

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

**NOTE WELL: This request 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*General Comments and Requests:*

*Please delete the header "Permanent Amendment for Publication in the NCAC" that appears at the top of each page.*

*On occasion, these Rules use more than one term for a single concept or are ambiguous or unclear. These technical change requests offer suggestions as to how such inconsistent terminology and ambiguous or unclear provisions might be made consistent or clarified. These requests seek only to clarify the apparent intent of these Rules and not to alter their meaning.*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01C .0402

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

***NOTE WELL: This request 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 4-16 – please consider revising this Rule as follows:*

- (a) An appointment to an established position shall be a permanent appointment if:
  - (1) the requirements of the probationary period have been satisfied in accordance with G.S. 126-1.1, or
  - (2) a time-limited appointment extends beyond three years of continuous employment.
- (b) An appointment to an established position shall be a time-limited appointment if it is an appointment to:
  - (1) a permanent position that is vacant due to the incumbent's leave of absence and the replacement employee's services will be needed for a period of one year or less, or
  - (2) a time-limited position. If an employee is retained in a time-limited position beyond three years, the employee shall be designated as having a permanent appointment.

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Amendment for Publication in the NCAC

1 25 NCAC 01C .0402 is amended as published in 31:05 NCR 390 as follows:

2

## 3 **25 NCAC 01C .0402 PERMANENT AND TIME-LIMITED APPOINTMENT**

4 (a) A permanent appointment is an appointment to a permanent established position. A permanent appointment shall  
5 be given when the following conditions have been met:

6 (1) the requirements of the probationary period have been ~~satisfied~~, satisfied in accordance with G.S.  
7 126-1.1, or

8 ~~(2) an employee in a trainee appointment has completed all training and experience requirements and~~  
9 ~~completed 24 months of continuous employment in a position subject to the State Human~~  
10 ~~Resources Act, or~~

11 ~~(3)~~(2) a time-limited appointment extends beyond three years of continuous employment.

12 (b) A time-limited appointment is an appointment that has a limited duration to:

13 (1) a permanent position that is vacant due to the incumbent's leave of absence and when the  
14 replacement employee's services will be needed for a period of one year or less, or

15 (2) a time-limited position. If an employee is retained in a time-limited position beyond three years,  
16 the employee shall be designated as having a permanent appointment.

17

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

19 *Eff. February 1, 1976;*

20 *Amended Eff. October 1, 2004; August 1, 1995; January 1, 1989; June 1, 1983; July 1, 1979;*

21 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October*  
22 *28, 2014;*

23 *Amended Eff. February 1, 2017; April 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01C .1004

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

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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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 3, 12, 22, 25, and 29 – please choose either “reduction in force” or “reduction-in-force” and use that spelling consistently throughout your rules.*

*Lines 12, and 17 – choose either “guideline” or “guidelines” and use that term consistently throughout your rules. “Guidelines” (plural) is recommended.*

*Line 24 – what does “benefits available” mean? If accurate, consider replacing “available” with “described in the agency’s reduction-in-force guidelines.”*

*Line 29 – replace “policy” with “guidelines” if this refers to the guidelines required in (b)(1) of this Rule.*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Amendment with changes for Publication in the NCAC

1 25 NCAC 01C .1004 is amended with changes as published in 31:05 NCR 390 as follows:

2

## 3 **25 NCAC 01C .1004 REDUCTION IN FORCE**

4 (a) A State government agency may separate an employee whenever it is necessary due to shortage of funds or  
5 work, abolishment of a position, or other material change in duties or organization. Retention of employees in  
6 classes affected shall be based on systematic consideration of all the following factors: type of appointment, relative  
7 efficiency, actual or potential adverse impact on the diversity of the workforce, and length of service. No ~~temporary,~~  
8 ~~temporary or probationary,~~ probationary State employee as defined in G.S. 126-1.1 or trainee in their initial 24  
9 ~~months of training~~ shall be retained where an employee with a permanent appointment shall be separated in the  
10 same or related class.

11 (b) Agency Responsibilities:

12 (1) Each agency shall develop a written guideline for reduction in force that meets its particular needs  
13 with potential reductions being considered on a fair and systematic basis in accordance with  
14 factors defined in the reduction in force policy State Reduction In Force Policy located in Section  
15 11 of the State Human Resources Manual on the Office of State Human Resources website at  
16 <http://www.oshr.nc.gov/Guide/Policies/policies.htm>. [forms/separation/reduction-in-force-policy](http://oshr.nc.gov/policies-</a></u><br/>17 <u><a href=). Each agency's guidelines shall be reviewed and  
18 approved by the Office of State Human Resources and filed with the Office of State Human  
19 Resources as a public record; and

20 (2) The employing agency shall notify the employee in writing of separation as soon as possible and  
21 in any case not less than 30 calendar days prior to the effective date of separation. The written  
22 notification shall include the reasons for the reduction in force, expected date of separation, the  
23 employee's eligibility for priority reemployment consideration, applicable appeal rights, and other  
24 benefits available.

25 (c) Appeals: An employee may appeal the reduction in force separation only on the grounds listed in the State  
26 Employee Grievance policy, Policy, located in Section seven of the State Human Resources Manual on the Office of  
27 State Human Resources website at <http://www.oshr.nc.gov/Guide/Policies/policies.htm>. [forms/discipline-appeals-grievances/employee-grievance-policy](http://oshr.nc.gov/policies-</a></u><br/>28 <u><a href=).

29 (d) The agency shall analyze any application of its reduction-in-force policy to determine its impact on equal  
30 employment opportunity in accordance with the Equal Employment Opportunities Commission's (EEOC) Uniform  
31 Guidelines on Employee Selection Procedures in the code of federal regulations at 29 C.F.R. part 1607, section 6A,  
32 which is hereby incorporated by reference including any subsequent amendments and editions. These guidelines are  
33 available for free on the EEOC website at <http://www.eeoc.gov/laws/regulations/index.cfm>.

34 (e) ~~Severance Salary Continuation:~~ Severance salary continuation shall be administered in accordance with 25  
35 NCAC 01D .2701. 25 NCAC 01D .2700. Pursuant to G.S. 126-8.5, the Office of State Budget and Management is  
36 responsible for determining whether severance continuation is applicable. Prior approval shall be received from the  
37 Office of State Budget and Management before severance salary continuation is paid.

# Permanent Amendment with changes for Publication in the NCAC

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*History Note: Authority G.S. 126-4(2);  
Eff. February 1, 1976;  
Amended Eff. May1, 1980; January 1, 2980;  
Emergency Amendment (a) Eff. March 16, 1981 for a Period of 77 Days to Expire on June 1,  
1981;  
Emergency Amendment (a) Made Permanent with Change Eff. April 8, 1981;  
Amended Eff. December 1, 1995; March 1, 1994; November 1, 1990; March 1, 1987;  
Recodified from 25 NCAC 01D .0504 Eff. December 29, 2003;  
Amended Eff. October 1, 2009; March 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October  
28, 2014;  
Amended Eff. February 1, 2017; April 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .0101

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 3 – consider deleting “Philosophy and” in light of the comments regarding Paragraph (a), below. General statements of philosophy or aspirations are not rules.*

*Lines 4-12 – delete Paragraph (a) entirely. If elements of this paragraph help inform the meaning of “appropriately compensate,” incorporate them as suggested below.*

*Line 13 – replace “A compensation plan shall be maintained” with “The State Human Resources Commission shall maintain a compensation plan” if that is what is intended.*

*Line 14 – what does “appropriately compensate” mean? If you mean compensation that will “encourage exceptional performance and maintain labor market competitiveness within the boundaries of financial resources” then say so, perhaps adding a sentence in line 14 as follows:*

“Appropriate compensation” shall mean compensation that encourages exceptional performance and maintains labor market competitiveness within the limits of financial resources.

*Line 16 – add “provided that” or “however,” before “such”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .0101 is amended as published in 31:05 NCR 391 as follows:

2

3 **25 NCAC 01D .0101      COMPENSATION PHILOSOPHY AND PLAN**

4 (a) The State of North Carolina is committed to attracting and retaining a diverse workforce of high performing  
5 employees with the competencies, knowledge, skills, abilities and dedication needed to consistently meet  
6 continually evolving strategic goals. It is the policy of the state to compensate its employees at a level sufficient to  
7 encourage excellence of performance and to maintain the labor market competitiveness necessary to recruit and  
8 retain a competent work force. to encourage exceptional performance and to maintain labor market competitiveness  
9 within the boundaries of financial resources. To this end, and in accordance with the State Human Resources Act,  
10 the State Human Resources Commission shall conduct annual compensations surveys to determine the percent of  
11 funds appropriated for salary increases to be reserved for a general increase for all state employees and the percent  
12 to be reserved for performance based increases for eligible employees.

13 (b) A compensation plan is shall be maintained which provides by providing a salary rate structure or structures  
14 adequate to appropriately compensate all positions subject to the State Human Resources Act. This structure or  
15 structures may be revised in composition, or the total structure moved upward or downward, in response to labor  
16 market trends and to legislative actions affecting salaries; such action is dependent on the availability of funds.

17

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

19 *Eff. February 1, 1976;*

20 *Amended Eff. January 1, 1990;*

21 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
22 *20, ~~2015-2015~~;*

23 *Amended Eff. February 1, 2017.*



## REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .0102

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

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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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 4-10 – consider revising as follows:*

(a) The salary structures in the compensation plan maintained pursuant to Rule .0101 of this Section shall include all positions subject to the State Human Resources Act. Each such position shall be assigned to a pay grade with an associated salary range based on similar employment in the defined labor market. Each pay grade shall be assigned a minimum, midpoint, and maximum salary rate that is competitive with rates in the external labor market, consistent with the state's ability to pay and the hierarchy within state government employment. The minimum and maximum salary rates shall be the lowest and highest salaries paid for a job assigned to that pay grade.

*Line 9 – what does “maintain internal equity” mean? The proposed draft, above, suggests “employment hierarchy” but it is not clear what the Commission intends by “maintain internal equity.”*

*Line 16 – replace “are commensurate with” with “shall be based on”*

*Line 16 – add “and the” before “content”*

*Line 17 – replace “job” with “employment” because that appears to be the term typically used in these rules.*

*Line 17 – replace “are” with “shall be” and delete the comma after “quartiles”*

*Line 18 – replace “determining” with “placing” and delete “placement”*

*Line 18 – replace “salary” with “salaries”*

*Line 19 – Is this approval to be in writing? Who may request such an approval?*

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .0102 is amended as published in 31:05 NCR 391 as follows:

2

## 3 **25 NCAC 01D .0102 SALARY RANGES STRUCTURES**

4 (a) The salary structures provide a framework to set and manage compensation in a fair and consistent manner  
5 relative to the market for all positions subject to the State Human Resources Act. Each ~~classified~~ position is assigned  
6 to a pay grade with an associated salary range ~~that provides~~, based on similar employment in the defined labor  
7 ~~market;~~ market. Each pay grade is constructed with a minimum, ~~intermediate~~ midpoint and maximum salary rates  
8 that are competitive with rates in the external labor market consistent with the state's ability to pay; and proper  
9 relationships within state government employment to maintain internal equity. ~~The minimum and maximum~~  
10 represent the lowest and highest salary that may be paid for a job assigned to that pay grade.

11 ~~(b) Based on labor market demands, salary rates for some classifications may be approved above the standard rates.~~  
12 ~~When a higher salary range (i.e., both the minimums and maximums are raised) is needed to recruit employees to~~  
13 ~~certain areas of the state, the higher range(s) will be known as geographic differentials. When only the entry rates~~  
14 ~~(and not the maximums) need to be higher, the higher rates will be known as special entry rates. Special entry rates~~  
15 ~~may be approved on a geographic basis also.~~

16 (b) Employee salaries are commensurate with all applicable pay factors, responsibilities, requirements, content and  
17 scope of job in relation to the salary range established for that position. Salary ranges are divided into quartiles, to  
18 aid in determining employee and potential employee salary placement within the prescribed salary range. As  
19 relevant labor markets change, salary rates may be adjusted with approval by the State Human Resources  
20 Commission.

21 ~~(c) When geographic differentials are in effect, all salary administration policies are applied as if the classification~~  
22 ~~were at the higher grade. Provisions for applying special entry rates are included in each policy.~~

23

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

25 *Eff. February 1, 1976;*

26 *Amended Eff. January 1, 1990;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
28 *20, ~~2015, 2015;~~*

29 *Amended Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .0105

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – replace “is” with “shall be deemed to be”*

*Line 5 – delete “Note:”*

*Line 5 – replace “is not” with “shall not constitute”*

*Line 7 – replace “is not” with “shall not be deemed to be”*

*Line 7 – replace “when” with “if”*

*Line 8 – delete “separated”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

## Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .0105 is amended as published in 31:05 NCR 392 as follows:

2

### 3 **25 NCAC 01D .0105 PAY STATUS**

4 (a) An employee is in pay status when working, when on paid leave, when exhausting vacation or sick leave, or  
5 when on workers' compensation leave. Note: Lump sum payment of vacation leave upon separation is not paid leave  
6 status.

7 (b) An employee is not in pay status after the last day of work when separated because of resignation, dismissal,  
8 death, ~~retirement~~ retirement, and ~~reduction in force~~. reduction in force, or separated in accordance with any rule.

9

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

11 *Eff. February 1, 1976;*

12 *Amended Eff. October 1, 1983; July 1, 1983;*

13 *Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;*

14 *Amended Eff. March 1, 1989;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
16 *20, ~~2015-2015~~;*

17 *Amended Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .0112

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*This Rule is similar to 25 NCAC 01E .0204, and, as a general matter, the two rules should mirror one another as closely as possible. Should 01E .0204 be amended to remove references to "trainees"? The technical changes suggested below attempt to begin reconciling these two rules. When 01E .0204 is next amended, consider incorporating elements of 01D .0112 as appropriate, completing this reconciliation.*

*Lines 4-11 – consider revising Paragraphs (a), (b), and (c) to mirror 01E .0204, as follows:*

(a) "Total state service" shall mean the time of full-time or part-time (half-time or over) employment of an employee with a permanent, probationary, or time-limited appointment, whether subject to or exempt from the State Human Resources Act. If an employee is in pay status, on authorized military leave, or on workers' compensation leave for at least one-half of the regularly scheduled workdays and holidays in a pay period, credit toward total state service shall be given for the entire pay period.

*Lines 12 and 17 – in this Rule, examples are provided using "e.g." and "Examples:" – please pick one term and use it consistently. Consider replacing both terms with "such as"*

*Line 13 – replace "the agency shall credit time" with "credit toward total state service shall be given"*

*Line 14 – replace "the agency shall credit time" with "credit toward total state service shall be given"*

*Line 14 – replace "month for month" with "month-for-month"*

*Line 15 – revise as follows: "Credit toward total state service shall be given for:"*

*Line 17 – add "and" before "judicial"*

*Line 20 – add a comma after "services"*

Jason Thomas  
Commission Counsel

Date submitted to agency: December 22, 2016

*Line 22 – add a comma after “Carolina” and replace the parenthesis before “except” with a comma*

*Line 23 – replace the parenthesis after “pages” with a comma and delete the period.*

*Line 23 – replace “All” with “including all”*

*Line 24 – delete “shall be counted”*

*Lines 25 and 28-29 – what does “for which service credit is granted” mean? Is the credit granted pursuant to a rule of statute that could be cited here?*

*Line 26 – add “that” after “provided”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .0112 is amended as published in 31:05 NCR 392 as follows:

2

## 3 **25 NCAC 01D .0112 TOTAL STATE SERVICE DEFINED**

4 (a) Total state service is the time of full-time or part-time (half-time or over) employment with a permanent, ~~trainee,~~  
5 probationary or time-limited appointment in a North Carolina state government position or a position in one of the  
6 agencies listed under Paragraph (e) of this Rule.

7 (b) The agency shall credit time for State government employment that is subject to and exempt from the State  
8 Human Resources Act.

9 (c) The agency shall credit time for the entire pay period if the employee is in pay status or is on authorized military  
10 leave or workers' compensation leave for at least one-half of the regularly scheduled workdays and holidays in a pay  
11 period.

12 (d) If an employee's work schedule is less than 12 months and the employee works all the months scheduled (e.g., a  
13 school year), the agency shall credit time for the full year; however, if the employee works less than the scheduled  
14 time, the agency shall credit time on a month for month basis for the actual months worked.

15 (e) In addition, the agency shall credit time for:

- 16 (1) Employment with other governmental units which are now North Carolina State agencies  
17 (Examples: county highway maintenance forces, War Manpower Commission, judicial system);
- 18 (2) Employment with the North Carolina county agricultural extension service;
- 19 (3) Employment with the Community College system and the public school system of North Carolina;
- 20 (4) Employment with a local mental health, public health, social services or emergency management  
21 agency in North Carolina if such employment is subject to the State Human Resources Act;
- 22 (5) Employment with the General Assembly of North Carolina (except for participants in the  
23 Legislative Intern Program and pages). All of the time, both permanent and temporary, of the  
24 employees and the full legislative terms of the members shall be counted;
- 25 (6) Authorized military leave from any of the governmental units for which service credit is granted  
26 provided the employee is reinstated within the time limits outlined in the State military leave rules  
27 (25 NCAC 01E .0800); and
- 28 (7) Authorized workers' compensation leave from any of the governmental units for which service  
29 credit is granted.

30

31 *History Note: Authority G.S. 126-4(5),(10);*

32 *Eff. February 1, 1976;*

33 *Amended Eff. July 1, 1983;*

34 *Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;*

35 *Amended Eff. August 1, 1995; July 1, 1989; March 1, 1989;*

36 *Recodified from 25 NCAC 01D .1204(g) Eff. December 29, 2003;*

37 *Amended Eff. August 1, 2009;*



## Permanent Amendment for Publication in the NCAC

1                    *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
2                    *20, ~~2015~~2015;*  
3                    *Amended Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .0114

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – replace “occurs” with “shall be deemed to occur”*

*Line 4 – add commas after “status” and “.0105”*

*Line 7 – add a comma after “pay”*

*Line 8 – add a comma after “.1100”*

*Line 8 – replace “do” with “shall”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

## Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .0114 is amended as published in 31:05 NCR 392 as follows:

2

### 3 **25 NCAC 01D .0114 BREAK IN SERVICE**

4 A break in service occurs when an employee is not in non-pay pay status as defined in 25 NCAC 01D .0105 for  
5 more than 31 calendar days. (~~An employee is in pay status when working, when on paid leave or when on workers'~~  
6 ~~compensation leave. An employee is not in pay status after the last day of work when separated because of~~  
7 ~~resignation, dismissal, death, retirement or reduction in force.~~) Periods of leave without pay as defined in 25 NCAC  
8 01E .1100 do not constitute a break in service.

9

10 *History Note: Authority G.S. 126-4;*  
11 *Eff. February 1, 1976;*  
12 *Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;*  
13 *Amended Eff. March 1, 1989;*  
14 *Recodified from 25 NCAC 01D .1003 Eff. December 29, 2003;*  
15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
16 *20, ~~2015, 2015;~~*  
17 *Amended Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .0201

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*Line 5 – replace “must” with “shall” and delete “at least”*

*Line 5 – add “for the position” after “qualifications”*

*Line 6 – replace “may” with “shall”*

*Line 7 – replace “will” with “shall”*

*Line 8 – add “day” after “first” if this is what is meant.*

*Line 11 – delete “and”*

*Line 13 – replace “time” with “probationary period”*

*Line 23 – delete or define “to the class”*

*Line 25 – delete “the determination is that”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Readoption for Publication in the NCAC

1 25 NCAC 01D .0201 is readopted as published in 31:05 NCR 392 as follows:

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## **25 NCAC 01D .0201 INITIAL EMPLOYMENT**

(a) A new ~~appointment~~ hire is the initial employment of an individual to a position in State government. A new hire must possess at least the minimum qualifications, or their equivalent, as set forth in the class specification. A new hire may begin work on any scheduled workday in a pay period. When the first day of a pay period does not fall on a workday and the new hire begins work on the first workday of a pay period, the date to begin work will be shown as the first of the pay period.

(b) An employee entering into state service in a permanent or time-limited position shall be given a probationary ~~or trainee appointment.~~ appointment in accordance with G.S. 126-1.1. The probationary ~~and trainee~~ appointment periods ~~period~~ shall serve as an extension of the selection process and to determine whether the person meets satisfactory performance standards for the work for which employed. The employee shall earn all the benefits of an employee with a permanent appointment during this time.

~~(c) The duration of a probationary appointment shall be 24 months of either full time or part time employment. (This probationary period is not the same as the probationary period prescribed for criminal justice officers in 12 NCAC 05 .0401.) The duration of the trainee appointment is established for each regular classification to which a trainee appointment is made.~~

~~(d)~~(c) The conditions of the probationary ~~and trainee appointments~~ appointment shall be conveyed to the applicant prior to appointment. During the probationary ~~or trainee~~ period, the supervisor shall work with the employee in counseling coaching and assisting the employee to achieve a satisfactory performance level; progress of the employee shall be reviewed during quarterly documented feedback discussions between the employee and the ~~supervisor.~~ supervisor in accordance with 25 NCAC 01O .0207.

(d) Following the probationary period, the employee shall be given a permanent appointment to the class when the supervisor, in consultation with other appropriate administrators, determines the employee's performance indicated capability to become a satisfactory performer and merits retention in the position. If the determination is that the employee's performance indicates that the employee is not suited for the position and does not meet acceptable performance standards, the employee shall be separated from that position. Employees may be separated during a probationary appointment for causes related to performance of duties or unacceptable personal conduct. ~~Employees in trainee appointments who are not career State employees may also be separated for causes related to performance of duties or unacceptable personal conduct. Except in cases of alleged discrimination, harassment, or retaliation, a separation of an employee in a trainee appointment who is not a career State employee may not be appealed through the agency grievance process as set forth in G.S. 126-34.01 and the Office of Administrative Hearings contested case process as set forth in G.S. 126-34.02.~~

*History Note: Authority G.S. 126-1.1; 126-4; 126-34.01; 126-34.02;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1995; December 1, 1988; January 1, 1979; December 1, 1978;*

## Permanent Readoption for Publication in the NCAC

- 1            *Temporary Amendment Eff. May 23, 2014;*
- 2            *Amended Eff. April 1, ~~2015-2015~~;*
- 3            *Readopted Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .0301

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

**NOTE WELL: This request 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 6 – what does “pay grade” mean – is the term defined in a rule or statute that could be referenced here?*

*Line 7 – what does “market rate” mean – is the term defined in a rule or statute that could be referenced here?*

*Line 8 – add “for the position” after “qualifications”*

*Line 9 – replace “must” with “shall”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .0301 is amended as published in 31:05 NCR 393 as follows:

2

3 **25 NCAC 01D .0301      ~~DEFINITION AND POLICY~~ PROMOTION**

4 ~~(a) Promotion is a change in status upward, documented according to customary professional procedure and~~  
5 ~~approved by the State Human Resources Director, resulting from assignment to a position assigned a higher salary~~  
6 ~~grade. an advancement from one position to another with a higher pay grade within the same pay plan or an~~  
7 ~~advancement from one position to another with a higher market rate in a different pay plan. For a promotion, an~~  
8 ~~employee must possess at least the minimum qualifications, or their equivalent, as set forth in the class specification.~~

9 ~~(b) When it is practical and feasible, a vacancy shall be filled from among eligible employees; a vacancy must be~~  
10 ~~filled by an applying employee if required by 25 NCAC, Subchapter 1H, Recruitment and Selection, Section .0600,~~  
11 ~~General Provisions, Rule .0625, Promotion Priority Consideration for Current Employees. 25 NCAC 01H .0801.~~  
12 ~~Selection shall be based upon demonstrated capacity, quality and length of service.~~

13

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

15 *Eff. February 1, 1976;*

16 *Amended Eff. December 1, 1993; July 1, 1989;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
18 *20, ~~2015,2015;~~*

19 *Amended Eff. February 1, 2017.*



REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .0401

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

**NOTE WELL: This request 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – replace “is a change in status” with “shall mean an”*

*Line 5 – replace “change within” with “reduction in”*

*Line 6 – add a comma after “employee”*

*Line 7 – add a comma after “126-1.1”*

*Line 11 – replace “is a change in status resulting from” with “shall mean an”*

*Line 12 – what do “pay plan” and “market rate” mean – are the terms defined in a rule or statute that could be referenced here?*

*Line 13 – is a reassignment sometimes the result of disciplinary action? If so, describe the factors used to determine whether a reassignment results from disciplinary action or refer to a rule or statute that governs this determination. If not, replace “may not be” with “shall not be deemed”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .0401 is amended as published in 31:05 NCR 393 as follows:

2

3 **25 NCAC 01D .0401      DEFINITION DEMOTION AND REASSIGNMENT**

4 ~~(a) Demotion or reassignment is a change in status downward resulting from assignment to a position at a lower~~  
5 ~~salary grade, with a lower pay grade or a salary change within an employee's current position, caused by~~  
6 ~~unsatisfactory performance or a disciplinary action in accordance with 25 NCAC 01J .0604. A career state employee~~  
7 ~~as defined in G. S. 126-1.1 shall have the right to appeal a demotion through their agency's internal grievance~~  
8 ~~procedure. If the change results from inefficiency in performance or as a disciplinary action, the action is considered~~  
9 ~~a demotion. If the change results from a mutual agreement between the employee and employer, the action is~~  
10 ~~considered a reassignment.~~

11 (b) Reassignment is a change in status resulting from assignment to a position with a lower pay grade within the  
12 same pay plan or a lower market rate, if assigned to a different pay plan, resulting from a mutual agreement between  
13 the employee and employer. A reassignment may not be the result of disciplinary action.

14

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

16 *Eff. February 1, 1976;*

17 *Amended Eff. December 1, 1995; March 1, 1994;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
19 *20, ~~2015, 2015;~~*

20 *Amended Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .0608

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

**NOTE WELL: This request 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – replace “is” with “shall mean”*

*Line 6 – delete “to a different classification”*

*Line 6 – define or delete “typically”*

*Line 6 – add a period at the end of this line.*

*Line 7 – begin this line as follows: “Reallocation of a position shall be”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .0608 is amended as published in 31:05 NCR 393 as follows:

2

3 **25 NCAC 01D .0608 REALLOCATION**

4 Reallocation is the ~~assignment of a position to a different classification, documented through data collection and~~  
5 ~~analysis according to customary professional procedure and approved by the State Human Resources Director.~~  
6 reclassification of a position to a different classification that typically warrants a new job title and job description,  
7 documented through data collection and analysis approved by the State Human Resources Director or designee if  
8 there is an approved delegation of authority agreement in accordance with 25 NCAC 01A .0106.

9

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

11 *Eff. January 1, 1990;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*

13 *20, ~~2015-2015;~~*

14 *Amended Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .0901

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

**NOTE WELL: This request 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – replace “is” with “shall mean”*

*Lines 5 and 6 – what do “pay plan” and “market rate” mean – are the terms defined in a rule or statute that could be referenced here?*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

## Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .0901 is amended as published in 31:05 NCR 393 as follows:

2

3 **25 NCAC 01D .0901      DEFINITIONS LATERAL TRANSFER**

4 (a) A lateral transfer is the movement of an employee ~~from one position to another within the present agency or~~  
5 ~~between agencies without a break in service.~~ between positions having the same pay grade within the same pay plan  
6 or movement to a different pay plan with the same market rate, without a break in service as defined in 25 NCAC  
7 01D .0114.

8 ~~(b) A break in service occurs when an employee is in non-pay status for more than 31 calendar days from the last~~  
9 ~~day of work (except when on leave without pay).~~

10 ~~(c) Promotions or demotions may occur simultaneously with transfers.~~

11

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

13 *Eff. February 1, 1976;*

14 *Amended Eff. January 1, 1990; November 1, 1988; December 1, 1985; December 1, 1978;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
16 *20, ~~2015, 2015~~;*

17 *Amended Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .1001

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

**NOTE WELL: This request 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – replace “is” with “shall mean”*

*Line 5 – replace “who reinstate must” with “who are reinstated shall”*

*Line 7 – replace the “is” after “employee” with “shall be”*

*Line 8 – add “that” after “provided” and replace “class” with “classification”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .1001 is amended as published in 31:05 NCR 393 as follows:

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3 **25 NCAC 01D .1001 DEFINITION REINSTATEMENT**

4 Reinstatement ~~is~~ is the return to state employment from an extended leave of absence or after a break in service as  
5 defined in 25 NCAC 01D .0114 from a state agency. Employees who reinstate must meet the minimum  
6 qualifications, or their equivalent, as set forth in the class specification of the position to which they are reinstated. If  
7 reinstatement is from leave without pay as defined in 25 NCAC 01E .1100, the employee is automatically qualified  
8 provided employment is in the same classification or in a lower class in the same field of work.

9 ~~(1) — the reemployment with a permanent, permanent trainee or time limited permanent appointment~~  
10 ~~after a break in service of a former employee with a full time or part time (20 hours or more)~~  
11 ~~permanent, permanent trainee or time limited permanent appointment. The agency head shall~~  
12 ~~determine the appointment type based on the Probationary/Trainee/Permanent Appointment and~~  
13 ~~Career Status Rules. The agency head may, based on qualifications and previous work history,~~  
14 ~~offer reemployment with a probationary appointment; however, if the employee has priority~~  
15 ~~reemployment consideration as a result of reduction in force, the conditions outlined in the rule on~~  
16 ~~Priority Reemployment Consideration (25 NCAC 1D .0510) shall be met; or~~

17 ~~(2) — the reemployment of an employee from leave without pay; or~~

18 ~~(3) — the return to a nonpolicy making position of an employee who transferred to or occupied a~~  
19 ~~position designated as policy making exempt. Reemployment shall be with a permanent~~  
20 ~~appointment.~~

21

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

23 *Eff. February 1, 1976;*

24 *Amended Eff. December 1, 1995; August 1, 1995; March 1, 1992; October 1, 1978;*

25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
26 *20, 2015, 2015;*

27 *Amended Eff. February 1, 2017.*



## Permanent Readoption for Publication in the NCAC

1 25 NCAC 01D .2701 is readopted as published in 31:05 NCR 394 as follows:

2

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

4 In accordance with G.S. 126-8.5, severance salary continuation shall be paid to eligible employees as defined in 25  
5 NCAC 01D .2702 in accordance with the rules in this Section. Severance pay shall be subject to available funding  
6 and approval by the Office of State Budget and Management.

7

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

9 *Eff. October 1, 1985;*

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

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

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

13 *Readopted Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01D .2702

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

**NOTE WELL: This request 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 16 – replace “are not” with “shall not be”*

*Line 18 – delete the comma after “separated” and add a comma after “force” if this is what is meant.*

*Line 20 add a comma after “126-8.5”*

*Lines 25, 27 and 30 – add “set forth” after “requirements”*

*Lines 28-29 – is the phrase “the same as other employees” redundant? If so, delete it.*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

## Permanent Amendment for Publication in the NCAC

1 25 NCAC 01D .2702 is amended as published in 31:05 NCR 394 as follows:

2

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

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

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

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

9 ~~(3) trainee employees who obtained career status with no "break in service," as defined in Rule .0114~~  
10 ~~of this Subchapter, prior to entering a trainee appointment;~~

11 ~~(4)~~(2) time-limited employees with 36 or more months of continuous State service; and

12 ~~(5)~~(3) employees in exempt policymaking or exempt managerial positions as defined in G.S. 126-5(b)  
13 are eligible for severance salary continuation if the position is abolished as result of a reduction in  
14 force.

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

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

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

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

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

31

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

33 *Eff. February 1, ~~2016-2016~~;*

34 *Amended Eff. February 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: State Human Resources Commission

RULE CITATION: 25 NCAC 01O .0108

**DEADLINE FOR RECEIPT: Wednesday, January 11, 2017**

**NOTE WELL: This request 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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 4 – Add “The” before “Rules”.*

*Line 5 – add a comma after “time-limited”*

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

Jason Thomas  
Commission Counsel  
Date submitted to agency: December 22, 2016

# Permanent Amendment for Publication in the NCAC

1 25 NCAC 01O .0108 is amended as published in 31:05 NCR 394 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, time-limited and permanent employees; and

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

8 ~~(3) employees in trainee classifications.~~

9 (b) Rules in this Subchapter shall not apply to temporary employees.

10

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

12 *Eff. April 1, ~~2016~~ 2016;*

13 *Amended Eff. February 1, 2017.*