



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME: 38

ISSUE: 18

CHECK APPROPRIATE BOX:

Notice with a scheduled hearing

Notice without a scheduled hearing

Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.

Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: [State Human Resources Commission](#)

2. Link to agency website pursuant to G.S. 150B-19.1(c): <https://oshr.nc.gov/about-oshr/state-hr-commission/proposed-rulemaking>

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

ADOPTION:

AMENDMENT: [25 NCAC 01C .0405](#)

REPEAL:

READOPTION with substantive changes:

READOPTION without substantive changes:

REPEAL through READOPTION:

4. Proposed effective date: [07/01/2024](#)

5. Is a public hearing planned? **Yes**

If yes:

Date	Time	Location
04/01/2024	9:00-10:00a.m.	https://ncgov.webex.com/ncgov/j.php?MTID=m172aa0f8bbb06b3f507729ae698d9e5f Meeting number (access code): 2426 058 3015; Passcode: WKrPPTvf232

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s):

These revisions update Rule .0405 to match the revisions to G.S. 126-6.3 in the 2023 Appropriations Act. Subsection (a) of the Rule has provided, and would continue to provide, that temporary appointments shall not exceed 11 consecutive months, subject to exceptions. The 2023 Appropriations Act added that 11-month limit to statute. The limit now appears in G.S. 126-6.3(a1). The Appropriations Act also added extensive detail to the statute—particularly about agency responsibilities, what must be shown for an exception from the statute, Temporary Solutions billing, and reporting. OSHR’s Temporary Solutions Program staff are executing an implementation plan for the statutory changes.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or email. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Denise Holton Mazza
Address: 116 West Jones Street
Raleigh, NC 27603
Phone (optional): 19842360823
Fax (optional):
EMail (optional) denise.mazza@nc.gov

10. Comment Period Ends: 05/14/2024

11. Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

No fiscal note required

12. Rule-making Coordinator:

Name: Denise Mazza
984-236-0823
denise.mazza@nc.gov

Agency contact, if any:

Name: Denise Holton Mazza
Phone: 19842360823
Email: denise.mazza@nc.gov

13. The Agency formally proposed the text of this rule(s) on

Date: 12/06/2023

Permanent Amendment for Publication in the NC Register

1 25 NCAC 01C .0405 is proposed for amendment under permanent procedures as follows:

2
3 **25 NCAC 01C .0405 Temporary Appointment**
4

5 (a) A temporary appointment is an appointment to fill a workforce need for a limited period of time. Temporary
6 employees ~~may~~shall not be used to permanently expand the workforce beyond authorized levels. Temporary
7 appointments shall not exceed 11 consecutive months, subject to the following exemptions:

8 (1) Full-time students, defined as those undergraduate students taking at least 12 credit hours or
9 graduate students taking at least 9 credit hours;

10 (2) Retired employees, defined as those individuals drawing a retirement income or Social Security
11 benefits and ~~having~~who have signed a statement that they are not available for, nor seeking,
12 permanent employment;

13 (3) Inmates that are on a work-release program;

14 (4) Interns, defined as those students who, regardless of the number of credit hours enrolled, work to
15 gain occupational experience for a period of ~~time not to exceed three months~~at least one academic
16 semester; and

17 (5) Externs, defined as those students who, regardless of the number of credit hours enrolled, are
18 employed as part of a written agreement between the State and an academic institution through
19 which the student is paid and earns course credit; and

20 (6) Exceptions that were granted under G.S. 126-6.3(a3)(3).

21 (b) Employees with a temporary appointment shall not earn or accrue leave or receive total State service
22 credit, retirement credit, severance pay, or priority reemployment consideration.

23 (c) This Rule applies to all temporary employees employed by the State.

24 (d) The calculation of consecutive months in subsection (a) of this Rule shall restart only after a
25 separation of at least 31 consecutive calendar days after the last day that person worked for the State in a temporary
26 appointment. After a separation of this length, and only after such a separation, an individual who was employed for
27 11 consecutive months by temporary appointment shall be eligible for a new or reinstated temporary appointment.

28
29 History Note: Authority G.S. 126-4(5); 126-4(6); 126-4(7a); 126-4(19);

30 Eff. February 1, 1976;

31 Amended Eff. August 1, 1995; November 1, 1991; December 1, 1978; Readopted Eff. April 1, 2016;

32 Amended Eff. December 1, ~~2021-2021~~; _____, 2024.
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