

1 20 NCAC 02A .0101 is amended as published in 36:23 NCR, page 1836, with changes as follows:

2
3 **CHAPTER 02 – RETIREMENT SYSTEMS**
4 **SUBCHAPTER 02A - DIVISIONAL RULES**

5
6 **SECTION .0100 - ORGANIZATIONAL RULES**

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8 **20 NCAC 02A .0101 ORGANIZATION: AUTHORITY**

9 The ~~retirement systems division~~ Retirement Systems Division of the Department of State Treasurer provides the
10 staffing for the administration of the following agencies where either the Board of Trustees of the Teachers' and State
11 Employees' Retirement System or the Board of Trustees of the Local Governmental Employees' Retirement System
12 is a rulemaking body. The agencies and the statutory authority of each are:

- 13 (1) Teachers' and State Employees' Retirement System of North Carolina -- G.S. 135, Article 1;
14 (2) North Carolina Local Governmental Employees' Retirement System -- G.S. 128, Article 3;
15 ~~(3) Public Employees' Social Security Agency -- G.S. 135, Article 2; G.S. 143A, Article 4;~~
16 ~~(4)(3)~~ Legislative Retirement System of North Carolina -- G.S. 120-4, G.S. 120, Article 1A;
17 ~~(5)(4)~~ Consolidated Judicial Retirement System of N.C. North Carolina -- G.S. 135, Article 4;
18 ~~(6) Supplemental Retirement Income Plan of North Carolina -- G.S. 135, Article 5;~~
19 ~~(7)(5)~~ Disability Income Plan of North Carolina -- G.S. 135, Article 6;
20 ~~(8)(6)~~ Firemen's Firefighters' and Rescue Squad Workers' Pension Fund -- G.S. 58, Article 86;
21 ~~(9)(7)~~ Register of Deeds' Supplemental Pension Fund -- G.S. 161, Article 3, Article 3; and
22 ~~(10)(8)~~ National Guard Pension Fund -- G.S. 127A, Article 3.

23
24 *History Note:* Authority G.S. 58-86-10; 120-4.9; 127A-40(f); G.S. 128-28(g); 135-6(f); 135-52; 135-102; 161-
25 50.1(b);
26 *Eff. February 1, 1976;*
27 *Readopted Eff. September 21, 1977;*
28 *Amended Eff. October 1, 1993; August 1, 1988; April 1, 1985; October 1, 1983;*
29 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*
30 *2018-2018;*
31 *Amended Eff.*
32

1 20 NCAC 02A .0102 is ~~repealed through readoption~~ amended as published in 36:23 NCR, page 1836 as follows:
2 follows; the Rule was originally proposed to be amended, but is repealed:

3
4 **20 NCAC 02A .0102 EXERCISE OF AUTHORITY**

5 All of the above named agencies, with the exception of the N.C. Public Employees' Social Security Agency, exercise
6 their prescribed statutory powers independently of the State Treasurer. However, those functions such as planning,
7 organizing, staffing, directing, coordinating, reporting ~~[reporting,]~~ and budgeting are performed under the direction
8 and supervision of the State Treasurer. In the case of the N.C. Public Employees' Social Security Agency, all its
9 prescribed statutory authority, powers, ~~[duties,]~~ duties and functions, including rule making, are vested in the State
10 Treasurer.

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12 *History Note: Authority G.S. 135-6(f); 128-28(g);*
13 *Eff. February 1, 1976;*
14 *Readopted Eff. September 21, 1977;*
15 *Amended Eff. October 29, 1979;*
16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*
17 *20182018;*
18 ~~*[Amended]*~~ *Repealed Eff.*

1 20 NCAC 02A .0103 is readopted with changes as published in 36:23 NCR, page 1837, with changes as follows:

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3 **20 NCAC 02A .0103 DELEGATION OF AUTHORITY TO DIRECTOR**

4 Whenever the statutes under Article 58 of G.S. 86, Article 1A of G.S. 120, Article 3 of G.S. 127A, Article 3 of G.S.
5 128, Articles 1, 4, or 6 of G.S. 135, or Article 3 of G.S. 161 specify that the ~~board~~Board of ~~trustees~~Trustees ~~itself~~ will
6 make specific findings in specific matters relating to specific persons, the ~~director~~Director of the Retirement Systems
7 Division may make the decisions administratively in accordance with law and the rules, ~~regulations~~regulations, and
8 previous decisions of this ~~board~~Board. Appeals may be made from the decision of the ~~director~~Director under the
9 same procedures used for contested ~~cases~~cases as provided under Section .0400 of Title 20, Chapter 02.

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11 *History Note: Authority G.S. 128-28(g); 128-28(h); 135-6(f); 135-6(g); 150B-22;*

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Eff. September 21, 1977;

13

Amended Eff. October 29, ~~1979~~1979;

14

Readopted Eff.

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1 20 NCAC 02A .0104 is readopted with changes, as published in 36:23 NCR, page 1837, with changes as follows:

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4 **20 NCAC 02A .0104 EXERCISE OF EMPLOYER OPTIONS**

5 ~~No election of~~ When an employer elects to participate in an optional element of a retirement ~~system~~system, the election
6 shall not be considered effective by the ~~retirement system~~Retirement System unless the employer provides the
7 Retirement Systems Division with a duly certified copy of the minutes of the governing board of the employer is
8 received and the terms under which the option is elected do not discriminate in favor of the more highly compensated
9 employees. The terms “discriminate” and “highly compensated employee” have the same meanings as under 26 CFR
10 of the Internal Revenue Code. The Internal Revenue Code Title 26 CFR is hereby incorporated by reference, including
11 subsequent amendments and editions, and is available online, at no cost, at [https://www.ecfr.gov/current/title-](https://www.ecfr.gov/current/title-26/chapter-I/subchapter-A/part-1?toc=1)
12 26/chapter-I/subchapter-A/part-1?toc=1.

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14 *History Note: Authority G.S. 128-28(g); 135-6(f);*
15 *Eff. November 9, ~~1979~~, 1979;*
16 *Readopted Eff.*

17

1 20 NCAC 02A .0201 is amended as published in 36:23 NCR, page 1837 as follows:

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SECTION .0200 - RULE-MAKING PROCEDURES

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20 NCAC 02A .0201 ESTABLISHMENT OF PROCEDURAL RIGHTS

6 The rules in 20 NCAC 01F .0100 establish rule-making procedures for the Retirement Systems Division of the

7 Department of State Treasurer. ~~All correspondence with the Retirement Systems Division shall be addressed to:~~

8 ~~Director of the Retirement Systems~~

9 ~~Longleaf Building~~

10 ~~3200 Atlantic Avenue~~

11 ~~Raleigh, North Carolina 27604.~~

12

13 *History Note: Authority G.S. 128-28(g); 135-6(f);*

14 *Eff. February 1, 1976;*

15 *Readopted Eff. September 21, 1977;*

16 *Amended Eff. October 1, 1993; October 29, 1979;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*
18 *2018;*

19 *Amended Eff. September 1, ~~2019-2019~~;*

20 *Amended Eff.*

21

1 20 NCAC 02A .0202 is ~~repealed through readoption~~ amended as published in 36:23 NCR, page 1837 as follows:
2 follows; the Rule was originally proposed to be amended, but is repealed:

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4 **20 NCAC 02A .0202 DEFINITIONS**

5 The following definitions apply to rule making in 20 NCAC 1F .0100:

6 (1) ~~The "Division" is the Retirement Systems Division and includes the agencies enumerated in 20~~
7 ~~NCAC 2A .0101.~~

8 (2) ~~The "Chief Officer" ["Director"] is the Director of the Retirement Systems.~~ ~~Systems Division.~~

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10 *History Note: Authority G.S. 135-6(f); 128-28(g);*
11 *Eff. February 1, 1976;*
12 *Readopted Eff. September 21, 1977;*
13 *Amended Eff. October 1, 1993; October 29, 1979;*
14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*
15 *~~2018-2018;~~*
16 *~~[Amended] Repealed Eff.~~*

17

1 20 NCAC 02A .0301 is readopted as published in 36:23, page 1837, follows:
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3 **SECTION .0300 - DECLARATORY RULINGS**

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6 **20 NCAC 02A .0301 ESTABLISHMENT OF PROCEDURAL RIGHTS**

7 The rules in 20 NCAC 1F .0200 establish declaratory ruling procedures for the Retirement Systems Division of the
8 Department of State Treasurer, with the following exception. All requests for declaratory rulings from the Retirement
9 Systems Division shall be in writing and mailed to the attention of the Director at the following address:

10 Director of the Retirement Systems Division
11 Department of State Treasurer
12 3200 Atlantic Avenue
13 Raleigh, North Carolina 27604.

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15 *History Note: Authority G.S. 135-6(f); 128-28(g);*
16 *Eff. February 1, 1976;*
17 *Readopted Eff. September 21, 1977;*
18 *Amended Eff. October 1, ~~1993-1993~~;*
19 *Readopted Eff.*
20

1 20 NCAC 02A .0302 is ~~repealed through readoption~~ amended as published in 36:23, page 1837 as follows: follows;
2 the Rule was originally proposed to be amended, but is repealed:

3

4 **20 NCAC 02A .0302 DEFINITIONS**

5 The following definitions apply to declaratory rulings in 20 NCAC 1F .0200:

6 (1) — The "Division" is the Retirement Systems Division;

7 (2) — The "Chief Officer" [~~Director~~] is the Director of the Retirement Systems. [~~Systems Division.~~]

8

9 *History Note: Authority G.S. 135-6(f); 128-28(g);*

10 *Eff. February 1, 1976;*

11 *Readopted Eff. September 21, 1977;*

12 *Amended Eff. October 1, 1993;*

13 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 21,*
14 *~~2018-2018;~~*

15 *~~Amended~~ Repealed Eff.*

16

1 20 NCAC 02A .0303 is repealed through readoption as published in 36:23 NCR, page 1837 as follows:

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3 **20 NCAC 02A .0303 RECONSIDERATION OF DECLARATORY RULINGS**

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5 *History Note: Authority G.S. 135-6(f); 128-28(g);*

6 *Eff. October 29, ~~1979~~1979;*

7 Repealed Eff.

8

20 NCAC 02A .0401 is readopted as published in 36:23 NCR page 1837, with changes, as follows:

SECTION .0400 - CONTESTED CASE PROCEDURES

20 NCAC 02A .0401 ESTABLISHMENT OF PROCEDURAL RIGHTS

(a) Article 3 of G.S. 150B establishes The rules in 20 NCAC 1F .0300 establish contested case procedures for the Retirement Systems Division of the Department of State Treasurer, with following amendments: All correspondence with the Retirement Systems Division shall be addressed to:

Director of the Retirement Systems Division

Department of State Treasurer

3200 Atlantic Avenue

Raleigh, North Carolina 27604.

~~(1)~~(b) Informal resolution of the problem a dispute as described in G.S. 150B-22(a) begins when a person calls, writes, or visits the ~~state retirement~~Retirement systemSystems Division’s Member Services sectionoffice and describes the problem dispute to a ~~counselor/field~~representative;

~~(2)~~(c) If the problem dispute is not resolved during this initial contact, the person may request [an administrative] a review of the Division’s decision or [action,] action in writing to the Director of the Retirement Systems Division at the address in Paragraph (a) of this Rule; ~~will be referred to the administrator of the appropriate section;~~

(3) — If the problem is not resolved at this level, the person may discuss it with the Assistant Director of the Retirement Systems;

~~(4)~~~~(3)~~(d) The If the aggrieved person is dissatisfied at this point, he may discuss his difficulty with the Director of the Retirement Systems, Systems Division, or the Director’s designee, [will] shall issue an agency decision [a Final Agency Decision] in writing, which [will]shall document the dispute for any contested case under G.S. 150B-22(b) and serve as the “agency decision” for purposes of G.S. 150B-23(f).

*History Note: Authority G.S. 128-28(g); 135-6(f); 150B-22; 150B-23;
Eff. February 1, 1976;
Readopted Eff. September 21, 1977;
Amended Eff. October 1, 1993-1993;
Readopted Eff.*

20 NCAC 02A .0503 is amended as published 36:23 NCR, page 1838, with changes, as follows:

20 NCAC 02A .0503 DUAL MEMBERSHIP - COMPUTATION OF SERVICE AND BENEFITS

(a) This Rule applies to any individual case in which the member had one or more periods of dual membership in those rare cases which are permitted by law. "Dual membership" ~~Dual membership~~ means membership in ~~two systems,~~ both the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System, at the same time, by virtue of the same position.

(b) Eligibility shall be established for the death benefit, survivor's alternate benefit, service, early or disability ~~retirement~~retirement, or other benefits which are based on creditable or membership service for both systems whenever eligibility is established in either one of the systems.

(c) A statute permitting transfer of membership and prior service shall apply only after the period of dual membership, when a person becomes a member employed fully under ~~of a retirement~~Retirement system~~System~~ to which the membership and prior service may be transferred from one or the other of the systems in which the member had dual membership. This shall apply only where the member is paid under only one retirement [Retirement] system [System] for services rendered subsequent to the last day of service in a position in which the member had dual membership.

(d) ~~Death benefit~~benefits for active members shall be ~~limited to twenty thousand dollars (\$20,000) and shall be~~ allocated pro rata between systems based on the total compensation paid during the eligibility period when the member was eligible for dual membership.

(e) Other benefits shall be calculated ~~by:~~ as follows:

(1) Compute "Average Final Compensation" on the basis of compensation on which the member would have contributed had ~~the [member] he~~ the member's service not been divided between two retirement systems as a result of earning "split" service as an employee with dual membership.

(2) Compute creditable service as follows:

(A) the number of months of creditable service the member earned or acquired which were based on compensation for service in only one of the systems; plus

(B) the total of the fractional months earned by the member in each of the systems during periods of dual membership; membership, where ~~(C)~~ the fractional months month earned during periods each month of dual membership is equal to the same fraction of a month ~~that~~ the compensation reported to the system divided by ~~bears to~~ the total compensation reported to all systems.

(C) The fractional months are to be computed as follows. First, identify the total compensation earned by the member in each of the systems during periods of dual membership, as determined in [Subparagraph] Part (e)(2)(B) of this Rule. Second, add together the total compensation earned by the member in each of the systems during periods of dual membership, as determined in [Subparagraph] Part (e)(2)(B) of this Rule, to produce a Grand Total. Third, divide the total compensation earned by the member in each of the systems during periods of dual membership, as determined in [Subparagraph] Part

1 (e)(2)(B) of this Rule, by the Grand Total, as determined in the previous sentence, to
2 produce a factor, carried to the fourth decimal place, known as the Modification Factor, for
3 each system. Fourth, multiply the total of the fractional months, as determined in
4 [Subparagraph] Part (e)(2)(B) of this Rule, by the Modification Factor for each system, as
5 determined in the previous sentence, to determine the actual creditable service allowed for
6 each system during periods of dual membership.

7 (3) Compute the annual allowance for a member by multiplying the average final compensation times
8 the creditable service as computed in Subparagraphs (1) and (2) of this Paragraph.

9 (4) Allocate the benefits to be paid from each system pro rata on share of creditable service in each
10 system as computed in ~~(d)(2)~~Subparagraph (e)(2) of this Rule.

11 (f) This Rule shall apply to any individual case in which a member with dual membership commenced retirement
12 with one ~~retirement~~Retirement systemSystem prior to the original effective date of this Rule Rule, December 1, 1981,
13 and continued in service under the other ~~retirement~~Retirement systemSystem. In such cases, the retirement allowance
14 of the member from the system with which ~~he~~the member first retired shall be recomputed in accordance with this
15 Rule and paid retroactively to the original effective date of this Rule.

16
17 *History Note: Authority G.S. 128-28(g); 128-34(b); 135-6(f); 135-18.1(a);*
18 *Eff. December 1, 1981;*
19 *Amended Eff. March 1, 1985-1985;*
20 *Amended Eff.*
21

1 20 NCAC 02A .0504 is readopted with changes as published in 36:23 NCR page 1838, with changes, as follows:

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3 **20 NCAC 02A .0504 DIRECT DEPOSIT OF MONTHLY BENEFIT PAYMENTS**

4 (a) This Rule applies to any individual case in which a beneficiary's monthly benefit was paid via electronic funds
5 transfer (EFT) or direct deposit, when such the EFT was suspended by the Division in error. This Rule does not apply
6 to any individual case involving a delay by this Division to initiate an EFT or a change in an existing EFT arrangement
7 requested by a beneficiary.

8 (b) The Division may shall reimburse non-sufficient fund charges incurred by a beneficiary due to the suspension in
9 error of an existing EFT arrangement when the beneficiary was not properly notified of the suspension of such the
10 arrangement and upon receipt of satisfactory proof that such the charges were incurred.

11 (c) Any other bad check service charges or fees imposed by any financial institution or merchant may be reimbursed
12 at the discretion of the Division Director upon receipt of satisfactory proof that such the charges were incurred.

13 (d) Any such reimbursement of non-sufficient fund NSF or bad check service charges shall be paid from the Pension
14 Accumulation Fund of the Retirement System in which the beneficiary is in receipt of a benefit.

15
16 *History Note:* Authority G.S. 58-86-10; 120-4.9; 127A-40(f); 128-28(g); 135-6(f); 135-52; 135-102(c); 161-

17 50.1(b);

18 Eff. March 1, 1992-1992;

19 Amended Eff.

20

1 20 NCAC 02A .0505 is adopted as published in 36:23 NCR, page 1838, with changes as follows:

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3 **20 NCAC 02A .0505 ADMINISTRATIVE FEES FOR SERVICE PURCHASES**

4 (a) This Rule applies to the purchase of creditable service whenever a statutory provision prescribes that the
5 calculation of the amount payable shall include an administrative fee to be set by the Board. ~~An applicant~~
6 ~~shall be eligible to purchase creditable service under any such provision only after having met all~~
7 ~~requirements of eligibility for purchase as defined by law and by rules duly adopted.~~

8 (b) An administrative fee in the amount of twenty-five dollars (\$25.00) for each payment shall be
9 ~~assessed~~assessed, as provided by law, against members at the time of purchase. ~~purchase as provided by law.~~

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11 *History Note:* Authority G.S. 58-86-45; 120-4.15; 120-4.16; 128-26; 128-28(g); 135-4; 135-6(f); 135-56; 128-

12 28(g);

13 Eff.

14