee's lack of effort or skills.
7 Performance counseling sessions shall be guided by next-level management or Human Resources,
8 and may result in additional disciplinary action for the employee who fails to demonstrate
9 improvement.

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

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

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

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

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