

## Burgos, Alexander N

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**Subject:** FW: [External] RE: Teachers & State Employees Retirement System Proposed Rules

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**From:** Elizabeth Hawley <Elizabeth.Hawley@nctreasurer.com>  
**Sent:** Wednesday, June 12, 2024 12:00 PM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Melton, Timothy M <Timothy.Melton@nctreasurer.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: Teachers & State Employees Retirement System Proposed Rules

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No need to apologize, we are both learning! Thank you for the confirmation, I will make sure the revised rules get submitted this week. I look forward to working with you on future rules!

Thank you,

**Elizabeth Hawley**  
*Policy & Compliance Officer*  
Office of the State Treasurer  
Office: (919) 814-3812

3200 Atlantic Avenue, Raleigh, NC 27604  
[www.NCTreasurer.com](http://www.NCTreasurer.com)



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NORTH CAROLINA  
DEPARTMENT OF STATE TREASURER



*Dale R. Folwell, CPA*  
STATE TREASURER OF NORTH CAROLINA  
DALE R. FOLWELL, CPA

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## Burgos, Alexander N

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**Subject:** FW: [External] RE: Teachers & State Employees Retirement System Proposed Rules  
**Attachments:** 20 NCAC 02O .0106 (WITH 2ND REQUESTED CHANGES)6.7.2024.docx; 20 NCAC 02B .0215 (WITH 2ND REQUESTED CHANGES)6.7.2024.docx; 20 NCAC 02O .0104 (WITH 2ND REQUESTED CHANGES)6.7.2024.docx; 20 NCAC 02C .0212 (WITH 2ND REQUESTED CHANGES)6.7.2024.docx; 6.11.2024 DST RSD Response to Changes.docx; RE: [External] RE: Teachers & State Employees Retirement System Proposed Rules

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**From:** Elizabeth Hawley <Elizabeth.Hawley@nctreasurer.com>  
**Sent:** Wednesday, June 12, 2024 10:21 AM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Melton, Timothy M <Timothy.Melton@nctreasurer.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: Teachers & State Employees Retirement System Proposed Rules

You don't often get email from [elizabeth.hawley@nctreasurer.com](mailto:elizabeth.hawley@nctreasurer.com). [Learn why this is important](#)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning Mr. Wiggs,

I am having some phone issues so I apologize for not calling to simplify this, but could you please clarify the current request for the 2<sup>nd</sup> Request for Changes not being reflected in the revised Rules? I noticed that the email below was in reply to us providing the first round of requested changes and not the second, so I have attached our response to the second request for changes, updated revised Rules, and the email sent yesterday providing these exact documents that are attached, to this email.

I am new to this process so please do not hesitate to correct anything done incorrectly but in discussion with our old Rule Making Coordinator, Laura Rowe, we believe the revisions were done correctly.

Thank you!

**Elizabeth Hawley**  
*Policy & Compliance Officer*  
Office of the State Treasurer  
Office: (919) 814-3812

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DEPARTMENT OF STATE TREASURER



*Dale R. Folwell, CPA*  
STATE TREASURER OF NORTH CAROLINA  
DALE R. FOLWELL, CPA

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## **20 NCAC 02O .0104**

1. Why does line 6 refer generally to “Medical Board” rather than the RSD Medical Board? Our State has a North Carolina Medical Board, and the lack of specificity may be confusing to the regulated public.
  - a. Thank you, we understand the potential confusion. G.S. 135-6(k) describes RSD’s Medical Board as simply the “Medical Board.” However, for clarity, we have edited the Rule in both (a) and (b)(6) to refer to the “Medical Board described in G.S. 135-6(k)”.
2. Line 6, can you explain how the language “make a determination of eligibility” (S.L. 2023-105) authorizes the RSD Medical Board to have the exclusive ability to “deny short-term and extended short-term disability benefits”? Your agency’s explanation in paragraph 5 uses the word “denied” as synonymous with “ineligible”. Are these words defined in the General Statutes, the NCAC, or your internal policies? Inconsistent word usage is confusing and unclear to the regulated public.
  - a. For clarity, we have edited the Rule in (a). It previously stated, “Only the Medical Board shall have the authority to deny short-term and extended short-term disability benefits.” As edited, it states, “Only the Medical Board described in G.S. 135-6(k) shall have the authority to determine under G.S. 135-105(f) that an applicant is ineligible for benefits, or to determine under G.S. 135-105(g) that the beneficiary’s disability is not temporary and likely to end within the extended period of short-term disability benefits.”
3. Line 15, can provide at least one example of a scenario when the Director “may designate additional positions to have the authority to approve...”?
  - a. One example would be if positions within the Retirement Systems Division were reorganized so that positions with the enumerated working titles no longer existed.
4. Why would G.S. 135-6(f) and (g) not be cited in the History Note as “Authority”?
  - a. We believe that G.S. 135-6(f) is cited in the June 3, 2024 version. We do not understand why G.S. 135-6(g) would provide authority for this Rule.

## **20 NCAC 02O .0106**

1. Line 25, please insert your explanation in the Rule for clarity.
  - a. Where previously the Rule stated that the member “understands that the medical information is to be furnished at no cost”, it has been edited to state that the member “understands that the member, or the member’s physician on the member’s behalf, is to furnish the medical information to the Retirement Systems Division at no cost”.

## **20 NCAC 02B .0215**

1. Line 6, please insert language that makes it clear the “Board of Trustees” determines whether an overpayment was “entirely due to administrative error on the part of RSD”.
  - a. The Rule has been edited in (a) to add the introductory words “The Board of Trustees determines that” before the words “[t]he following causes of overpayments....” For the sake of consistency, this same edit has been made in Rule 20 NCAC 02C .0212.

20 NCAC 02B .0215 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, page 729, as follows:

**20 NCAC 02B .0215           TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM  
OVERPAYMENT SAFE HARBOR**

(a) ~~The Board of Trustees determines that the~~The following causes of overpayments are not entirely due to administrative error on the part of the Retirement Systems Division:

- (1) The beneficiary received, but did not repay to the Retirement System or the Disability Income Plan of North Carolina, a benefit from the Social Security Administration, the U.S. Department of Veterans Affairs, other federal agency payments, Workers' Compensation, or the State's military disability program under G.S. 127A-108, where such benefits are required by law to be offset from benefits paid by the Retirement System or the Disability Income Plan of North Carolina, or where repayment of such benefits was agreed upon as a condition of approval for benefits from the Retirement System or the Disability Income Plan of North Carolina.
- (2) The beneficiary, the beneficiary's employer, or the beneficiary's authorized agent submitted any information on an official form to the Retirement Systems Division, either on paper or electronically, that differed from the information ultimately used to determine the eligibility for, or amount of, benefits due.
- (3) The Retirement Systems Division requested information necessary to initiate or continue the payment of benefits, by sending a letter to the mailing address that the beneficiary, the beneficiary's employer, or the beneficiary's authorized agent placed on file with the Retirement Systems Division, allowing at least three weeks between the date of the letter and the date for a response to be received, and the Retirement Systems Division did not receive a response by the time requested.
- (4) A State or local government agency reported information to the Retirement Systems Division, including employment status, dates of service, or amounts of compensation, which changed the eligibility for, or amount of, benefits due to the beneficiary.
- (5) The beneficiary experienced a forfeiture of creditable service for having been convicted of a felony under the provisions of G.S. 135-18.10, G.S. 135-18.10A, G.S. 135-75.1, or G.S. 135-75.1A .

(b) The Retirement Systems Division may initiate a review of the facts and circumstances related to the origin of any overpayment from the Retirement System or the Disability Income Plan of North Carolina, with the purpose of determining if the overpayment was entirely due to administrative error on the part of the Retirement Systems Division and therefore eligible for the alternate repayment terms of G.S. 135-9(c1). ~~Additionally, the~~The Director of the Retirement Systems Division shall, upon receipt of a written request by a beneficiary, beneficiary's employer, or the beneficiary's authorized agent, initiate such a review. If the Director determines the overpayment is not entirely due to administrative error on the part of the Retirement Systems Division, the Retirement Systems Division shall issue a letter to the requestor setting forth the reason or reasons for the denial. The Director shall make determinations on such requests pursuant to the authority provided under 20 NCAC 02A .0103.

*History Note:    Authority G.S. 135-6(f); G.S. 135-9(c1)*



20 NCAC 02C .0212 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, pages 731-2, as follows:

**20 NCAC 02C .0212      LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM  
OVERPAYMENT SAFE HARBOR**

(a) The Board of Trustees determines that the~~The~~ following causes of overpayments are not entirely due to administrative error on the part of the Retirement Systems Division:

- (1) The beneficiary received, but did not repay to the Retirement System, a benefit from the Social Security Administration, the U.S. Department of Veterans Affairs, other federal agency payments, Workers' Compensation, or the State's military disability program under G.S. 127A-108, where such benefits are required by law to be offset from Retirement System benefits, or where repayment of such benefits was agreed upon as a condition of approval for benefits from the Retirement System.
- (2) The beneficiary, the beneficiary's employer, or the beneficiary's authorized agent submitted information on an official form to the Retirement Systems Division, either on paper or electronically, that differed from the information ultimately used to determine the eligibility for, or amount of, benefits due.
- (3) The Retirement Systems Division requested information necessary to initiate or continue the payment of benefits, by sending a letter to the mailing address that the beneficiary, the beneficiary's employer, or the beneficiary's authorized agent on file with the Retirement Systems Division, allowing at least three weeks between the date of the letter and the date for a response to be received, and the Retirement Systems Division did not receive a response by the time requested.
- (4) A State or local government agency reported information to the Retirement Systems Division, including employment status, dates of service, or amounts of compensation, which changed the eligibility for, or amount of, benefits due to the beneficiary.
- (5) The beneficiary experienced a forfeiture of creditable service for having been convicted of a felony under the provisions of G.S. 128-38.4 or G.S. 128-38.4A.

(b) The Retirement Systems Division may initiate a review of the facts and circumstances related to the origin of any overpayment from the Retirement System, with the purpose of determining if the overpayment was entirely due to administrative error on the part of the Retirement Systems Division and therefore eligible for the alternate repayment terms of G.S. 128-31(c1). ~~Additionally, the~~The Director of the Retirement Systems Division shall, upon receipt of a written request by a beneficiary, beneficiary's employer, or the beneficiary's authorized agent, initiate such a review. If the Director determines the overpayment is not entirely due to administrative error on the part of the Retirement Systems Division, the Retirement Systems Division shall issue a letter to the requestor setting forth the reason or reasons for the denial. The Director shall make determinations on such requests pursuant to the authority provided under 20 NCAC 02A .0103.

*History Note:      Authority G.S. 128-28(g); G.S. 128-31(c1)  
                                 Eff. July 1, 2024.*

20 NCAC 02O .0104 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, page 730, as follows:

**20 NCAC 02O .0104      SHORT-TERM DISABILITY AND EXTENDED SHORT-TERM DISABILITY APPROVALS**

(a) Only the Medical Board described in G.S. 135-6(k) shall have the authority to ~~deny short-term and extended short-term disability benefits~~ determine under G.S. 135-105(f) that an applicant is ineligible for benefits, or to determine under G.S. 135-105(g) that the beneficiary's disability is not temporary and likely to end within the extended period of short-term disability benefits.

(b) The following positions or entities shall have the authority to approve short-term and extended short-term disability benefits on behalf of the Retirement Systems Division:

- (1) Director of the Retirement Systems Division;
- (2) Director of Operations;
- (3) Disability Benefits Processing Manager;
- (4) Disability Benefits Processing Supervisor;
- (5) Clinical Reviewer; or
- (6) Medical Board described in G.S. 135-6(k).

(c) The Director of the Retirement Systems Division may designate additional positions to have the authority to approve, but not deny, short-term and extended short-term disability benefits.

(d) Only the Medical Board may approve applications for short-term or extended-short-term disability benefits from individuals who have been ~~actively~~ employed at the Department of State Treasurer within the 365 days preceding the date of disability indicated on the individual's application for benefits.

*History Note:*      Authority G.S. 135-6(f); G.S. 135-105(f); G.S. 135-105(g)  
Eff. July 1, 2024.

20 NCAC 02O .0106 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, pages 730-1, as follows:

**20 NCAC 02O .0106      EXTENDED SHORT-TERM DISABILITY APPLICATION DATE**

(a) "Date of submission" means the date indicated on the Retirement Systems Division's hand-stamped postal mark if the submission is by mail or in person, the timestamp if the submission is by email, or the transmission date if the submission ~~if~~ is by facsimile transmission.

(b) "Makes an application" pursuant to G.S. 135-105(g) means ~~submission, submission of the following information, in a method prescribed by the Retirement Systems Division;~~ in a method prescribed by Paragraph (c) of this Rule, of the following information:

- (1) Full name;
- (2) Mailing address;
- (3) Email address;
- (4) Telephone number;
- (5) Date of birth;
- (6) Member identification number assigned by the Retirement Systems Division;
- (7) Last four digits of Social Security Number;
- (8) Current or most recent employer;
- (9) Employer contact name; and
- (10) Signed and dated acknowledgement that the member has been receiving short-term benefits from the Disability Income Plan of North Carolina; is applying for extended short-term benefits; certifies that the illness did not result from active participation in a riot or actual or attempted commission of a terrorist act, felony, or intentional self-inflicted injury; authorizes health care providers to release to the Retirement Systems Division any medical records or other information about the disability; understands that a copy of such authorization will be as valid as the original; understands that the ~~medical information is to be furnished member, or the member's physician on the member's behalf,~~ is to furnish the medical information to the Retirement Systems Division at no cost; and understands that the member cannot withdraw contributions from the Retirement System while receiving benefits under the Disability Income Plan of North Carolina.

(c) "Submission" means the action of presenting a document to the Retirement ~~Systems~~Systems Division for processing, consideration, or determination through one of the following methods:

- (1) Mail to the mailing address in Rule 20 NCAC 02B .0101;
- (2) Electronic mail (email);
- (3) Facsimile transmission; or
- (4) In person at the physical address in Rule 20 NCAC 02B .0101.

*History Note:*      Authority G.S. 135-6(f); G.S. 135-105(g)  
Eff. July 1, 2024.





## Burgos, Alexander N

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**Subject:** FW: [External] RE: Teachers & State Employees Retirement System Proposed Rules

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>

**Sent:** Tuesday, June 11, 2024 2:44 PM

**To:** Hawley, Elizabeth <Elizabeth.Hawley@nctreasurer.com>; Melton, Timothy M <Timothy.Melton@nctreasurer.com>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>

**Subject:** RE: [External] RE: Teachers & State Employees Retirement System Proposed Rules

Ms. Hawley,

Thank you for the email. Your responses to the Request for Changes are not reflected in the revised Rules. Please make the changes to the Rules as indicated in your responses.

Please email the revised Rules back to me at your earliest convenience.

Thank you.

Travis C. Wiggs

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1929

Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

## Burgos, Alexander N

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**Subject:** FW: [External] RE: Teachers & State Employees Retirement System Proposed Rules  
**Attachments:** 20 NCAC 02O .0106 (WITH 2ND REQUESTED CHANGES)6.7.2024.docx; 20 NCAC 02B .0215 (WITH 2ND REQUESTED CHANGES)6.7.2024.docx; 20 NCAC 02C .0212 (WITH 2ND REQUESTED CHANGES)6.7.2024.docx; 20 NCAC 02O .0104 (WITH 2ND REQUESTED CHANGES)6.7.2024.docx; 6.11.2024 DST RSD Response to Changes.docx

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**From:** Elizabeth Hawley <Elizabeth.Hawley@nctreasurer.com>  
**Sent:** Tuesday, June 11, 2024 8:32 AM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Melton, Timothy M <Timothy.Melton@nctreasurer.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: Teachers & State Employees Retirement System Proposed Rules

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Mr. Wiggs,

Please find attached the Retirement Systems responses to the additional requests and revised Rules. Please let me know if you need anything additional. I will be out of the office this afternoon but back first thing in the morning.

Thank you and have a great day!

**Elizabeth Hawley**  
*Policy & Compliance Officer*  
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Office: (919) 814-3812

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## **20 NCAC 02O .0104**

1. Why does line 6 refer generally to “Medical Board” rather than the RSD Medical Board? Our State has a North Carolina Medical Board, and the lack of specificity may be confusing to the regulated public.
  - a. Thank you, we understand the potential confusion. G.S. 135-6(k) describes RSD’s Medical Board as simply the “Medical Board.” However, for clarity, we have edited the Rule in both (a) and (b)(6) to refer to the “Medical Board described in G.S. 135-6(k)”.
2. Line 6, can you explain how the language “make a determination of eligibility” (S.L. 2023-105) authorizes the RSD Medical Board to have the exclusive ability to “deny short-term and extended short-term disability benefits”? Your agency’s explanation in paragraph 5 uses the word “denied” as synonymous with “ineligible”. Are these words defined in the General Statutes, the NCAC, or your internal policies? Inconsistent word usage is confusing and unclear to the regulated public.
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  - a. We believe that G.S. 135-6(f) is cited in the June 3, 2024 version. We do not understand why G.S. 135-6(g) would provide authority for this Rule.

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## **20 NCAC 02B .0215**

1. Line 6, please insert language that makes it clear the “Board of Trustees” determines whether an overpayment was “entirely due to administrative error on the part of RSD”.
  - a. The Rule has been edited in (a) to add the introductory words “The Board of Trustees determines that” before the words “[t]he following causes of overpayments....” For the sake of consistency, this same edit has been made in Rule 20 NCAC 02C .0212.

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**20 NCAC 02B .0215           TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM  
OVERPAYMENT SAFE HARBOR**

(a) ~~The Board of Trustees determines that the~~The following causes of overpayments are not entirely due to administrative error on the part of the Retirement Systems Division:

- (1) The beneficiary received, but did not repay to the Retirement System or the Disability Income Plan of North Carolina, a benefit from the Social Security Administration, the U.S. Department of Veterans Affairs, other federal agency payments, Workers' Compensation, or the State's military disability program under G.S. 127A-108, where such benefits are required by law to be offset from benefits paid by the Retirement System or the Disability Income Plan of North Carolina, or where repayment of such benefits was agreed upon as a condition of approval for benefits from the Retirement System or the Disability Income Plan of North Carolina.
- (2) The beneficiary, the beneficiary's employer, or the beneficiary's authorized agent submitted any information on an official form to the Retirement Systems Division, either on paper or electronically, that differed from the information ultimately used to determine the eligibility for, or amount of, benefits due.
- (3) The Retirement Systems Division requested information necessary to initiate or continue the payment of benefits, by sending a letter to the mailing address that the beneficiary, the beneficiary's employer, or the beneficiary's authorized agent placed on file with the Retirement Systems Division, allowing at least three weeks between the date of the letter and the date for a response to be received, and the Retirement Systems Division did not receive a response by the time requested.
- (4) A State or local government agency reported information to the Retirement Systems Division, including employment status, dates of service, or amounts of compensation, which changed the eligibility for, or amount of, benefits due to the beneficiary.
- (5) The beneficiary experienced a forfeiture of creditable service for having been convicted of a felony under the provisions of G.S. 135-18.10, G.S. 135-18.10A, G.S. 135-75.1, or G.S. 135-75.1A .

(b) The Retirement Systems Division may initiate a review of the facts and circumstances related to the origin of any overpayment from the Retirement System or the Disability Income Plan of North Carolina, with the purpose of determining if the overpayment was entirely due to administrative error on the part of the Retirement Systems Division and therefore eligible for the alternate repayment terms of G.S. 135-9(c1). ~~Additionally, the~~The Director of the Retirement Systems Division shall, upon receipt of a written request by a beneficiary, beneficiary's employer, or the beneficiary's authorized agent, initiate such a review. If the Director determines the overpayment is not entirely due to administrative error on the part of the Retirement Systems Division, the Retirement Systems Division shall issue a letter to the requestor setting forth the reason or reasons for the denial. The Director shall make determinations on such requests pursuant to the authority provided under 20 NCAC 02A .0103.

*History Note:    Authority G.S. 135-6(f); G.S. 135-9(c1)*



20 NCAC 02C .0212 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, pages 731-2, as follows:

**20 NCAC 02C .0212      LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM  
OVERPAYMENT SAFE HARBOR**

(a) The Board of Trustees determines that the~~The~~ following causes of overpayments are not entirely due to administrative error on the part of the Retirement Systems Division:

- (1) The beneficiary received, but did not repay to the Retirement System, a benefit from the Social Security Administration, the U.S. Department of Veterans Affairs, other federal agency payments, Workers' Compensation, or the State's military disability program under G.S. 127A-108, where such benefits are required by law to be offset from Retirement System benefits, or where repayment of such benefits was agreed upon as a condition of approval for benefits from the Retirement System.
- (2) The beneficiary, the beneficiary's employer, or the beneficiary's authorized agent submitted information on an official form to the Retirement Systems Division, either on paper or electronically, that differed from the information ultimately used to determine the eligibility for, or amount of, benefits due.
- (3) The Retirement Systems Division requested information necessary to initiate or continue the payment of benefits, by sending a letter to the mailing address that the beneficiary, the beneficiary's employer, or the beneficiary's authorized agent on file with the Retirement Systems Division, allowing at least three weeks between the date of the letter and the date for a response to be received, and the Retirement Systems Division did not receive a response by the time requested.
- (4) A State or local government agency reported information to the Retirement Systems Division, including employment status, dates of service, or amounts of compensation, which changed the eligibility for, or amount of, benefits due to the beneficiary.
- (5) The beneficiary experienced a forfeiture of creditable service for having been convicted of a felony under the provisions of G.S. 128-38.4 or G.S. 128-38.4A.

(b) The Retirement Systems Division may initiate a review of the facts and circumstances related to the origin of any overpayment from the Retirement System, with the purpose of determining if the overpayment was entirely due to administrative error on the part of the Retirement Systems Division and therefore eligible for the alternate repayment terms of G.S. 128-31(c1). ~~Additionally, the~~The Director of the Retirement Systems Division shall, upon receipt of a written request by a beneficiary, beneficiary's employer, or the beneficiary's authorized agent, initiate such a review. If the Director determines the overpayment is not entirely due to administrative error on the part of the Retirement Systems Division, the Retirement Systems Division shall issue a letter to the requestor setting forth the reason or reasons for the denial. The Director shall make determinations on such requests pursuant to the authority provided under 20 NCAC 02A .0103.

*History Note:      Authority G.S. 128-28(g); G.S. 128-31(c1)  
                                 Eff. July 1, 2024.*

20 NCAC 02O .0104 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, page 730, as follows:

**20 NCAC 02O .0104      SHORT-TERM DISABILITY AND EXTENDED SHORT-TERM DISABILITY APPROVALS**

(a) Only the Medical Board described in G.S. 135-6(k) shall have the authority to ~~deny short-term and extended short-term disability benefits~~ determine under G.S. 135-105(f) that an applicant is ineligible for benefits, or to determine under G.S. 135-105(g) that the beneficiary's disability is not temporary and likely to end within the extended period of short-term disability benefits.

(b) The following positions or entities shall have the authority to approve short-term and extended short-term disability benefits on behalf of the Retirement Systems Division:

- (1) Director of the Retirement Systems Division;
- (2) Director of Operations;
- (3) Disability Benefits Processing Manager;
- (4) Disability Benefits Processing Supervisor;
- (5) Clinical Reviewer; or
- (6) Medical Board described in G.S. 135-6(k).

(c) The Director of the Retirement Systems Division may designate additional positions to have the authority to approve, but not deny, short-term and extended short-term disability benefits.

(d) Only the Medical Board may approve applications for short-term or extended-short-term disability benefits from individuals who have been ~~actively~~ employed at the Department of State Treasurer within the 365 days preceding the date of disability indicated on the individual's application for benefits.

*History Note:*      Authority G.S. 135-6(f); G.S. 135-105(f); G.S. 135-105(g)  
Eff. July 1, 2024.



20 NCAC 02O .0106 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, pages 730-1, as follows:

**20 NCAC 02O .0106      EXTENDED SHORT-TERM DISABILITY APPLICATION DATE**

(a) "Date of submission" means the date indicated on the Retirement Systems Division's hand-stamped postal mark if the submission is by mail or in person, the timestamp if the submission is by email, or the transmission date if the submission ~~if~~ is by facsimile transmission.

(b) "Makes an application" pursuant to G.S. 135-105(g) means ~~submission, submission of the following information, in a method prescribed by the Retirement Systems Division;~~ submission of the following information, in a method prescribed by Paragraph (c) of this Rule, of the following information:

- (1) Full name;
- (2) Mailing address;
- (3) Email address;
- (4) Telephone number;
- (5) Date of birth;
- (6) Member identification number assigned by the Retirement Systems Division;
- (7) Last four digits of Social Security Number;
- (8) Current or most recent employer;
- (9) Employer contact name; and
- (10) Signed and dated acknowledgement that the member has been receiving short-term benefits from the Disability Income Plan of North Carolina; is applying for extended short-term benefits; certifies that the illness did not result from active participation in a riot or actual or attempted commission of a terrorist act, felony, or intentional self-inflicted injury; authorizes health care providers to release to the Retirement Systems Division any medical records or other information about the disability; understands that a copy of such authorization will be as valid as the original; understands that the ~~medical information is to be furnished member, or the member's physician on the member's behalf,~~ is to furnish the medical information to the Retirement Systems Division at no cost; and understands that the member cannot withdraw contributions from the Retirement System while receiving benefits under the Disability Income Plan of North Carolina.

(c) "Submission" means the action of presenting a document to the Retirement ~~Systems~~Systems Division for processing, consideration, or determination through one of the following methods:

- (1) Mail to the mailing address in Rule 20 NCAC 02B .0101;
- (2) Electronic mail (email);
- (3) Facsimile transmission; or
- (4) In person at the physical address in Rule 20 NCAC 02B .0101.

*History Note:*      Authority G.S. 135-6(f); G.S. 135-105(g)  
Eff. July 1, 2024.



## Burgos, Alexander N

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**Subject:** FW: [External] RE: Teachers & State Employees Retirement System Proposed Rules

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>

**Sent:** Tuesday, June 4, 2024 12:29 PM

**To:** Hawley, Elizabeth <Elizabeth.Hawley@nctreasurer.com>; Melton, Timothy M <Timothy.Melton@nctreasurer.com>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>

**Subject:** RE: [External] RE: Teachers & State Employees Retirement System Proposed Rules

Ms. Hawley,

Thank you for the responses. In response to your general note, I have been referring to G.S. 135-105 that incorporates amendments made by S.L. 2023-105. Many of my initial requests for changes were due to your agency's failure to cite all the applicable statutory authority in the original submission of these rules. Please see additional questions and comments below.

### **20 NCAC 02O .0104**

1. Why does line 6 refer generally to "Medical Board" rather than the RSD Medical Board? Our State has a North Carolina Medical Board, and the lack of specificity may be confusing to the regulated public.
2. Line 6, can you explain how the language "make a determination of eligibility" (S.L. 2023-105) authorizes the RSD Medical Board to have the exclusive ability to "deny short-term and extended short-term disability benefits"? Your agency's explanation in paragraph 5 uses the word "denied" as synonymous with "ineligible". Are these words defined in the General Statutes, the NCAC, or your internal policies? Inconsistent word usage is confusing and unclear to the regulated public.
3. Line 15, can provide at least one example of a scenario when the Director "may designate additional positions to have the authority to approve..."?
4. Why would G.S. 135-6(f) and (g) not be cited in the History Note as "Authority"?

### **20 NCAC 02O .0106**

1. Line 25, please insert your explanation in the Rule for clarity.

### **20 NCAC 02B .0215**

1. Line 6, please insert language that makes it clear the "Board of Trustees" determines whether an overpayment was "entirely due to administrative error on the part of RSD".

Please reply to this email with responses no later than June 11, 2024 at 5pm.

Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

## Burgos, Alexander N

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**Subject:** FW: [External] RE: Teachers & State Employees Retirement System Proposed Rules  
**Attachments:** 20 NCAC 02O .0106 (WITH REQUESTED CHANGES)5.30.2024.docx; 20 NCAC 02B .0215 (WITH REQUESTED CHANGES)5.30.2024.docx; 20 NCAC 02C .0212 (WITH REQUESTED CHANGES)5.30.2024.docx; 20 NCAC 02O .0104 (WITH REQUESTED CHANGES)5.30.2024.docx; 20 NCAC 02O .0105 (WITH REQUESTED CHANGES)5.30.2024.docx; 6.3.2024 State Treasurer RSD Response to Request for Changes.docx

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**From:** Elizabeth Hawley <Elizabeth.Hawley@nctreasurer.com>  
**Sent:** Monday, June 3, 2024 10:27 AM  
**To:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Melton, Timothy M <Timothy.Melton@nctreasurer.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: Teachers & State Employees Retirement System Proposed Rules

You don't often get email from [elizabeth.hawley@nctreasurer.com](mailto:elizabeth.hawley@nctreasurer.com). [Learn why this is important](#)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Mr. Wiggs,

Please find attached the Retirement Systems responses to the Request for Changes and revised Rules. Please let me know if you need anything additional.

Thank you,

**Elizabeth Hawley**  
*Policy & Compliance Officer*  
Office of the State Treasurer  
Office: (919) 814-3812

3200 Atlantic Avenue, Raleigh, NC 27604

[www.NCTreasurer.com](http://www.NCTreasurer.com)



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NORTH CAROLINA  
DEPARTMENT OF STATE TREASURER



*Dale R. Folwell, CPA*  
STATE TREASURER OF NORTH CAROLINA  
DALE R. FOLWELL, CPA

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

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02O .0104

**DEADLINE FOR RECEIPT: Friday, June 4, 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:

*In the Introductory Statement, line 1, please insert the publication information, as well. "20 NCAC 02O .0104 is adopted as published in 38:11 NCR, page 730, as follows:"* **Agreed.**

*On line 6 (a), what is your agency's statutory authority to designate "Only" the Medical Board?* **As a general note, in light of some other comments in this document, our agency would like to ensure that you are referring to a version of G.S. 135-105 that incorporates amendments made by S.L. 2023-105.**

**Line 6 (a) says that "only the Medical Board shall have the authority to deny short-term and extended short-term disability benefits." (Emphasis added.)**

**Regarding short-term disability benefits, G.S. 135-105(f) as amended by S.L. 2023-105 provides for a process to "request the Board of Trustees [Board] to have the Retirement Systems Division [RSD] of the Department of State Treasurer [DST] make a determination of eligibility for the short-term disability benefits as provided in this section." Regarding extended short-term disability benefits, G.S. 135-105(g) as amended by S.L. 2023-105 provides that the Board "may extend the short-term disability benefits of a beneficiary [within certain time limits]... provided [RSD] determines that the beneficiary's disability is temporary and likely to end within the extended period of short-term disability benefits." It goes on to provide, "[DST] shall adopt rules to implement the provisions of this subsection." Finally, G.S. 135-6(f) provides for all of Chapter 135 that the Board "shall, from time to time, establish rules and regulations for the administration of the funds created by this Chapter and for the transaction of its business. The [Board] shall also, from time to time, adopt rules and regulations to prevent injustices and inequalities which might otherwise arise in the administration of this Chapter."**

**G.S. 135-6(g) directs the Board to engage all services "required to transact the business of the Retirement System," and G.S. 135-6(k) specifically directs the Board to "designate a**

medical board.” Although “Retirement Systems Division” is not defined in a statutory provision (to RSD’s knowledge), RSD understands it to refer to the part of DST that administers the Retirement Systems. That includes the RSD Medical Board, but also other staff members working for RSD. Thus, when G.S. 135-105(f) and -105(g) refer to RSD, such as the Board having “RSD... make a determination of eligibility,” or that the Board “may extend the short-term disability benefits... provided RSD determines” certain findings, they are referring to determinations that could conceivably be established by anyone in RSD, not necessarily the RSD Medical Board.

In line 6 (a), the Rule provides that if an application is going to be denied by “RSD” – that is, RSD’s determination under G.S. 135-105(f) will be that the person is ineligible for short-term disability benefits, or RSD’s determination under G.S. 135-105(g) will be that the conditions for extended short-term disability benefits are not met, such a determination will be made only by the part of RSD that is the RSD Medical Board. This means that the medical circumstances will be reviewed by the RSD Medical Board prior to denial. Line 6 (a) is not referring to the approval of applications by RSD, which is covered by other parts of the Rule.

Based on the foregoing:

The Board’s authority to make a rule under G.S. 135-105(f) for short-term benefits is grounded in G.S. 135-105(f), which says the Board can “have RSD make a determination of eligibility” without specifying which parts of RSD can make different determinations. It is also grounded in G.S. 135-6(f), which permits the Board to make rules for the administration of all funds under G.S. 135, the transaction of the business of those funds, and to prevent injustices and inequalities that might otherwise arise.

The Board’s authority to make a rule under G.S. 135-105(g) is grounded in G.S. 135-105(g), which describes “RSD” determining certain findings without specifying which parts of RSD can make different determinations. It is also grounded in G.S. 135-6(f), which permits the Board to make rules for the administration of all funds under G.S. 135, the transaction of the business of those funds, and to prevent injustices and inequalities that might otherwise arise.

RSD has added G.S. 135-6(f) to the Authority for the Rule.

*On line 15 (c), under what circumstances “may” the Director “designate additional positions?” What criteria is used to determine whether the Director “may” use this authority? This would occur at the Director’s discretion, and under the Rule would only designate positions that can approve, not deny, applications for certain disability benefits.*

*On line 17 (d), what is your agency’s statutory authority to designate “Only” the Medical Board as having the authority to approve applications? The response is the same as for the question about line 6 (a). This provision is to ensure that disability benefit applications from employees of DST go through the process of being reviewed by the Medical Board.*

*On line 18 (d), what is meant by “actively?” Is this adverb necessary or can it be deleted? RSD agrees and has deleted it.*

*On line 21, please insert an effective date in the History Note. Please note, the earliest date this can be effective is July 1, 2024. "History Note: Authority G.S. 135-105(f); 135-105(g) Eff. July 1, 2024"*

**Agreed.**

*On line 21, I don't interpret G.S. 135-105(f) and 135-105(g) as providing authority for your agency to designate who can approve or deny disability benefits. Please explain. **The response is the same as for the question about line 6 (a).***

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: Teachers' and State Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02O .0105

**DEADLINE FOR RECEIPT: Friday, June 7, 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:

*In the Introductory Statement, line 1, please insert the publication information, as well. "20 NCAC 02O .0105 is adopted as published in 38:11 NCR, page 730, as follows:"* **Agreed.**

*On line 5 (a), delete the "s" at the end of "Systems."* **RSD disagrees. The "S" in "RSD" stands for "Systems," not "System."**

*On line 7, change "if" to "is."* **Agreed.**

*On line 10 (c), add an "s" to the end of "System."* **Agreed.**

*On line 21, please insert an effective date in the History Note. Please note, the earliest date this can be effective is July 1, 2024. "History Note: Authority G.S. 135-105(d)  
Eff. July 1, 2024"*

**Agreed.**

*On line 21, I don't interpret G.S. 135-105(d) as providing authority for your agency to implement this Rule. G.S. 135-105(d) doesn't contain any of the words defined in this Rule. Please explain. S.L. 2023-105, Section 2.1, amended G.S. 135-105(d) to include addition of the sentence: "The Plan shall not reimburse any employer for amounts related to notifications made on or after January 1, 2024." The Rule defines "notifications made." The definition uses the word "submission," so the Rule also defines "submission" and "date of submission." A specific definition of what it means to "make a notification" in this context is necessary for the administration of the Disability Income Plan of North Carolina. RSD has added G.S. 135-6(f) as an Authority in the History Note.*

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

Travis Wiggs  
Commission Counsel  
Date submitted to agency: May 20, 2024



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

AGENCY: Teachers' and State Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02O .0106

**DEADLINE FOR RECEIPT: Friday, June 7, 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:

*In the Introductory Statement, line 1, please insert the publication information, as well. "20 NCAC 02O .0106 is adopted as published in 38:11 NCR, pages 730-1, as follows:"* **Agreed.**

*On line 5 (a), delete the "s" at the end of "Systems."* **RSD disagrees. The "S" in "RSD" stands for "Systems."**

*On line 7, change "if" to "is."* **Agreed.**

*On lines 8-9 (b), I suggest rewording after "means" to say: "submission, in a method prescribed by 20 NCAC 02O .0105 (c), of the following information:"* **In consideration of the suggestion and referring to the OAH Style Guide, Chapter 12 Cross-References, RSD has reworded the section to "submission, in a method prescribed by Paragraph (c) of this Rule, of the following information:"**

*On line 25, please clarify who is furnishing the medical information to whom "at no cost."* **The member, or their physician on their behalf, is furnishing the medical information to RSD at no cost.**

*On line 28 (c), please add an "s" to "System."* **Agreed.**

*On line 35, please insert an effective date in the History Note. Please note, the earliest date this can be effective is July 1, 2024. "History Note: Authority G.S. 135-105(g) Eff. July 1, 2024"*

**Agreed.**

*On line 35, I don't interpret G.S. 135-105(g) as providing authority for your agency to implement this Rule. G.S. 135-105(g) doesn't contain any of the words defined in this Rule. Please explain.* **S.L. 2023-105, Section 3.5, amended G.S. 135-105(g) to add the clause, "The extended period shall commence on the first day succeeding the conclusion of the first 365-day**

short-term disability period, provided the beneficiary or participant makes an application for such benefit within 180 days after the short-term disability period ceases, after salary continuation payments cease, or after monthly payments for Workers' Compensation cease, whichever is later....” This Rule defines “makes an application.” The definition uses the word “submission,” so the Rule also defines “submission” and “date of submission.” A specific definition of what it means to “make an application” in this context is necessary for the administration of the Disability Income Plan of North Carolina. RSD has added G.S. 135-6(f) as an Authority in the History Note.

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: Teachers' and State Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02B .0215

**DEADLINE FOR RECEIPT: Friday, June 7, 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:

*In the Introductory Statement, line 1, please insert the publication information, as well. "20 NCAC 02B .0215 is adopted as published in 38:11 NCR, page 729, as follows:"* **Agreed.**

*On line 6 (a), is "overpayment" defined in the General Statutes, the NCAC, or your internal policies? If so, please cite the definition or incorporated by reference in the Rule.* **RSD is not aware of a definition applicable to the Retirement Systems. The term is used throughout G.S. 135-9 and in G.S. 143-64.80, but is not defined.**

*On line 6 (a), what is meant by "not entirely due to administrative error?" Who makes this determination? How is the degree or percentage of fault for overpayment determined?* **G.S. 135-9(c1), enacted by S.L. 2023-105, applies to "an overpayment of benefits under this Chapter that the Board of Trustees determines was entirely due to administrative error on the part of [RSD]." It is therefore necessary to determine whether an overpayment was "entirely due to administrative error on the part of RSD"; but if it was not, then it is not necessary to determine a degree or percentage of fault. Under the statutory provision, the determination is the responsibility of the Board, and this Rule has been adopted to that end.**

*On line 32, delete "Additionally" and capitalize "the."* **Agreed.**

*On line 39, please insert an effective date in the History Note. Please note, the earliest date this can be effective is July 1, 2024. "History Note: Authority G.S. 135-9(c1) Eff. July 1, 2024"*

**Agreed.**

*On line 39, I don't interpret G.S. 135-9(c1) as providing authority for your agency to implement this Rule. How does this statute authorize your agency to implement a rule declaring what would not be an administrative error by your agency? It seems that (a)(1)-(5) may fall under G.S. 150B-2(8g). Do you agree? Please explain. See also the response to the second question about line 6 (a) above. The Rule, in (b), describes a process for initiating a determination of*

whether an overpayment was “entirely due to administrative error on the part of RSD.” In (a), the Rule identifies causes of overpayments that the Board has determined are not entirely due to administrative error on the part of RSD. Regarding the reference to “G.S. 150B-2(8g),” RSD believes you are referring to G.S. 150B-2(8a)g., but RSD does not agree that (a)(1)-(5) fall under that provision. Although (a)(1)-(5) do set forth “criteria... to be used by the staff of an agency,” these criteria are not for the purpose of “audits, investigations, or inspections; in settling financial disputes or negotiating financial arrangements; or in the defense, prosecution, or settlement of cases.” RSD has, however, added G.S. 135-6(f) as an Authority for the Rule.

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: Teachers' and State Employees' Retirement System Board of Trustees

RULE CITATION: 20 NCAC 02C .0212

**DEADLINE FOR RECEIPT: Friday, June 7, 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:

*In the Introductory Statement, line 1, please insert the publication information, as well. "20 NCAC 02C .0212 is adopted as published in 38:11 NCR, pages 731-2, as follows:"* **Agreed.**

*On line 6 (a), is "overpayment" defined in the General Statutes, the NCAC, or your internal policies? If so, please cite the definition or incorporated by reference in the Rule.* **RSD is not aware of a definition applicable to the Retirement Systems. The term is used throughout G.S. 128-31 and in G.S. 143-64.80, but is not defined.**

*On line 6 (a), what is meant by "not entirely due to administrative error?" Who makes this determination? How is the degree or percentage of fault for overpayment determined?* **G.S. 128-31(c1), enacted by S.L. 2023-105, applies to "an overpayment of benefits under this Chapter that the Board of Trustees determines was entirely due to administrative error on the part of [RSD]." It is therefore necessary to determine whether an overpayment was "entirely due to administrative error on the part of RSD"; but if it was not, then it is not necessary to determine a degree or percentage of fault. Under the statutory provision, the determination is the responsibility of the Board, and this Rule has been adopted to that end.**

*On line 30, delete "Additionally" and capitalize "the."* **Agreed.**

*On line 37, please insert an effective date in the History Note. Please note, the earliest date this can be effective is July 1, 2024. "History Note: Authority G.S. 128-31(c1)  
Eff. July 1, 2024"*

**Agreed.**

*On line 37, I don't interpret G.S. 128-31(c1) as providing authority for your agency to implement this Rule. How does this statute authorize your agency to implement a rule declaring what would not be an administrative error by your agency? It seems that (a)(1)-(5) may fall under G.S. 150B-2(8g). Do you agree? Please explain. See also the response to the second question about line 6 (a) above. The Rule, in (b), describes a process for initiating a*

determination of whether an overpayment was “entirely due to administrative error on the part of RSD.” In (a), the Rule identifies causes of overpayments that the Board has determined are not entirely due to administrative error on the part of RSD. Regarding the reference to “G.S. 150B-2(8g),” RSD believes you are referring to G.S. 150B-2(8a)g., but RSD does not agree that (a)(1)-(5) fall under that provision. Although (a)(1)-(5) do set forth “criteria... to be used by the staff of an agency,” these criteria are not for the purpose of “audits, investigations, or inspections; in settling financial disputes or negotiating financial arrangements; or in the defense, prosecution, or settlement of cases.” RSD has, however, added G.S. 128-28(g) as an Authority for the Rule.

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

Travis Wiggs  
Commission Counsel  
Date submitted to agency: May 20, 2024

20 NCAC 02B .0215 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, page 729, as follows:

**20 NCAC 02B .0215           TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM  
OVERPAYMENT SAFE HARBOR**

(a) The following causes of overpayments are not entirely due to administrative error on the part of the Retirement Systems Division:

- (1) The beneficiary received, but did not repay to the Retirement System or the Disability Income Plan of North Carolina, a benefit from the Social Security Administration, the U.S. Department of Veterans Affairs, other federal agency payments, Workers' Compensation, or the State's military disability program under G.S. 127A-108, where such benefits are required by law to be offset from benefits paid by the Retirement System or the Disability Income Plan of North Carolina, or where repayment of such benefits was agreed upon as a condition of approval for benefits from the Retirement System or the Disability Income Plan of North Carolina.
- (2) The beneficiary, the beneficiary's employer, or the beneficiary's authorized agent submitted any information on an official form to the Retirement Systems Division, either on paper or electronically, that differed from the information ultimately used to determine the eligibility for, or amount of, benefits due.
- (3) The Retirement Systems Division requested information necessary to initiate or continue the payment of benefits, by sending a letter to the mailing address that the beneficiary, the beneficiary's employer, or the beneficiary's authorized agent placed on file with the Retirement Systems Division, allowing at least three weeks between the date of the letter and the date for a response to be received, and the Retirement Systems Division did not receive a response by the time requested.
- (4) A State or local government agency reported information to the Retirement Systems Division, including employment status, dates of service, or amounts of compensation, which changed the eligibility for, or amount of, benefits due to the beneficiary.
- (5) The beneficiary experienced a forfeiture of creditable service for having been convicted of a felony under the provisions of G.S. 135-18.10, G.S. 135-18.10A, G.S. 135-75.1, or G.S. 135-75.1A .

(b) The Retirement Systems Division may initiate a review of the facts and circumstances related to the origin of any overpayment from the Retirement System or the Disability Income Plan of North Carolina, with the purpose of determining if the overpayment was entirely due to administrative error on the part of the Retirement Systems Division and therefore eligible for the alternate repayment terms of G.S. 135-9(c1). ~~Additionally, the~~ The Director of the Retirement Systems Division shall, upon receipt of a written request by a beneficiary, beneficiary's employer, or the beneficiary's authorized agent, initiate such a review. If the Director determines the overpayment is not entirely due to administrative error on the part of the Retirement Systems Division, the Retirement Systems Division shall issue a letter to the requestor setting forth the reason or reasons for the denial. The Director shall make determinations on such requests pursuant to the authority provided under 20 NCAC 02A .0103.

*History Note:    Authority G.S. 135-6(f); G.S. 135-9(c1)*





20 NCAC 02O .0104 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, page 730, as follows:

**20 NCAC 02O .0104      SHORT-TERM DISABILITY AND EXTENDED SHORT-TERM DISABILITY APPROVALS**

(a) Only the Medical Board shall have the authority to deny short-term and extended short-term disability benefits.

(b) The following positions or entities shall have the authority to approve short-term and extended short-term disability benefits on behalf of the Retirement Systems Division:

- (1) Director of the Retirement Systems Division;
- (2) Director of Operations;
- (3) Disability Benefits Processing Manager;
- (4) Disability Benefits Processing Supervisor;
- (5) Clinical Reviewer; or
- (6) Medical Board.

(c) The Director of the Retirement Systems Division may designate additional positions to have the authority to approve, but not deny, short-term and extended short-term disability benefits.

(d) Only the Medical Board may approve applications for short-term or extended-short-term disability benefits from individuals who have been ~~actively~~ employed at the Department of State Treasurer within the 365 days preceding the date of disability indicated on the individual's application for benefits.

*History Note:      Authority G.S. 135-6(f); G.S. 135-105(f); G.S. 135-105(g)  
                                 Eff. July 1, 2024.*

20 NCAC 02O .0105 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, page 730, as follows:

**20 NCAC 02O .0105      SHORT-TERM DISABILITY NOTIFICATION DATE**

(a) “Date of submission” means the date indicated on the Retirement Systems Division’s hand-stamped postal mark if the submission is by mail or in person, the timestamp if the submission is by email, or the transmission date if the submission ~~if~~ is by facsimile transmission.

(b) “Notifications made” pursuant to G.S. 135-105(d) means the submission of a written request for reimbursement by an employer.

(c) “Submission” means the act of presenting a document to the Retirement ~~System~~Systems Division for processing, consideration, or determination through one of the following methods:

- (1) Mail to the mailing address in Rule 20 NCAC 02B .0101;
- (2) Electronic mail (email);
- (3) Facsimile transmission; or
- (4) In person at the physical address in Rule 20 NCAC 02B .0101.

*History Note: Authority G.S. 135-6(f); G.S. 135-105(d)*  
*Eff. July 1, 2024.*

20 NCAC 02O .0106 is ~~proposed for adoption~~ adopted, with changes, as published in 38:11 NCR, pages 730-1, as follows:

**20 NCAC 02O .0106      EXTENDED SHORT-TERM DISABILITY APPLICATION DATE**

(a) "Date of submission" means the date indicated on the Retirement Systems Division's hand-stamped postal mark if the submission is by mail or in person, the timestamp if the submission is by email, or the transmission date if the submission ~~if~~ is by facsimile transmission.

(b) "Makes an application" pursuant to G.S. 135-105(g) means ~~submission, submission of the following information, in a method prescribed by the Retirement Systems Division;~~ submission of the following information, in a method prescribed by Paragraph (c) of this Rule, of the following information:

- (1) Full name;
- (2) Mailing address;
- (3) Email address;
- (4) Telephone number;
- (5) Date of birth;
- (6) Member identification number assigned by the Retirement Systems Division;
- (7) Last four digits of Social Security Number;
- (8) Current or most recent employer;
- (9) Employer contact name; and
- (10) Signed and dated acknowledgement that the member has been receiving short-term benefits from the Disability Income Plan of North Carolina; is applying for extended short-term benefits; certifies that the illness did not result from active participation in a riot or actual or attempted commission of a terrorist act, felony, or intentional self-inflicted injury; authorizes health care providers to release to the Retirement Systems Division any medical records or other information about the disability; understands that a copy of such authorization will be as valid as the original; understands that the medical information is to be furnished at no cost; and understands that the member cannot withdraw contributions from the Retirement System while receiving benefits under the Disability Income Plan of North Carolina.

(c) "Submission" means the action of presenting a document to the Retirement ~~Systems~~Systems Division for processing, consideration, or determination through one of the following methods:

- (1) Mail to the mailing address in Rule 20 NCAC 02B .0101;
- (2) Electronic mail (email);
- (3) Facsimile transmission; or
- (4) In person at the physical address in Rule 20 NCAC 02B .0101.

*History Note: Authority G.S. 135-6(f); G.S. 135-105(g)*  
*Eff. July 1, 2024.*

## Burgos, Alexander N

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**Subject:** FW: [External] RE: Teachers & State Employees Retirement System Proposed Rules

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**From:** Wiggs, Travis C <travis.wiggs@oah.nc.gov>  
**Sent:** Wednesday, May 29, 2024 3:47 PM  
**To:** Hawley, Elizabeth <Elizabeth.Hawley@nctreasurer.com>; Melton, Timothy M <Timothy.Melton@nctreasurer.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** RE: [External] RE: Teachers & State Employees Retirement System Proposed Rules

Good afternoon,

Thank you for the email. June 4<sup>th</sup> is the deadline. Sorry for the confusion.

Will do.

Thanks,

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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**From:** Elizabeth Hawley <[Elizabeth.Hawley@nctreasurer.com](mailto:Elizabeth.Hawley@nctreasurer.com)>  
**Sent:** Wednesday, May 29, 2024 3:42 PM  
**To:** Wiggs, Travis C <[travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)>; Melton, Timothy M <[Timothy.Melton@nctreasurer.com](mailto:Timothy.Melton@nctreasurer.com)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** [External] RE: Teachers & State Employees Retirement System Proposed Rules

You don't often get email from [elizabeth.hawley@nctreasurer.com](mailto:elizabeth.hawley@nctreasurer.com). [Learn why this is important](#)

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good afternoon Mr. Wiggs,

Our staff is currently working on revisions for the rules. I wanted to check on the deadline, your email and the first rule notes a deadline of June 4<sup>th</sup>, but the remaining rules note June 7<sup>th</sup>. Could you please clarify which date is correct?

Additionally, could you please make sure Patrick Kinlaw ([Patrick.kinlaw@nctreasurer.com](mailto:Patrick.kinlaw@nctreasurer.com)) and Taylor Matyi ([taylor.matyi@nctreasurer.com](mailto:taylor.matyi@nctreasurer.com)) are included on the evite for the June 26<sup>th</sup> meeting?

Thank you,

**Elizabeth Hawley**  
*Policy & Compliance Officer*  
Office of the State Treasurer  
Office: (919) 814-3812

3200 Atlantic Avenue, Raleigh, NC 27604

[www.NCTreasurer.com](http://www.NCTreasurer.com)



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**NORTH CAROLINA**  
DEPARTMENT OF STATE TREASURER



*Dale R. Folwell, CPA*  
STATE TREASURER OF NORTH CAROLINA  
DALE R. FOLWELL, CPA

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## Burgos, Alexander N

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**From:** Wiggs, Travis C  
**Sent:** Monday, May 20, 2024 4:25 PM  
**To:** Hawley, Elizabeth; Melton, Timothy M  
**Cc:** Burgos, Alexander N  
**Subject:** Teachers & State Employees Retirement System Proposed Rules  
**Attachments:** 6\_2\_2024\_State Treasurer-Request for Changes.docx

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the State Treasurer's Retirement Systems Division for the June 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, June 26, 2024, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite 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, please let me know prior to the meeting, and we will get invites 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 June 4, 2024.

Thank you.

Travis C. Wiggs  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1929  
Email: [travis.wiggs@oah.nc.gov](mailto:travis.wiggs@oah.nc.gov)

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