

Burgos, Alexander N

Subject: FW: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910

From: Mazza, Denise H <denise.mazza@nc.gov>

Sent: Monday, July 15, 2024 3:21 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Cc: Thomas, Blake <Blake.Thomas@nc.gov>

Subject: RE: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910

Will do. Thanks!

Denise H. Mazza

Paralegal

Desk: 984-236-0823

denise.mazza@nc.gov



North Carolina Office of State Human Resources

116 West Jones Street, Raleigh, NC 27603

1331 Mail Service Center, Raleigh, NC 27699-1331

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From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Monday, July 15, 2024 2:53 PM

To: Mazza, Denise H <denise.mazza@nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Cc: Thomas, Blake <Blake.Thomas@nc.gov>

Subject: Re: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910

With that update, I anticipate recommending approval of the final revised rules, which are those three updated rules and the remainder as originally submitted. I'll let you know if anything else comes up before the meeting.

Let me know if you have any questions.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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Burgos, Alexander N

Subject: FW: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910
Attachments: 25 NCAC 01E .1903 Eligibility For Paid Parental Leave retyped (002).docx

From: Mazza, Denise H <denise.mazza@nc.gov>

Sent: Monday, July 15, 2024 2:27 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Cc: Thomas, Blake <Blake.Thomas@nc.gov>

Subject: RE: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910

Thank you for that catch. Attached is corrected proposed Rule 25 NCAC 01E .1903 per your instructions.

Denise

Denise H. Mazza

Paralegal

Desk: 984-236-0823

denise.mazza@nc.gov



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Permanent Adoption for Publication in the NCAC

1 25 NCAC 01E .1903 is adopted with changes as published in 38:18 NCR 1205-1208 as follows:

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25 NCAC 01E .1903 ELIGIBILITY FOR PAID PARENTAL LEAVE

(a) This Section applies to all agency employees subject to G.S. 126-8.6, whether or not those employees are exempt from other sections of the State Human Resources Act.

(b) Employees may receive paid parental leave under this Section only if they are in a permanent, time-limited, or probationary appointment. Temporary employees are not eligible for paid parental leave under this Section.

(c) An agency shall allow an employee to take paid parental leave under this Section only if, at the time of the qualifying event, the employee meets each of the following conditions.

(1) For the immediate 12 preceding months, the employee has been employed without a break in service as defined by 25 NCAC 01D .0114 in a permanent, time-limited, or probationary appointment, aggregating employment at any of these employers; by:

- (A) the State of North Carolina agencies, departments, and institutions, including without limitation the University of North Carolina;
- (B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or
- (C) community college institutions of the State of North Carolina. Carolina, aggregating employment at any of these employers.

(2) The employee has been in pay status with; for at least 1,040 hours during the previous 12-month period, aggregating employment at any of these employers:

- (A) the State of North Carolina agencies, departments, and institutions, including without limitation the University of North Carolina;
- (B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or
- (C) community college institutions of the State of North Carolina. Carolina, for at least 1,040 hours, aggregating employment at any of these employers, during the previous 12 month period.

(d) This Section applies to requests for paid parental leave related to qualifying events occurring on or after July 1, 2023.

History Note: Authority G.S. 126-8.6;
Temporary Adoption Eff. August 25, 2023;
Temporary Adoption Eff. December 22, 2023;
Permanent Adoption _____, 20__.

Burgos, Alexander N

Subject: FW: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Monday, July 15, 2024 10:47 AM

To: Mazza, Denise H <denise.mazza@nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Cc: Thomas, Blake <Blake.Thomas@nc.gov>

Subject: Re: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910

Denise,

I noticed one small issue in the revised rules. In 25 NCAC 01E .1903, on line 12 I think the change made "by" grammatically unnecessary.

If so, line 12 should be "aggregating employment at any of these employers: by:".

If you agree, please update and resend that rule.

Thanks,

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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Burgos, Alexander N

Subject: FW: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Thursday, July 11, 2024 6:10 PM

To: Mazza, Denise H <denise.mazza@nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Cc: Thomas, Blake <Blake.Thomas@nc.gov>

Subject: Re: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910

Thank you for your timely response. I will look this over and get back to you with any questions next week.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910

Attachments: 07.10.2024 - HRC RFC July 2024 - OSHR responses.pdf; 25 NCAC 01E .1903 Eligibility For Paid Parental Leave retyped.docx; 25 NCAC 01E .1909 Leave Administration For Adoptions Or Foster Care Placements retyped.docx; 25 NCAC 01E .1910 Miscarrage Or Stillbirth retyped.docx

From: Mazza, Denise H <denise.mazza@nc.gov>

Sent: Thursday, July 11, 2024 5:17 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Cc: Thomas, Blake <Blake.Thomas@nc.gov>

Subject: RE: Human Resources Commission RFC - 25 NCAC 01E .1901-.1910; Responses to Request for Changed and retyped .1903, .1909 and .1910

Seth,

Attached are the SHRC's responses to the request for changes and the associated retyped Rules .1903, .1909 and .1910 to be considered for the July 31, 2024 RRC meeting.

We look forward to hearing back from you.

Sincerely,

Denise H. Mazza

Paralegal

Desk: 984-236-0823

denise.mazza@nc.gov



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**Request for Changes Pursuant to
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency’s statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: “~~a~~Association”
 - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
 - Wrong: “day;; and”
 - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:
<https://www.oah.nc.gov/rule-format-examples>

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Human Resources Commission

RULE CITATION: 25 NCAC 01E .1903

DEADLINE FOR RECEIPT: July 12, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

I believe that you mean the clause starting on line 12: “for at least 1,040 hours . . . 12-month period” to apply to all of (2) and not just (2)(C). If so, delete that clause and move to line 17, i.e., on line 17, “The employee has been in pay status ~~with:~~ for at least 1,040 hours during the previous 12-month period, aggregating employment at any of these employers:

Agency Response:

Thank you for this suggestion. We have made this change to line 17. To avoid duplicating this language, we also removed it from (2)(C) in the retyped rule.

As you noted, your point also applies to the phrase “aggregating employment at any of these employers” in (1)(C). Picking up on your suggestion, we have moved that phrase to line 12 so that it applies to all of (1).

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

Seth Ascher
Commission Counsel

Date submitted to agency: June 27, 2024

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Human Resources Commission

RULE CITATION: 25 NCAC 01E .1909

DEADLINE FOR RECEIPT: July 12, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*On line 11, the phrase “are encouraged to be flexible” sets a vague standard that is likely to lead to objection. The easiest fix would be to replace with “can”, i.e. “agencies **can** ~~are encouraged to be flexible and~~ allow”. You could also set an explicit standard with language like “agencies should allow . . . when . . .”.*

Agency Response:

Thank you for this suggestion. We have made this change to (b), using the term “can.”

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Human Resources Commission

RULE CITATION: 25 NCAC 01E .1910

DEADLINE FOR RECEIPT: July 12, 2024

PLEASE NOTE: This request may extend to 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 email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*On line 15, the phrase “are encouraged to be flexible” sets a vague standard that is likely to lead to objection. The easiest fix would be to replace with “can”, i.e. “agencies **can** ~~are encouraged to be flexible and~~ allow”. You could also set an explicit standard with language like “agencies should allow . . . when . . .”.*

Agency Response:

Thank you for this suggestion. We have made this change to (b), using the term “can.”

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

Permanent Adoption for Publication in the NCAC

1 25 NCAC 01E .1903 is adopted with changes as published in 38:18 NCR 1205-1208 as follows:

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25 NCAC 01E .1903 ELIGIBILITY FOR PAID PARENTAL LEAVE

(a) This Section applies to all agency employees subject to G.S. 126-8.6, whether or not those employees are exempt from other sections of the State Human Resources Act.

(b) Employees may receive paid parental leave under this Section only if they are in a permanent, time-limited, or probationary appointment. Temporary employees are not eligible for paid parental leave under this Section.

(c) An agency shall allow an employee to take paid parental leave under this Section only if, at the time of the qualifying event, the employee meets each of the following conditions.

(1) For the immediate 12 preceding months, the employee has been employed without a break in service as defined by 25 NCAC 01D .0114 in a permanent, time-limited, or probationary appointment, aggregating employment at any of these employers, by:

- (A) the State of North Carolina agencies, departments, and institutions, including without limitation the University of North Carolina;
- (B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or
- (C) community college institutions of the State of North Carolina, aggregating employment at any of these employers.

(2) The employee has been in pay status with: for at least 1,040 hours during the previous 12-month period, aggregating employment at any of these employers:

- (A) the State of North Carolina agencies, departments, and institutions, including without limitation the University of North Carolina;
- (B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or
- (C) community college institutions of the State of North Carolina, for at least 1,040 hours, aggregating employment at any of these employers, during the previous 12 month period.

(d) This Section applies to requests for paid parental leave related to qualifying events occurring on or after July 1, 2023.

*History Note: Authority G.S. 126-8.6;
Temporary Adoption Eff. August 25, 2023;
Temporary Adoption Eff. December 22, 2023;
Permanent Adoption _____, 20__.*

Permanent Adoption for Publication in the NCAC

1 25 NCAC 01E .1909 is adopted **with changes** as published in 38:18 NCR 1205-1208 as follows:

2

3 **25 NCAC 01E .1909 LEAVE ADMINISTRATION FOR ADOPTIONS OR FOSTER CARE**
4 **PLACEMENTS**

5 (a) When a child is given up for adoption or placed in foster care, from that point forward:

6 (1) The birth parent shall continue to be eligible for the paid parental leave listed in Rule .1904(a)(1)(A)
7 of this Section for physical and mental recuperation; and

8 (2) Each parent shall not be eligible for further use of the paid parental leave listed in Rule
9 .1904(a)(1)(B) of this Section for bonding with the child.

10 (b) When a prospective adoptive parent or foster parent expects an adoption or placement, but it does not occur, it
11 does not produce paid parental leave under this Section. However, agencies **can be encouraged to be flexible and**
12 allow adequate time for bereavement to the persons who would have become parents, using sick leave, vacation leave,
13 bonus leave, compensatory time, and any other leave options that may be available to the employee.

14

15 *History Note: Authority G.S. 126-8.6;*

16 *Permanent Adoption _____, 2024.*

Permanent Adoption for Publication in the NCAC

1 25 NCAC 01E .1910 is adopted **with changes** as published in 38:18 NCR 1205-1208 as follows:
2

3 **25 NCAC 01E .1910 MISCARRIAGE OR STILLBIRTH**

4 (a) When a fetus dies before 12 weeks of the pregnancy were complete, it is not a qualifying event for paid parental
5 leave under this Section.

6 (b) When a fetus dies after the 12th completed week of pregnancy, but before childbirth is complete:

7 (1) If the birth parent meets the eligibility requirements in Rule .1903 of this Section, the birth parent
8 may receive the paid parental leave listed in Rule .1904(a)(1)(A) of this Section. This leave is four
9 weeks for a full-time eligible state employee.

10 (2) The parents shall not receive the paid parental leave for bonding with the child that is listed in Rule
11 .1904(a)(1)(B) and Rule .1904(a)(2) of this Section.

12 (c) When a child dies after childbirth is complete, each parent of the child who meets the eligibility requirements in
13 Rule .1903 of this Section shall receive the full paid parental leave listed in Rule .1904(a)(1) and (a)(2). The paid
14 parental leave will not be ended at the time of the child's death.

15 (d) In any of the situations above, agencies ~~can be encouraged to be flexible and~~ allow adequate time to the parents
16 for bereavement and recovery, using sick leave, vacation leave, bonus leave, compensatory time, and any other leave
17 options that may be available to the employee.
18

19 *History Note: Authority G.S. 126-8.6;*
20 *Permanent Adoption _____, 2024.*

Burgos, Alexander N

From: Mazza, Denise H
Sent: Thursday, June 27, 2024 11:54 AM
To: Ascher, Seth M
Cc: Burgos, Alexander N; Thomas, Blake
Subject: RE: Human Resources Commission RFC

Got it. Have noted the response deadline as July 12, 2024 and your availability. I will check on whether there are other representatives from our agency who may want to attend and be back in touch if needed.

Thank you!

Denise

Denise H. Mazza
Paralegal
Desk: 984-236-0823
denise.mazza@nc.gov



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From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Thursday, June 27, 2024 11:46 AM
To: Thomas, Blake <Blake.Thomas@nc.gov>; Mazza, Denise H <denise.mazza@nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Human Resources Commission RFC

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Human Resources Commission for the July 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, July 31, 2024, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised Rules and forms to me via email, no later than 5 p.m. on July 12, 2024.

Please let me know if you have any questions or concerns. Note I will be out of town through July 4th, and will likely not be able to respond until July 5th.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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