

## SUBCHAPTER 01D - COMPENSATION

### SECTION .0100 - ADMINISTRATION OF THE PAY PLAN

#### 25 NCAC 01D .0101 COMPENSATION PLAN

- (a) It is the policy of the state to compensate its employees at a level sufficient to encourage excellence of performance and to maintain the labor market competitiveness necessary to recruit and retain a competent work force. To this end, and in accordance with the State Human Resources Act, the State Human Resources Commission shall conduct annual compensations surveys to determine the percent of funds appropriated for salary increases to be reserved for a general increase for all state employees and the percent to be reserved for performance-based increases for eligible employees.
- (b) A compensation plan is maintained which provides a salary rate structure or structures adequate to appropriately compensate all positions subject to the State Human Resources Act. This structure may be revised in composition, or the total structure moved upward or downward, in response to labor market trends and to legislative actions affecting salaries; such action is dependent on the availability of funds.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1990.

#### 25 NCAC 01D .0102 SALARY RANGES

- (a) Each classified position is assigned to a salary range that provides, based on similar employment in the defined labor market: minimum, intermediate and maximum salary rates that are competitive with rates in the external labor market consistent with the state's ability to pay; and proper relationships within state government employment to maintain internal equity.
- (b) Based on labor market demands, salary rates for some classifications may be approved above the standard rates. When a higher salary range (i.e., both the minimums and maximums are raised) is needed to recruit employees to certain areas of the state, the higher range(s) will be known as geographic differentials. When only the entry rates (and not the maximums) need to be higher, the higher rates will be known as special entry rates. Special entry rates may be approved on a geographic basis also.
- (c) When geographic differentials are in effect, all salary administration policies are applied as if the classification were at the higher grade. Provisions for applying special entry rates are included in each policy.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1990.

#### 25 NCAC 01D .0103 STATE SALARY SCHEDULE

Annual salary ranges showing at least the minimum and maximum pay rates for each job classification subject to the State Human Resources Act are filed in the Office of State Human Resources and in the personnel office of each state department and institution. Information on current salaries may be obtained at these locations. The salary schedule is adopted by reference as of October 1, 1984 in accordance with G.S. 150B-14(c).

*History Note:* Authority G.S. 126-4(2); 150B-14(c);  
Eff. September 1, 1976;  
Amended Eff. January 1, 1990; October 1, 1984; June 1, 1984; September 1, 1983.

#### 25 NCAC 01D .0104 APPENDICES TO STATE SALARY SCHEDULE

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1983; October 1, 1983; September 1, 1983; August 1, 1983;  
Repealed Eff. December 1, 1984.

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

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

An employee is not in pay status after the last day of work when separated because of resignation, dismissal, death, retirement and reduction-in-force.

*History Note:* Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1989; October 1, 1983; July 1, 1983.

#### **25 NCAC 01D .0106 TOTAL COMPENSATION AND TOTAL EMPLOYMENT**

An employee being paid for full-time employment shall not receive additional compensation for additional work performed for the state except as provided under the dual employment policy and under the overtime policies. Under the dual employment policy, an agency may secure the services of an employee in another agency on a part-time, consulting or contractual basis when the demand for an employee with special skills and abilities is required for efficient operation of a program.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976.

#### **25 NCAC 01D .0107 CROSS HIRING**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. July 1, 2012.

#### **25 NCAC 01D .0108 AVAILABILITY OF FUNDS**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. January 1, 1990.

#### **25 NCAC 01D .0109 COMPENSATION FOR POSITIONS EXEMPT EXCEPT AS TO SALARY**

*History Note:* Authority G.S. 126-4; 126-5(b)(3);  
Eff. July 1, 1977;  
Repealed Eff. October 1, 1977.

#### **25 NCAC 01D .0110 POLICY**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1985;  
Repealed Eff. March 1, 1988.

### **25 NCAC 01D .0111 TECHNICAL ADJUSTMENTS TO THE PAY PLAN**

(a) Technical adjustments to the pay plan are refinements to the pay system approved by the State Human Resources Commission that include, but are not limited to, such actions as establishing special pay plans, renumbering salary ranges, changing the length of salary ranges, and adding or deleting salary ranges. This type of change is not directly related to current labor market fluctuations, and therefore is not defined as a Salary Range Revision. Neither are technical changes related to position classification changes, and therefore are not Reallocations.

(b) Technical adjustments to the pay plan do not create entitlement or authorization to change individual employee salaries.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 1991.*

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

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

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

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

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

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

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

*History Note: Authority G.S. 126-4(5),(10);  
Eff. February 1, 1976;  
Amended Eff. August 1, 1995; July 1, 1983;  
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Amended Eff. July 1, 1989; March 1, 1989;  
Recodified from 25 NCAC 01D .1204(g) Eff. December 29, 2003;  
Amended Eff. August 1, 2009.*

### **25 NCAC 01D .0113 PAYMENT OF SALARY TO EMPLOYEES**

(a) Every state agency shall pay every employee all wages earned and accruing to that employee on the regular payday for that agency. If the date of separation precludes payment on the regularly scheduled payday, then payment shall be made as soon as possible, but not later than the next scheduled payday. This Rule shall not be construed to require

agencies to compensate FLSA exempt employees for compensatory time earned and accrued in accordance with 25 NCAC 1E .1006.

(b) Employees who separate from employment with the state shall be paid all salary due no later than the next scheduled payday. If the date of separation precludes payment on that date, then payment shall be made in accordance with Rule .2201 of this Section.

(c) No money shall be withheld from a final payment to a separated employee except for reasons set forth in this Rule or as otherwise provided for by law or the rules of the Office of State Budget.

(d) The employing agency may withhold money from a final salary payment to a separated employee to recover the cost of state property, equipment, uniforms, tools or other items owned by the state and not returned to the employing agency by the separated employee.

(e) The employing agency shall withhold money from a final salary payment to a separated employee to pay for overdrawn vacation or sick leave or other financial obligation to the employing agency arising out of the employment relationship outstanding at the time of the employee's separation.

(f) Failure by the separated employee to perform one or more job responsibilities or other work-related acts prior to separation shall not be cause for withholding of any salary due to the employee at separation.

(g) An employee shall be notified in advance in writing of any deductions to be made from his final payment of salary pursuant to this Rule. The notice shall specify what amounts are being deducted, and the reasons for the deductions.

(h) Provisions of this Section shall be posted prominently at least in every agency and university personnel office and elsewhere as the employing agency deems necessary.

*History Note: Authority G.S. 126-4(10);  
Eff. November 1, 1989;  
Recodified from 25 NCAC 01D .2201-.2203 Eff. December 29, 2003.*

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

A break in service occurs when an employee is in non-pay status for more than 31 calendar days. (An employee is in pay status when working, when on paid leave or when on workers' compensation leave. An employee is not in pay status after the last day of work when separated because of resignation, dismissal, death, retirement or reduction in force.) Periods of leave without pay do not constitute a break in service.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
Amended Eff. March 1, 1989;  
Recodified from 25 NCAC 01D .1003 Eff. December 29, 2003.*

#### **25 NCAC 01D .0115 SUPPLEMENTAL SALARY**

(a) Supplemental salary is any compensation from an affiliated public charity, foundation or other private source paid to a state employee for services that are part of the employee's regular job and is in addition to the employee's base salary paid by the state and any other compensation authorized by this Chapter.

(b) Receipt of supplements shall be subject to the approval of the agency head with final approval by the State Human Resources Commission. Requests shall be submitted to the Office of State Human Resources and shall include documentation of relevant labor market information and any other information that the agency head believes justifies a salary supplement. The documentation shall also include why the payment of the supplement will not result in any conflict of interest. In the absence of a conflict of interest, the State Human Resources Commission shall base its decision on documented labor market information submitted by the agency and any additional information of prevailing practices in the applicable labor market supplied by the Office of State Human Resources.

(c) Salary supplements in existence on the effective date of this Rule shall be submitted for review and approval within 90 days.

(d) Any proposed changes in the amount of a salary supplement shall be resubmitted to the Office of State Human Resources with documented labor market information and shall be subject to final approval by the State Human Resources Commission. The State Human Resources Commission shall base its decision on documented labor market information submitted by the agency and any additional information of prevailing practices in the applicable labor market supplied by the Office of State Human Resources.

*History Note: Authority G.S. 126-4;  
Eff. September 1, 2006.*

## **25 NCAC 01D .0116 SIGN-ON BONUS**

When the Legislature appropriates funds to use for a sign-on bonus for a certain occupational group, the following provisions shall apply unless otherwise provided by Statute or session law:

- (1) A sign-on bonus is a lump sum payment that serves as a recruitment incentive to aid in the employment of individuals in critical positions that have labor market shortages which affect the business needs of the agency and which impair the delivery of essential services.
- (2) Labor market shortages are defined through significant vacancy rates, turnover rates, difficulty in recruitment and fluctuating market conditions. Agencies will track and provide data related to these factors for the specific occupation in the bonus program. Turnover and vacancy rates in an occupation that are five percent or higher as compared to agency-wide and statewide rates for all occupations are significant. Recruitment difficulty is defined by active recruitment of positions that required more than six months to obtain a qualified applicant pool. Fluctuating market conditions are identified as competitors begin to rapidly increase pay and offer new incentives such as bonuses.
- (3) The amount of the bonus shall be determined based on labor market data and available funds.
- (4) An employee shall receive one-half of the bonus in the first paycheck and will receive a second installment after successful completion of 36 consecutive months provided the employee retain eligibility as outlined in this Rule. Bonuses for part-time employees are pro-rated.
- (5) Eligibility for the initial sign-on bonus:
  - (a) A newly employed permanent full-time and permanent part-time employee who is employed to work at least 36 months is eligible for a sign-on bonus. An employee who works 30 to 40 hours per week is considered full-time for this purpose. An employee who works at least 20 hours but less than 30 hours per week is part-time;
  - (b) An employee who has worked in a State agency within the last twelve months is not eligible to receive a sign-on bonus and shall remain ineligible for twelve months from the separation date;
  - (c) An employee who has previously received a sign-on bonus under the agency's bonus program is not eligible for a sign-on bonus; and
  - (d) A sign-on bonus shall not be paid when contract placement or recruitment fees are paid by the agency in connection with the employment.
- (6) Eligibility for the final sign-on bonus installment:
  - (a) An employee who remains employed in same agency and the occupational area for 36 consecutive months is eligible for the final installment of the sign-on bonus payment;
  - (b) An employee who is subsequently promoted to a classification in the same occupational area is eligible for the final installment after completion of 36 consecutive months;
  - (c) An employee whose performance rating at any time is not at or above "good" or "meets" or who has documented disciplinary actions for misconduct or performance shall be ineligible for the final sign-on bonus installment;
  - (d) An employee who receives a sign-on bonus who subsequently transfers to another agency before the completion of 36 consecutive months is not eligible for the final sign-on bonus installment; and
  - (e) An employee with less than 24 months of consecutive service who changes from a permanent 30 to 40 hour appointment to a permanent 20 but less than 30 hour appointment is not eligible for the final sign-on bonus installment.
- (7) Repayment of Sign-on Bonus:
  - (a) An employee who terminates employment with the agency, either voluntarily or involuntarily, before the completion of 36 months of consecutive service shall repay a prorated amount of the sign-on bonus based on months of service completed;
  - (b) The repayment shall be based on the following formula:
    - (i)  $\$ \text{ of Initial Sign-on Bonus Received} / 36 \text{ Months} = \text{prorated Monthly Amount}$ ; and
    - (ii)  $\text{Prorated Monthly amount} \times (36 \text{ Months} - \text{Months Worked}) = \text{Amount due}$ ; and

- (c) The amount due shall be deducted in full from the employee's final paycheck. If the amount deducted exceeds the final paycheck, the remaining balance shall be paid in full to the agency within 60 days from the last date of employment.
- (8) Credit for Consecutive Service:
  - (a) One month of credit toward the 36 months is granted for each month that the employee is in pay status for one-half or more of the scheduled workdays and holidays in the pay period; and
  - (b) Time on military leave or workers' compensation leave applies to consecutive service with the final installment being paid when the employees return to work.
- (9) The agency shall:
  - (a) Develop and submit a plan for administering the bonus to the Office of State Human Resources that includes the following:
    - (i) Regional market data that identifies the practices of competitors for bonus programs and defines the agency's practice; and
    - (ii) Guidelines for administration of the bonus program within the agency that defines eligibility, method of payment, and criteria for repayment;
  - (b) Submit to the Office of State Human Resources the base line data related to vacancy rates, turnover, recruitment issues, and market conditions for the occupation no later than 30 days from the approval of the agency plan; and
  - (c) Submit yearly reports to the Office of State Human Resources that detail the vacancy rates, turnover, recruitment issues, and market conditions for the occupation.
- (10) The Office of State Human Resources shall:
  - (a) Review and approve or disapprove agency plans according to the standards in this Rule;
  - (b) Monitor and audit agency adherence to their plan and State Human Resources Commission; and
  - (c) Analyze yearly data from the agency related to vacancy, turnover, recruitment and market to report the impact of the bonus program in the annual Compensation and Benefits Report to the NC General Assembly.

*History Note:* Authority G.S. 126-4; S.L. 2008-107, Section 26.12B.(a);  
Eff. March 1, 2009.

## **SECTION .0200 - EMPLOYEE SUGGESTION SYSTEM**

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

- (a) A new appointment is the initial employment of an individual to a position in State government.
- (b) An employee entering into state service in a permanent or time-limited position shall be given a probationary or trainee appointment. The probationary and trainee appointment periods shall serve as an extension of the selection process and to determine whether the person meets satisfactory performance standards for the work for which employed. The employee shall earn all the benefits of an employee with a permanent appointment during this time.
- (c) The duration of a probationary appointment shall be 24 months of either full-time or part-time employment. (This probationary period is not the same as the probationary period prescribed for criminal justice officers in 12 NCAC 05 .0401.) The duration of the trainee appointment is established for each regular classification to which a trainee appointment is made.
- (d) The conditions of the probationary and trainee appointments shall be conveyed to the applicant prior to appointment. During the probationary or trainee period, the supervisor shall work with the employee in counseling and assisting the employee to achieve a satisfactory performance level; progress of the employee shall be reviewed during discussions between the employee and the supervisor. Following the probationary period, the employee shall be given a permanent appointment to the class when the supervisor, in consultation with other appropriate administrators, determines the employee's performance indicated capability to become a satisfactory performer and merits retention in the position. If the determination is that the employee's performance indicates that the employee is not suited for the position and does not meet acceptable performance standards, the employee shall be separated from that position. Employees may be separated during a probationary appointment for causes related to performance of duties or unacceptable personal conduct. Employees in trainee appointments who are not career State employees may also be separated for causes related to performance of duties or unacceptable personal conduct. Except in cases of alleged discrimination, harassment, or

retaliation, a separation of an employee in a trainee appointment who is not a career State employee may not be appealed through the agency grievance process as set forth in G.S. 126-34.01 and the Office of Administrative Hearings contested case process as set forth in G.S. 126-34.02.

*History Note:* Authority G.S. 126-1.1; 126-4; 126-34.01; 126-34.02;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1995; December 1, 1988; January 1, 1979; December 1, 1978;  
Temporary Amendment Eff. May 23, 2014;  
Amended Eff. April 1, 2015.

**25 NCAC 01D .0202      HIRING RATE**  
**25 NCAC 01D .0203      JUSTIFICATION**  
**25 NCAC 01D .0204      TEMPORARY OR PART-TIME EMPLOYEES**

*History Note:* Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989; March 1, 1989; November 1, 1988; June 1, 1983;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .0205      EFFECTIVE DATE**

(a) A new employee may begin work on any scheduled workday in a pay period. When the first day of a pay period falls on a non-workday and the employee begins work on the first workday of a pay period, the date to begin work will be shown as the first of the pay period.

(b) The effective date for change to a permanent or time-limited permanent appointment shall be the date that it is determined that the employee meets acceptable performance standards, but not less than three months from the date of employment.

*History Note:* Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1995; March 1, 1994; March 1, 1989.

**25 NCAC 01D .0206      PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1982; July 1, 1980; August 1, 1978;  
Repealed Eff. March 1, 1989.

**25 NCAC 01D .0207      QUALIFICATIONS**

The employee must possess at least the minimum education and experience requirements, or their equivalent, as set forth in the class specification. This applies to full-time and part-time permanent, probationary, trainee, time-limited permanent and temporary appointments.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;

*Amended Eff. August 1, 1995; August 1, 1978.*

**25 NCAC 01D .0208      TRAINEE APPOINTMENTS**

Trainee appointments, against classified positions and with an accelerated salary progression, are provided to complement the employment and training process by providing an opportunity to acquire knowledge and skills on the job which may not be available in the labor market or which cannot be learned in a short period. The duration of the trainee appointment is approximately the amount of time required as experience necessary to meet the minimum qualifications of the position. The salary progression rates are spread over the training period and provide competitive salary rates for trainees and for experienced, qualified employees. The recruitment standards and salary progression together provide a uniform guide for equitable employment and compensation of trainees.

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. January 1, 1989.*

**25 NCAC 01D .0209      TRAINEE SALARIES**

The salary for a new appointment must be at the specified minimum rate unless the employee possesses sufficient additional education or experience to qualify for a higher rate.

*History Note:      Authority G.S. 126-4;  
                         Eff. February 1, 1976.*

**25 NCAC 01D .0210      TRAINEE SALARY ADJUSTMENTS**

During a trainee appointment, an evaluation of the individual's performance and progress on the job is to be made at frequent intervals. As a general guide, salary increases are provided at specified intervals. These increases are not automatic and are not necessarily limited to the full elapse of specified intervals. Salary adjustments may be either advanced or delayed depending upon the progress of the employee. In cases where salary adjustments have been advanced, normally the trainee's salary will not be adjusted to the minimum rate of the range for the regular classification until the employee meets all education and experience requirements for the appointment; the salary can be moved to the regular class rate only when job performance demonstrates achievement of duties, knowledges, and skills at the level of the class as verified by individual job audit. Adjustments are to be given upon recommendation by the appointing authority and the supervisor that the employee has earned an increase.

*History Note:      Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29,  
                         1989;  
                         Authority G.S. 126-4;  
                         Eff. February 1, 1976;  
                         Amended Eff. January 1, 1990; March 1, 1989; July 1, 1980; August 1, 1978.*

**25 NCAC 01D .0211      SALARY RATE**

(a) The hiring rate of pay for a class, or trainee rate where applicable shall normally be paid a qualified new employee. When a special entry rate has been authorized, that rate may be paid a qualified new employee if the agency has made a decision to use the new rate.

(b) A salary above the hiring rate (or applicable special entry rate) may be approved by the Office of State Human Resources on the initial appointment when:

- (1)      extensive recruitment efforts have not produced qualified applicants; or



- (2) the applicant possesses exceptional qualifications above the minimum requirements of the class specification, and operational needs exist which justify filling the position at the salary above the minimum of the range. The additional experience and training must be in the same or closely related area to that stated as acceptable in the class specification. Up to five percent above the minimum rate may be considered for each qualifying year of directly related experience or education above the minimum requirements.
- (c) Appointments above the hiring rate shall be avoided if salary inequities will be created. This shall be considered carefully in order to avoid present or future inequities.
- (d) If a specific salary limitation is published in the vacancy announcement because of lack of funds or equity considerations, the initial salary cannot be higher than posted. However, if it is determined that a higher salary is warranted based on qualification, the agency may state this on the PD-105 and if funds are available at the time a permanent appointment is given, the salary may be adjusted at that time.
- (e) When an employee is given a permanent appointment after successful completion of either the probationary period or the trainee period, if the initial salary is at the hiring rate or trainee rate, it shall be increased to the minimum rate of the range and may be increased to a higher rate if the conditions in Paragraph (b) of this Rule are met.
- (f) If the salary is at an authorized special entry rate, it may be increased by five percent above the special entry rate.
- (g) If the employee is hired at a salary below an authorized special entry rate because the lower salary is sufficient to attract applicants but not sufficient to retain the employee once experience is gained, an adjustment up to the special entry rate may be made during or at the end of the probationary period or at such time as performance indicated that it is justified.
- (h) If the initial salary is above the hiring rate, the agency may elect to increase the salary by 5% or to a higher rate if the conditions in Paragraph (b) of this Rule are met.
- (i) Only with the prior approval of the State Human Resources Director and in well-documented cases which involve circumstances such as severe labor market conditions or extraordinary qualifications will salaries be considered which exceed the limits of this Section.

*History Note:* Authority G.S. 126-4(2);  
Eff. January 1, 1990;  
Amended Eff. August 1, 1995; March 1, 1994; September 1, 1991; January 1, 1991.

#### **25 NCAC 01D .0212 JUSTIFICATION**

If the salary requested is above the hiring rate or if it is anticipated that the salary will be increased to a rate above the minimum upon permanent appointment, the Form PD-105 must include a statement of reasons and justification for the rate that will be paid.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1990;  
Amended Eff. March 1, 1994.

#### **25 NCAC 01D .0213 TEMPORARY AND PART-TIME EMPLOYEES**

- (a) The hiring rate shall normally be paid temporary employees. However, a lower rate may be set if reasons are acceptable to the Office of State Human Resources. Temporary employees shall be paid hourly rates.
- (b) Employees with permanent part-time appointments shall be paid a proportionate annual rate.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1990.

### **SECTION .0300 - PROMOTION**

#### **25 NCAC 01D .0301 DEFINITION AND POLICY**

Promotion is a change in status upward, documented according to customary professional procedure and approved by the State Human Resources Director, resulting from assignment to a position assigned a higher salary grade. When it is practical and feasible, a vacancy shall be filled from among eligible employees; a vacancy must be filled by an applying

employee if required by 25 NCAC, Subchapter 1H, Recruitment and Selection, Section .0600, General Provisions, Rule .0625, Promotion Priority Consideration for Current Employees. Selection shall be based upon demonstrated capacity, quality and length of service.

*History Note:* Authority G.S. 126-4; 126-7.1;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1993; July 1, 1989.

#### **25 NCAC 01D .0302 SALARY RATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1989; January 1, 1989; December 1, 1984; April 1, 1984;  
Repealed Eff. January 1, 1990.

#### **25 NCAC 01D .0303 EFFECTIVE DATE OF PROMOTIONS FOR GRADED POSITIONS**

(a) For employees in graded positions, a promotional increase shall be given on the effective date of a promotion, unless a salary limitation is published in advance, by the agency in the vacancy announcement.

(b) If the desired amount of increase is not given on the effective date of the promotion, an additional increase(s), up to the full allowable amount, may be given at a later date(s). If an additional increase is awarded later, that increase shall not be awarded retroactively, but only awarded on a current, or prospective basis. If a subsequent promotion, reallocation up or down, demotion or reassignment occurs, this cancels the authorization to grant additional increases as a result of the previous promotion. If increases are to be given at later dates, a notation must be entered in the comments section on the personnel action promotion entry made by the agency in the human resources information system stating the reason the increase is being delayed and showing the dollar amount of the total allowable increase, the amount currently being given, and the balance that may be given later. The salary entry submitted later must state "Delayed Promotional Increase" in the description of action block, which will denote that this is a delayed increase.

(c) If no additional increase is to be given at a later date, no notation is needed in the comments section of the personnel action at the time of the promotion.

(d) Temporary promotions may be made effective on the date that an employee is placed in an "acting" capacity.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. July 1, 2012; March 1, 1992; July 1, 1990; January 1, 1990; December 1, 1983.

#### **25 NCAC 01D .0304 PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1983; December 1, 1980; July 1, 1980; December 1, 1978;  
Repealed Eff. January 1, 1990.

#### **25 NCAC 01D .0305 QUALIFICATIONS**

For promotion to another position, the employee must possess at least the minimum education and experience requirements, or their equivalent, as set forth in the class specifications.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1985; December 1, 1983; January 1, 1979; October 1, 1977.

**25 NCAC 01D .0306      NON-COMPETITIVE PROMOTION UNDER COMPETITIVE SERVICE**  
**25 NCAC 01D .0307      PROMOTION DURING PROBATIONARY OR TRAINEE PERIOD**

*History Note:      Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. June 1, 1983; January 1, 1979; December 1, 1978;*  
*Repealed Eff. December 1, 1985.*

**25 NCAC 01D .0308      SALARY INCREASES FOR PROMOTIONS FOR GRADED POSITIONS**

The purpose of a promotional pay increase for employees in graded positions is to reward the employee for the assumption of duties more responsible and more difficult than those in the current graded position. Subject to the availability of funds, salary increases, not to exceed the maximum of the range, shall be given by an agency in accordance with the following:

- (1) Permanent Promotion:
  - (a) Salaries at the minimum rate or within the range shall be increased to the new minimum rate of the grade to which promoted or by five percent, whichever is larger.
  - (b) If the employee is promoted to a position within the same class series or occupational group, the salary may be established in accordance with the following based on qualifications, nature and magnitude of the change in job, availability of funds and equity consideration:
    - (i) the salary may be increased by up to five percent for each grade provided by the promotion, or
    - (ii) the salary may be established in accordance with the rules at 25 NCAC 01D .0200, New Appointments.
  - (c) If the employee is promoted to a position in a different occupational area, the salary may be established in accordance with the rules at 25 NCAC 01D .0200, New Appointments. The nature and magnitude of the change in jobs, the need to maintain equity of salaries within the work unit, and other management needs must be given consideration when making salary decisions. Agency management is responsible for assuring that inequities are not created. When establishing salaries in accordance with 25 NCAC 01D .0200, the comments section of the personnel action promotion entry made by the agency in the human resources information must include the justification for the salary decision. If an employee has been reduced to a lower salary grade through demotion, reassignment, reallocation or salary range revision, but without a corresponding reduction in salary, and the employee is later promoted to a position with a higher grade, the number of grades in the original reduction shall be considered to have been compensated and shall not be considered in the salary setting procedure in this Rule. If the reduction in grade occurred as much as 12 months previously, the agency may give consideration to granting a salary increase within the provisions of this Rule. Factors to be considered are the nature of the change in jobs and the need to maintain equity of salaries within the work unit.
  - (d) Only with the prior approval of the State Human Resources Director in documented cases that involve circumstances such as severe labor market conditions, unusual change in the scope of work, extraordinary qualifications, or resolution of serious equity problems shall salary increases above that allowed by the provisions in this Rule be given. The salary justification must be included in the comments section of the personnel action promotion entry made by the agency in the human resources information system.
  - (e) If the employee is to receive a performance salary increase on the same date as the promotion, the increase shall be given before the promotional increase.
  - (f) If an employee is promoted from a class for which there is no special entry rate into a class which has a special entry rate, the employee's salary may be increased by the amount of the promotional increase plus the percent difference between the minimum and the special entry rate authorization, subject to available funds and equity considerations.
  - (g) Exceptions:

- (i) A promotional increase is not required if a specific salary rate or limitation is published in advance of a promotional offer because of internal salary equity or budget considerations in the receiving work unit or agency. If this occurs, a salary increase above the salary rate posted may not be paid. If conditions change that eliminate the equity problem or if additional funds become available that can be used for this purpose, agency management may consider an additional increase in accordance with the provisions outlined under Rule .0303 of this Section.
  - (ii) If the employee's salary is above the maximum as a result of a reallocation down, no increase shall be given, but the salary may remain above the maximum.
- (2) Temporary Promotion:
- (a) Temporary promotions may be made when an employee is placed in an "acting" capacity for a period of time. When an employee is placed in an "acting" capacity, at the discretion of management and consideration of qualifications, nature and magnitude of the change in job, availability of funds and equity consideration, one of the following may occur:
    - (i) The employee may be placed in the higher level position (if vacant) with an understanding that he will return to the former position and salary when the position is filled; or
    - (ii) A salary adjustment may be given in the present position with the understanding that the salary will be decreased when the "acting" capacity terminates. The comments section of the personnel action acting promotion entry made by agencies in the human resources information system must include the position number and classification for which the employee is serving in as "acting" and the expected duration of "acting" capacity.
  - (b) The provisions for salary increases for permanent promotions apply in either case, except that the provision for a mandatory increase are not applicable.
  - (c) The length of time that an employee is in an acting capacity shall be limited, and the amount of promotional salary increase determined by the degree of assumption of the higher level duties.

*History Note:* Authority G.S. 126-4;  
 Eff. January 1, 1990;  
 Amended Eff. July 1, 2012; March 1, 1992; September 1, 1991; July 1, 1990.

## **SECTION .0400 - DEMOTION OR REASSIGNMENT**

### **25 NCAC 01D .0401 DEFINITION**

Demotion or reassignment is a change in status downward resulting from assignment to a position at a lower salary grade. If the change results from inefficiency in performance or as a disciplinary action, the action is considered a demotion. If the change results from a mutual agreement between the employee and employer, the action is considered a reassignment.

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. December 1, 1995; March 1, 1994.

### **25 NCAC 01D .0402 SALARY RATE**

*History Note:* Authority G.S. 126-4;  
 Eff. February 1, 1976;  
 Amended Eff. December 1, 1978; April 1, 1978; August 1, 1977;  
 Repealed Eff. January 1, 1990.

**25 NCAC 01D .0403      EFFECTIVE DATE**

*History Note:*    *Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. March 1, 1994;*  
*Repealed Eff. July 1, 2012.*

**25 NCAC 01D .0404      PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:*    *Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. July 1, 1980; December 1, 1978;*  
*Repealed Eff. January 1, 1990.*

**25 NCAC 01D .0405      QUALIFICATIONS**

If a demotion or reassignment is made to a position within the same field of work, the employee automatically qualifies. However, if a demotion is made to a different field of work, the employee must meet the minimum education and experience requirements, or their equivalent, as set forth in the class specification.

*History Note:*    *Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. March 1, 1994; December 1, 1985; December 1, 1978.*

**25 NCAC 01D .0406      SALARY RATE**

(a) When an employee is demoted or reassigned to a lower class position and the employee's current salary falls within the range of the lower class, it may remain the same or be reduced to any salary in the lower range. Exceptions are: When an employee is promoted and subsequently demoted or reassigned, or is reallocated upward and subsequently reallocated downward, demoted or reassigned to any lower class within one year, the following shall apply:

- (1) if to the same grade level before the promotion or reallocation, the salary shall revert to the salary being paid before the promotion or reallocation, plus any increases that would have been given had that promotion not occurred;
- (2) if to a level higher than held before the promotion or reallocation, the salary shall revert to a salary that is permitted by 25 NCAC 1D, Section .0300, as though the previous promotion or reallocation had not occurred;
- (3) if to a level lower than held before the promotion or reallocation, the salary shall be set in accordance with Paragraph (a)(1), but not to exceed the maximum.

(b) When the employee's current salary is above the maximum of the range for the lower class, the salary shall be reduced at least to the maximum of the lower range.

(c) When an employee has reduction-in-force priority consideration, the salary shall be set in accordance with G.S. 126-7.1(a2).

*History Note:*    *Authority G.S. 126-4;*  
*Eff. January 1, 1990;*  
*Amended Eff. December 1, 1995; July 1, 1990.*

**SECTION .0500 - SEPARATION**

**25 NCAC 01D .0501      DEFINED**

*History Note:* Authority G.S. 126-4; 126-5(c);  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989; October 1, 1977;  
Recodified to 25 NCAC 01C .1001 Eff. December 29, 2003.

**25 NCAC 01D .0502 RESIGNATION**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1988; February 1, 1983;  
Recodified to 25 NCAC 01C .1002 Eff. December 29, 2003.

**25 NCAC 01D .0503 RETIREMENT**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. November 1, 1988; February 1, 1983;  
Recodified to 25 NCAC 01C .1003 Eff. December 29, 2003.

**25 NCAC 01D .0504 REDUCTION IN FORCE**

*History Note:* Authority G.S. 126-4(2);  
Eff. February 1, 1976;  
Amended Eff. May 1, 1980; January 1, 1980;  
Emergency Amendment (a) Eff. March 16, 1981 for a Period of 77 Days to Expire on June 1, 1981;  
Emergency Amendment (a) Made Permanent with Change Eff. April 8, 1981;  
Amended Eff. December 1, 1995; March 1, 1994; November 1, 1990; March 1, 1987;  
Recodified to 25 NCAC 01C .1004 Eff. December 29, 2003.

**25 NCAC 01D .0505 DISMISSAL**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989;  
Recodified to 25 NCAC 01C .1005 Eff. December 29, 2003.

**25 NCAC 01D .0506 CLOSING OF A STATE INSTITUTION**

*History Note:* Authority G.S. 126-4; 143-27.2;  
Eff. July 1, 1979;  
Repealed Eff. October 1, 1984.

**25 NCAC 01D .0507 PRIORITY REEMPLOYMENT CONSIDERATION**

*History Note:* Authority G.S. 126-5(e);  
Eff. June 1, 1985;  
Repealed Eff. March 1, 1987.

**25 NCAC 01D .0508 PRIORITY REEMPLOYMENT CONSIDERATION: (EFF. JULY 1, 1985)**

*History Note:* Authority G.S. 126-5(e);  
Eff. October 1, 1985;  
Repealed Eff. March 1, 1987.

**25 NCAC 01D .0509 SEVERANCE SALARY CONTINUATION**

*History Note:* Authority G.S. 126-4(10); 143-27.2;  
Eff. October 1, 1985;  
Amended Eff. October 1, 1995; September 1, 1991; November 1, 1990; November 1, 1988;  
Recodified to 25 NCAC 01D .2701 Eff. December 29, 2003.

**25 NCAC 01D .0510 PRIORITY REEMPLOYMENT CONSIDERATION**

*History Note:* Authority G.S. 126-1A; 126-5(c)(2); 126-5(d)(1); 126-7.1;  
Eff. March 1, 1987;  
Amended Eff. December 1, 1995; March 1, 1994; June 1, 1992; March 1, 199;  
Recodified to 25 NCAC 01H .0901 Eff. December 29, 2003.

**25 NCAC 01D .0511 REDUCTION IN FORCE PRIORITY CONSIDERATION**

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Amended Eff. December 1, 1995; April 1, 1993; June 1, 1992; January 1, 1990;  
Recodified to 25 NCAC 01H .0902 Eff. December 29, 2003.

**25 NCAC 01D .0512 POLICY-MAKING/CONFIDENTIAL EXEMPT PRIORITY CONSIDERATION**

*History Note:* Authority G.S. 126-1A; 126-5;  
Eff. March 1, 1987;  
Amended Eff. June 1, 1994; June 1, 1992; November 1, 1988;  
Recodified to 25 NCAC 01H .1001 Eff. December 29, 2003.

**25 NCAC 01D .0513 CUMULATIVE STATE SERVICE**

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Recodified to 25 NCAC 01H .1002 Eff. December 29, 2003.

**25 NCAC 01D .0514 REEMPLOYMENT AFTER PRIORITY EXPIRATION**

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987  
Recodified to 25 NCAC 01H .0903 Eff. December 29, 2003.

**25 NCAC 01D .0515 AGENCY RESPONSIBILITIES**

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Amended Eff. December 1, 1995; June 1, 1992; November 1, 1988;  
Recodified to 25 NCAC 01H .0904 Eff. December 29, 2003.

**25 NCAC 01D .0516 OFFICE OF STATE PERSONNEL RESPONSIBILITY**

*History Note:* Authority G.S. 126-4(6),(10);

*Eff. March 1, 1987;*  
*Recodified to 25 NCAC 01H .0905 Eff. December 29, 2003.*

**25 NCAC 01D .0517 LEAVE**

*History Note: Authority G.S. 126-4(6),(10);*  
*Eff. March 1, 1987;*  
*Amended Eff. November 1, 1990;*  
*Repealed Eff. December 1, 2008.*

**25 NCAC 01D .0518 VOLUNTARY RESIGNATION WITHOUT NOTICE**

*History Note: Authority G.S. 126-4(7a);*  
*Eff. November 1, 1989;*  
*Recodified to 25 NCAC 01C .1006 Eff. December 29, 2003.*

**25 NCAC 01D .0519 UNAVAILABILITY WHEN LEAVE IS EXHAUSTED**

*History Note: Authority G.S. 126-4(7a); 126-35;*  
*Eff. November 1, 1989;*  
*Recodified to 25 NCAC 01C .1007 Eff. December 29, 2003.*

**25 NCAC 01D .0520 APPOINTMENT ENDED**

*History Note: Authority G.S. 126-4; 126-5;*  
*Eff. March 1, 1996;*  
*Recodified to 25 NCAC 01C .1008 Eff. December 29, 2003.*

**SECTION .0600 - REALLOCATION**

**25 NCAC 01D .0601 REALLOCATION DEFINED**

**25 NCAC 01D .0602 ASSIGNMENT TO HIGHER GRADE**

**25 NCAC 01D .0603 ASSIGNMENT TO A LOWER GRADE**

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. April 1, 1984; August 1, 1980; July 1, 1980; January 1, 1979;*  
*Repealed Eff. January 1, 1990.*

**25 NCAC 01D .0604 ASSIGNMENT TO SAME GRADE**

When an employee's position is assigned to the same grade level, the employee's salary shall remain unchanged.

*History Note: Authority G.S. 126-4;*  
*Eff. February 1, 1976.*

**25 NCAC 01D .0605 EFFECTIVE DATE OF REALLOCATIONS FOR GRADED POSITIONS**

(a) An agency's request to reallocate a graded position shall be submitted to the Office of State Human Resources 30 days prior to the proposed effective date to allow adequate time for study and processing of the requests.

(b) Salary increases to the minimum rate shall be given on the effective date of the reallocation. If funds are not available, the increase shall be given from the first available funds and made retroactive to the effective date of the



reallocation, so long as a notation is entered in the comments section on the personnel action reallocation entry made by the agency in the human resources information system at the time the reallocation occurs. Employees who are denied increases to the minimum because of poor performance shall receive the increase on a current basis, that is, non-retroactively, but prospectively only if and at such time as the employee's performance issue is resolved and a notation shall be entered in the comments section on the personnel action entry made by the agency in the human resources information system at the time of the reallocation indicating that a review of performance will take place on or before a specific date in the future.

(c) An agency may choose to recommend that the employee reallocated upwards receive a salary increase within the range and, if recommended, the salary increase shall be given on the effective date of the reallocation. If the desired amount of increase is not given on the effective date because funds are not available, equity considerations or performance, the increase(s), up to the full allowable amount, may be given at a later date(s) on a current basis, that is, non-retroactively, but prospectively only, so long as the required notation is entered on the comments section of the personnel action at the time of the reallocation. If a subsequent promotion, reallocation up or down, demotion or reassignment occurs, this cancels the authorization to grant additional increases as a result of the previous reallocation.

(d) If increases are to be given at later dates, a notation must be entered in the comments section of the personnel action reallocation entry made by the agency in the human resources information system stating the reason the increase is being delayed and showing the dollar amount of the allowable increase, the amount given, and the balance that may be given later if funding becomes available and equity and performance supports awarding the increase. If no increase is to be given at a later date, no notation is needed in the comments section of the personnel action at the time of the reallocation.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. July 1, 2012; July 1, 1990; January 1, 1990.

#### **25 NCAC 01D .0606 PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1980; December 1, 1978;  
Repealed Eff. January 1, 1990.

#### **25 NCAC 01D .0607 QUALIFICATIONS**

When an employee's present position is reallocated upward, the employee must ordinarily possess the minimum education and experience requirements, or their equivalent, as set forth in the class specification. If a classification audit has verified that duties, skills, and knowledges are being demonstrated at a higher level and the position is reallocated, the employee may be promoted by waiver of the stated education and experience requirements.

If reallocation downward is made to a position within the same field of work, the employee automatically qualifies. However, if a reallocation down is to a different field of work, the employee must meet the minimum education and experience requirements, or their equivalent, as set forth in the class specification.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1985.

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

Reallocation is the assignment of a position to a different classification, documented through data collection and analysis according to customary professional procedure and approved by the State Human Resources Director.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1990.

**25 NCAC 01D .0609 REALLOCATION TO A HIGHER GRADE**  
**25 NCAC 01D .0610 REALLOCATION TO A LOWER GRADE**

*History Note: Authority G.S. 126-4(2);  
Eff. January 1, 1990;  
Amended Eff. November 1, 1990;  
Repealed Eff. January 1, 1991.*

**25 NCAC 01D .0611 REALLOCATION/SALARY RATE FOR GRADED POSITIONS**

(a) When an employee in a graded position is assigned to a higher grade as a result of reallocation, subject to the availability of funds and satisfactory employee performance, salary increases, not to exceed the maximum of the range, may be given in accordance with the following:

- (1) Salaries at the minimum rate shall be increased to the minimum rate of the new range, and may be increased further in accordance with Subparagraph (2) of this Rule.
- (2) If it is determined that a salary increase is justified, with the exception of Paragraph (b) of this Rule, the salary may be established as follows:
  - (A) in accordance with the rules for New Appointments (See 25 NCAC 01D .0200), or
  - (B) up to five percent for each grade provided by the reallocation, if reallocated to a position within the same classification series or occupational group.

The amount of increase shall be determined consistent with the employee's related training and experience and the nature and magnitude of the change in jobs, and take into consideration prior performance increases, work unit equity, and any other salary related considerations. When establishing salaries in accordance with the New Appointment Rules (See 25 NCAC 01D .0200), the comments section of the personnel action reallocation entry made by the agency in the human resources information system must include the justification for the salary decision.

(b) If an employee has been reduced to a lower salary grade through demotion, reassignment, reallocation or salary range revision, but without a corresponding reduction in salary, and within 12 months of the reduction the employee is reallocated:

- (1) The employee shall not be entitled to a reallocation increase unless the reallocation is to a grade higher than the grade held prior to the reduction.
- (2) If reallocated to a higher grade, the number of grades in the original reduction shall be considered to have been compensated and shall not be considered in setting the salary pursuant to Part (a)(2)(B) of this Rule.

**(Example:** If an employee is demoted with no change in salary and reallocated back to the same level, the salary shall remain unchanged and treated as if the demotion had not occurred; or if reallocated back to a level higher than before the demotion, the difference in the grade before the demotion and the new higher grade will be the basis for determining the reallocation increase.) Agency management is responsible for assuring that inequities are not created.

(c) An agency shall only give salary increases greater than five percent for each grade increase resulting from the reallocation with the prior approval of the State Human Resources Director in circumstances where the reallocated position is critical and documented labor market conditions exist that support the necessity of the increase. The comments section of the personnel action reallocation entry made by the agency in the human resources information system must contain a description of the criticality of the position and the labor market conditions.

(d) If the employee is to receive a performance salary increase on the same day as the reallocation, the performance increase shall be given before a reallocation increase is considered.

(e) When an employee's position is assigned to a lower grade, one of the following options shall be implemented:

- (1) When reduction in level of the position results from management's removal of duties and responsibilities from the employee because of change in demonstrated motivation, capability, acceptance of responsibility, or lack of performance, the effect is the same as a demotion and the salary must be reduced at least to the maximum as required by Rule 25 NCAC 01D .0406.
- (2) When reduction in level of the position results from position redesign because of management decisions on program changes, reorganization, or other management needs not associated with the employee's demonstrated motivation, capability, acceptance of responsibility or lack of performance, the salary of the employee may remain above the new maximum as long as the employee remains in

the same classification or is promoted to a higher level position. No further increases, other than legislative increases, may be granted as long as the salary remains above the maximum.

- (3) When reduction in level of the position results from a change in the labor market or some other reason not related to change in the duties and responsibilities of the position, though the position must be reallocated to the approved classification and grade, management may elect to maintain the employee's current classification and grade by working the employee against the lower level position, so long as the employee continues to occupy the same position or is in the same classification.

Once the position is vacated, it shall be filled at the lower level.

(f) Management shall avoid creation of salary inequities among employees. Each case must be evaluated to determine which of the salary administration alternatives is most appropriate, based on the circumstances as documented to the Office of State Human Resources, on appropriate forms, by the employing agency.

(g) When an employee's position is assigned to the same grade level, the employee's salary shall remain unchanged.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 1991;  
Amended Eff. July 1, 2012; March 1, 1994; April 1, 1992; September 1, 1991.*

## **SECTION .0700 - SALARY RANGE REVISION**

### **25 NCAC 01D .0701 DEFINITION**

(a) Salary range revision is any change in a salary range approved by the State Human Resources Commission and resulting from changes in the labor market.

(b) The primary purpose of a range revision is to provide current and competitive salary rates for the use of managers with recruitment responsibilities. Revisions resulting from upward changes in the labor market serve another purpose in helping reduce the vulnerability of employees to external job offers when their salaries are below the market average as reflected by the mid-point of the salary range.

(c) Salary increases as a result of salary range revision are not rewards for job performance or assumption of greater responsibility. Increases provided by this policy are for maintenance of labor market competitive pay levels for affected employees. For employees below the midpoint, management is encouraged to increase salaries. Factors that influence the amount of increase include current salary relationship to the minimum and midpoint rates, salary equity among affected employees and satisfactory job performance.

*History Note: Authority G.S. 126-4(2);  
Eff. February 1, 1976;  
Amended Eff. January 1, 1991.*

### **25 NCAC 01D .0702 ASSIGNMENT TO HIGHER GRADE**

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1980; July 1, 1980; August 1, 1978;  
Repealed Eff. January 1, 1990.*

### **25 NCAC 01D .0703 ASSIGNMENT TO A LOWER GRADE**

When a classification is assigned to a lower grade, the employee's salary may remain unchanged or it may be reduced as determined on an individual basis.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976.*

### **25 NCAC 01D .0704 PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1980; July 1, 1980; December 1, 1978;  
Repealed Eff. January 1, 1990.

**25 NCAC 01D .0705 CLASSES DETERMINED NOT LABOR-MARKET-COMPETITIVE**

When critical recruitment or employee retention problems are officially recognized by the State Human Resources Director, but salary range revisions are not necessary, feasible or practical (i.e., when range minimums are not competitive, but maximums are adequate), the director may authorize a higher special entry rate.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1985;  
Amended Eff. January 1, 1990.

**25 NCAC 01D .0706 ASSIGNMENT TO A HIGHER GRADE**

(a) When a classification is assigned to a higher grade as a result of changes in the labor market, employees whose job performance is not satisfactory or who are in formal disciplinary procedure for either performance or personal conduct are not eligible for any increase in salary. All increases are subject to the availability of funds and cannot exceed the maximum of the range. Increases are also subject to the following conditions:

- (1) Salaries at the hiring rate may be increased to the new hiring rate.
- (2) Salaries at the minimum rate shall be increased to the minimum rate of the new range, and may be increased further in accordance with Subparagraph (3) of this Rule.
- (3) Salaries within the range do not have to be increased, but if funds are available and where appropriate, individual salary increases of any amount may be considered, but the total cannot exceed the dollar amount provided by the difference in the minimum salaries of the old range and the new range. Salary equity within the work unit must be maintained and other management needs must be given consideration when making such requests. However, if an employee has been reduced to a lower salary grade through demotion, reassignment, reallocation or salary range revision, but without a corresponding reduction in salary, and the employee's position is later assigned to a higher grade as a result of salary range revision, the number of grades in the original reduction shall be considered to have been compensated and shall not be considered in the salary setting procedure in Subparagraph (3) of this Rule. If the reduction in grade occurred as much as 24 months previously, the agency may give consideration to granting a salary increase within the provisions of this policy. The need to maintain equity of salaries within the work unit must be a major consideration.
- (4) If the employee is to receive a performance salary increase on the same day as the salary range revision, the increase shall be given before a range revision increase is considered.
- (5) When a range revision occurs but the entry rate remains the same because of a previously existing special entry rate, no additional salary increases are allowed if the employee received the increase authorized by the special entry rate.

(b) When a classification is assigned to a lower grade, the employee's grade may be allowed to remain at the current level so long as the employee continues to occupy the same position or is in the same classification; however, the grade of the position must be reduced and the employee will function in a "work against" mode. Once the position is vacated, it must be filled at the lower grade level.

*History Note:* Authority G.S. 126-4(2);  
Eff. January 1, 1990;  
Amended Eff. September 1, 1991; January 1, 1991; July 1, 1990.

**25 NCAC 01D .0707 EFFECTIVE DATE**

(a) If funds are available and there are no performance or personal conduct issues, salary increases to the minimum rate shall be given on the effective date of the salary range revision. If funds are not available, the increase shall be given from the first available funds and made retroactive to the effective date of the salary range revision. Employees who are denied an adjustment because of performance or personal conduct may receive the increase on a current basis if/when performance becomes satisfactory or the personal conduct issue is resolved.

(b) Salary increases within the range are optional and, if recommended, should be given on the effective date of the salary range revision. If the desired amount of increase is not given on the effective date because of unavailable funds, equity considerations or performance, the increase(s), up to the full allowable amount, may be given at a later date(s) on a current basis. Total increases are limited to three occurrences and must be awarded within 24 months of the original effective date of the action. If a subsequent promotion, reallocation up or down, demotion or reassignment occurs, this cancels the authorization to grant additional increases as a result of the previous salary range revision.

(c) If increases are to be given at later dates, a notation must be entered on the form stating the reason the increase is being delayed and showing the dollar amount of the allowable increase, the amount given, and the balance that may be given later. The personnel actions submitted later must state "Salary Range Revision" increase in the description of action block, which will denote that this is a delayed salary increase. If no increase is to be given at a later date, no notation is necessary.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1990;  
Amended Eff. March 1, 1991; July 1, 1990.

#### **25 NCAC 01D .0708 SPECIAL ENTRY RATES**

When critical recruitment or employee retention problems are officially recognized by the State Human Resources Director, but salary range revisions are not necessary, feasible or practical (i.e., when range minimums are not competitive, but maximums are adequate), the Director may authorize a higher special entry rate. Special entry rates will be announced as a dollar amount above the hiring rate and as a rate of pay. Agencies experiencing recruitment and retention difficulties may elect to use the special entry rates. Priority for salary increases shall be given to employees whose salaries are at or below special entry rates. Salary increases shall not be given to employees whose performance or personal conduct is not at a satisfactory level. Salary increases are not entitlements and all are subject to the availability of funds in the agency budget. When the agency decides to use the new rates, salary increases, not to exceed the maximum of the range, may be given in accordance with the following:

- (1) Salaries at the hiring rate may be increased to the special entry rate and salaries at the minimum may be increased to the special minimum rate on the date the agency decides to use the new rate. If funds are not available, but become available at a later time, increases may be retroactive.
- (2) Salaries at or above the special minimum rate may be increased by the dollar amount authorized above the hiring rate. If funds are not available, but become available at a later time, increases may be made on a current basis. Total increases are limited to three occurrences and must be awarded within 24 months of the original effective date of the action. If a subsequent reallocation up or down, promotion, demotion or reassignment occurs, this cancels the authorization to grant additional increases as a result of the previous special entry rate authorization.
- (3) If a higher special entry rate is authorized for a class that already has a special entry rate, the employee may receive an increase up to the dollar amount authorized between the two special entry rates.
- (4) When a special entry rate authorization does not include all classes within a class series, consideration for adjustments for employees in the class(es) without a special entry rate will be on an individual basis. Written justification must be submitted with such requests.

*History Note:* Authority G.S. 126-4(2);  
Eff. January 1, 1990;  
Amended Eff. January 1, 1991; July 1, 1990.

#### **25 NCAC 01D .0709 GEOGRAPHIC DIFFERENTIAL**

(a) When critical recruitment or employee retention problems in a specific location are officially recognized by the State Human Resources Director, but salary range revisions are not necessary, feasible or practical (i.e., when both minimums

and maximums are not competitive in a specific location but are competitive in most locations), the Director may authorize a higher salary range for those specific locations.

(b) Geographic differentials will be announced as a salary grade above the established salary grade. Agencies experiencing recruitment and retention difficulties may elect to use the geographic differential. When geographic differentials are in effect, salary increases may be granted in accordance with the salary range revision policies and all salary administration policies are applied as if the classification were at the higher grade.

*History Note:* Authority G.S. 126-4(2);  
Eff. January 1, 1990;  
Amended Eff. January 1, 1991.

#### **25 NCAC 01D .0710 AVOIDANCE OF SALARY INEQUITIES**

In order to avoid inequities, it is particularly important for agency heads to make a study of all salaries within an agency and to give careful consideration to each individual case before recommending salary increases.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1990.

### **SECTION .0800 - INITIAL CLASSIFICATION**

#### **25 NCAC 01D .0801 POLICY**

Initial classification occurs in the following situations:

- (1) when a position or a group of positions is classified and brought under the State Human Resources Act;
- (2) when a position under the State Human Resources Act, but not officially classified, is reviewed and a permanent classification and salary range is assigned.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1990.

#### **25 NCAC 01D .0802 RATE BELOW MINIMUM** **25 NCAC 01D .0803 RATE WITHIN ASSIGNED RANGE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989; July 1, 1980; August 1, 1978;  
Repealed Eff. January 1, 1990.

#### **25 NCAC 01D .0804 CHANGE OF DUTIES**

Where it can be demonstrated that duties and responsibilities have changed significantly from that originally proposed, the action may be considered a reallocation and the salary policies for reallocation would apply.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1978.

#### **25 NCAC 01D .0805 RATE ABOVE MAXIMUM**

If the employee's salary (in a situation in which the position is being initially classified under the State's classification plan) is above the maximum of the range assigned, it may remain unchanged.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989.

#### **25 NCAC 01D .0806 PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1980; August 1, 1978;  
Repealed Eff. January 1, 1990.

#### **25 NCAC 01D .0807 QUALIFICATIONS**

An employee is automatically qualified for the position he occupies when that position is initially classified under the State's classification plan.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989; December 1, 1985; December 1, 1978.

#### **25 NCAC 01D .0808 SALARY RATE UPON INITIAL CLASSIFICATION INTO THE GRADED CLASSIFICATION/PAY SYSTEM**

(a) If an employee in a graded position is given probationary status and the salary is below the minimum rate for the range assigned, the salary shall be adjusted to the new minimum rate. If an employee is given a permanent or time-limited permanent appointment and the salary is below the minimum rate, the salary shall be adjusted to the minimum rate of the range assigned.

(b) If the employee's salary falls within the range assigned to the position, the salary shall remain unchanged.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1990;  
Amended Eff. July 1, 2012; August 1, 1995.

### **SECTION .0900 - TRANSFER**

#### **25 NCAC 01D .0901 DEFINITIONS**

(a) A transfer is the movement of an employee from one position to another within the present agency or between agencies without a break in service.

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

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

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1990; November 1, 1988; December 1, 1985; December 1, 1978.

**25 NCAC 01D .0902      TRANSFER TO COMPETITIVE SERVICE POSITION**

*History Note:*     *Authority G.S. 126-4;*  
                          *Eff. February 1, 1976;*  
                          *Repealed Eff. December 1, 1985.*

**25 NCAC 01D .0903      REPORTING DATE**

Normally a transfer between agencies results in an employee reporting to work in the receiving agency the first workday following the separation date from the releasing agency.

*History Note:*     *Authority G.S. 126-4;*  
                          *Eff. February 1, 1976;*  
                          *Amended Eff. December 1, 1978.*

**25 NCAC 01D .0904      SALARY RATE: PERFORMANCE INCREASE ANNIVERSARY DATE**  
**25 NCAC 01D .0905      BENEFITS TRANSFERRED**

*History Note:*     *Authority G.S. 126-4;*  
                          *Eff. February 1, 1976;*  
                          *Amended Eff. June 1, 1983; August 1, 1981; July 1, 1980; December 1, 1978;*  
                          *Repealed Eff. January 1, 1990.*

**25 NCAC 01D .0906      DETERMINING DATE OF TRANSFER**

- (a) If an employee reports to work the first workday following separation, the releasing agency shall carry the employee on its payroll through the day prior to the effective date of the transfer even though the separation date may fall on a non-workday. An exception may be made when the releasing date falls on a non-workday at the first of the month, in which case the pickup should be made on the first day of the month. If other time is involved, such as holidays or approved vacation, the releasing agency and the receiving agency shall agree upon who will pay the employee.
- (b) It is the responsibility of both the releasing agency and the receiving agency to arrive at appropriate transfer dates and to transfer leave properly.

*History Note:*     *Authority G.S. 126-4;*  
                          *Eff. February 1, 1976;*  
                          *Amended Eff. January 1, 1990; November 1, 1988; December 1, 1978.*

**25 NCAC 01D .0907      PAYMENT FOR VACATION LEAVE**

If, however, the employee has been paid for unused vacation leave by the releasing agency, after a separation which was apparently in "good faith" and not intended as a means of realizing compensation for accumulated vacation leave, and the employee is reemployed before the date through which vacation leave was paid, the payment for vacation leave shall not be considered as dual compensation.

*History Note:*     *Authority G.S. 126-4;*  
                          *Eff. February 1, 1976;*  
                          *Amended Eff. June 1, 1983; December 1, 1978.*



**25 NCAC 01D .0908      JOB QUALIFICATIONS**

- (a) The employee is automatically qualified for the position to which he has transferred provided transfer is between classes having comparable qualification requirements.
- (b) If the transfer is to a higher class and results in a promotion, the required qualifications for promotion apply.
- (c) If the transfer is to a lower class and results in a demotion or reassignment, the Demotion/Reassignment Policy will apply. (See 25 NCAC 1D .0400.)

*History Note:*      *Authority G.S. 126-4;*  
                          *Eff. February 1, 1976;*  
                          *Amended Eff. January 1, 1990; November 1, 1988; December 1, 1978.*

**25 NCAC 01D .0909      ADDITIONAL PROVISIONS FOR COMPETITIVE SERVICE POSITIONS**

*History Note:*      *Authority G.S. 126-4;*  
                          *Eff. February 1, 1976;*  
                          *Amended Eff. December 1, 1978;*  
                          *Repealed Eff. December 1, 1985.*

**25 NCAC 01D .0910      SALARY RATE**

- (a) If an employee transfers to a position having the same salary grade, the salary shall remain unchanged. Exception: The salary may be reduced if there is a lack of sufficient funds or if it results in the creation of a serious internal salary inequity. This exception does not apply to employees with reduction-in-force priority consideration, in which case the salary shall remain unchanged in accordance with G. S. 126-7.1(a2).
- (b) If the transfer is to a higher class and results in a promotion, the Promotion Policy shall apply. (See 25 NCAC 1D .0300.)
- (c) If the transfer is to a lower class and results in a demotion or reassignment, the Demotion /Reassignment Policy shall apply. (See 25 NCAC 1D .0400.)
- (d) If an employee is in an agency not utilizing an authorized special entry rate and transfers to an agency which does, the special entry rate cannot be used as justification for a salary increase if both work stations are within the same geographic area.
- (e) If an employee is receiving a higher rate of pay by virtue of working in a position to which a geographic differential applies and transfers to a position to which a geographic differential does not apply, whether in the same geographic area to a position without a differential, or to the same job in a geographic area without a differential, the employee's pay rate must be reduced by the amount of the differential the employee had been receiving.

*History Note:*      *Authority G.S. 126-4;*  
                          *Eff. January 1, 1990;*  
                          *Amended Eff. December 1, 1995.*

**25 NCAC 01D .0911      BENEFITS AND RECORDS TRANSFERRED**

- (a) When an employee transfers to another agency, all unused sick and vacation leave shall be transferred. If the employee transfers to an exempt position in which leave will not be credited the same as for employees subject to the Personnel Act, accumulated vacation shall be paid for in a lump sum. Accumulated sick leave will be transferred.
- (b) The personnel file, as defined by statute, shall be transferred to the receiving agency.

*History Note:*      *Authority G.S. 126-4; 126-22;*  
                          *Eff. January 1, 1990.*

## **25 NCAC 01D .0912 REDEPLOYMENT**

(a) A redeployment is the movement of an employee, without a break in service, from one position to another position within the same agency or the movement of an employee, or an employee and a position, from one agency to another when the move is due to an enterprise-wide project that results in the need to utilize an employee's competencies for greater effectiveness in another area of an agency or in another agency. The following shall apply:

- (1) The employee's salary rate shall not be reduced. When necessary, management may maintain the employee's current class by working the employee against the position; and
  - (2) The redeployment of an employee is not a grievable issue under G.S.126-34.
- (b) The receiving agency does not have to post a vacant position to accommodate a redeployment arrangement.

*History Note: Authority 126-4;  
Eff. January 1, 2007.*

## **SECTION .1000 - REINSTATEMENT**

### **25 NCAC 01D .1001 DEFINITION**

Reinstatement is:

- (1) the reemployment with a permanent, trainee or time-limited permanent appointment after a break in service of a former employee with a full-time or part-time (20 hours or more) permanent, trainee or time-limited permanent appointment. The agency head shall determine the appointment type based on the Probationary/Trainee/Permanent Appointment and Career Status Rules. The agency head may, based on qualifications and previous work history, offer reemployment with a probationary appointment; however, if the employee has priority reemployment consideration as a result of reduction in force, the conditions outlined in the rule on Priority Reemployment Consideration (25 NCAC 1D .0510) shall be met; or
- (2) the reemployment of an employee from leave without pay; or
- (3) the return to a nonpolicy-making position of an employee who transferred to or occupied a position designated as policy-making exempt. Reemployment shall be with a permanent appointment.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1995; August 1, 1995; March 1, 1992; October 1, 1978.*

### **25 NCAC 01D .1002 POLICY**

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. October 1, 1977.*

### **25 NCAC 01D .1003 BREAK IN SERVICE**

*History Note: Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;  
Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1989;  
Recodified to 25 NCAC 01D .0114 Eff. December 29, 2003.*

## **25 NCAC 01D .1004 SALARY RATE UPON REINSTATEMENT**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1983; August 1, 1978;  
Repealed Eff. March 1, 1992.

## **25 NCAC 01D .1005 EFFECTIVE DATE**

A reinstatement may be made effective on any scheduled workday in the pay period. When the first day of a pay period falls on a nonworkday and the employee begins work on the first workday, the date to begin work shall be shown as the first day of the pay period. However, if the position requires work on such days, the date shall be the day the employee actually begins work.

*History Note:* Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1995; March 1, 1989; February 1, 1983; December 1, 1978.

## **25 NCAC 01D .1006 BENEFITS REINSTATED**

(a) Sick leave shall be reinstated when an employee returns from authorized leave without pay or when reinstated within five years from any type of separation.

(b) Employees who enter the armed services or who engage in active military service and who return to state employment within a period of two years after being separated or released, or becoming entitled to be separated or released, from active military service under other than dishonorable conditions shall be entitled to full retirement membership service credit for the period of such active service in the armed services. Under this provision, credit is received for such service upon furnishing an acceptable copy of a military discharge to the Teachers' and State Employees' Retirement System.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. March 1, 1992; February 1, 1983;  
July 1, 1980; December 1, 1978.

## **25 NCAC 01D .1007 PERFORMANCE INCREASE ANNIVERSARY DATE**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1980; August 1, 1978;  
Repealed Eff. March 1, 1992.

## **25 NCAC 01D .1008 QUALIFICATIONS**

The employee must possess at least the minimum education and experience requirements, or their equivalent, as set forth in the class specification of the position to which reinstated. If reinstatement is from leave without pay, the employee is automatically qualified provided employment is in the same classification or in a lower class in the same field of work.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1978.

### **25 NCAC 01D .1009 VETERANS**

Veterans. Employees with a permanent, probationary, trainee or time-limited permanent appointment who resigned or were granted leave without pay to serve in the Armed Services of the United States and are reinstated within the provisions of Military Leave (25 NCAC 1E .0800) shall be reinstated to the same position or one of like status, seniority and pay regardless of length of previous service. If, during military service, an employee is disabled to the extent that duties of the original position cannot be performed, the employee shall be reinstated to a position for which the employee is qualified and in which the employee would be able to perform the essential job functions, if any such position is available.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. December 1, 1995; August 1, 1995; December 1, 1985; June 1, 1983.*

### **25 NCAC 01D .1010 SALARY RATE UPON REINSTATEMENT**

(a) When an employee is reinstated within one year, the following shall apply:

- (1) If reinstated to the same salary grade within one year, the maximum salary shall be the employee's previous salary plus any legislative increase or other general adjustments in level which has occurred since the separation. A lower salary may be paid except as provided in Subparagraph (a)(4) of this Rule. A higher salary shall not be paid unless justified by intervening employment and equity considerations.
- (2) If reinstated to a higher salary grade within one year, the maximum salary shall be the employee's previous salary, adjusted by any legislative increase or other general adjustment in level, plus a promotional increase determined in accordance with the rules in 25 NCAC 1D .0300 Promotion. A lower salary may be paid.
- (3) If reinstated to a lower salary grade within one year, the maximum salary shall be the employee's previous salary, adjusted by any legislative increase or other general adjustment in level, but not to exceed the maximum allowed by the rules in 25 NCAC 1D .0400 Demotion or Reassignment. A lower salary may be paid except as provided in Subparagraph (a)(4) of this Rule.
- (4) If the employee has reduction-in-force priority consideration and accepts a position at the same or a lower grade than held at the time of separation, the salary shall be set in accordance with G.S. 126-7.1(a2). If the employee accepts a position at a higher grade, the salary shall be in accordance with the provisions of Subparagraph (a)(2) of this Rule.

(b) When an employee is reinstated after one year from the separation date, the new salary shall be determined as outlined under Subparagraphs (a)(1), (a)(2) or (a)(3) of this Rule or as a new appointment and justified accordingly when required.

(c) Upon reinstatement from military leave, an employee's salary shall be based on the last salary plus any general increases due while on leave. The addition of performance salary increases may be considered by the agency head if appropriate. If the employee was in trainee status at the time of military leave, the addition of trainee adjustments may be considered if it can be determined that the military experience directly related to the development in the area of work to be performed.

*History Note: Authority G.S. 126-4;  
Eff. March 1, 1992;  
Amended Eff. December 1, 1995.*

## **SECTION .1100 - PERFORMANCE SALARY INCREASES**

**25 NCAC 01D .1101      POLICY**  
**25 NCAC 01D .1102      PERFORMANCE SALARY INCREASES BELOW THE THIRD STEP**  
**25 NCAC 01D .1103      PERFORMANCE SALARY INCREASES AT THIRD STEP OR ABOVE**  
**25 NCAC 01D .1104      EMPLOYEES ON FLAT RATE**  
**25 NCAC 01D .1105      SPECIAL SALARY INCREASES**  
**25 NCAC 01D .1106      BASIS FOR AWARDING INCREASE**

*History Note:*    Authority G.S. 126-4; 126-7;  
                         Eff. February 1, 1976;  
                         Amended Eff. November 1, 1988; August 1, 1985; June 1, 1983; August 1, 1980;  
                         Repealed Eff. January 1, 1990.

**25 NCAC 01D .1107      EFFECTIVE DATE OF ANNUAL INCREASES**

*History Note:*    Authority G.S. 126-4; 126-7;  
                         Eff. February 1, 1976;  
                         Amended Eff. August 1, 1978;  
                         Repealed Eff. July 1, 1980.

**25 NCAC 01D .1108      COMMUNICATION WITH EMPLOYEES**  
**25 NCAC 01D .1109      SALARY INCREASE FUNDS BECOME PART OF BASE SALARY**

*History Note:*    Authority G.S. 126-4; 126-7;  
                         Eff. February 1, 1976;  
                         Amended Eff. August 1, 1985; December 1, 1980; July 1, 1980; August 1, 1978;  
                         Repealed Eff. January 1, 1990.

**25 NCAC 01D .1110      UNUSED ANNUAL SALARY INCREASE SUBSTITUTION**  
**25 NCAC 01D .1111      UNUSED SALARY INCREASE FUNDS: WHEN AVAILABLE**  
**25 NCAC 01D .1112      UNUSED ANNUAL INCREASE FUNDS: USE FOR ANOTHER EMPLOYEE**  
**25 NCAC 01D .1113      UNUSED ANNUAL INCREASE FUNDS: SCHEDULING BY AGENCY HEADS**

*History Note:*    Authority G.S. 126-4; 126-7;  
                         Eff. February 1, 1976;  
                         Amended Eff. August 1, 1978;  
                         Repealed Eff. July 1, 1980.

**25 NCAC 01D .1114      SALARY INCREASE FUNDS BECOME PART OF BASE SALARY**

*History Note:*    Authority G.S. 126-4; 126-7;  
                         Eff. February 1, 1976;  
                         Amended Eff. August 1, 1978;  
                         Repealed Eff. August 1, 1985.

**25 NCAC 01D .1115      COMPUTATION OF FUNDS FOR PERFORMANCE INCREASES**

*History Note:*    Authority G.S. 126-4; 126-7;  
                          Eff. February 1, 1976;  
                          Amended Eff. January 1, 1989; August 1, 1985; January 1, 1982; October 1, 1980;  
                          Repealed Eff. January 1, 1990.

**25 NCAC 01D .1116      EXEMPTION FROM TWO-THIRDS LIMITATION**

*History Note:*    Authority G.S. 126-4; 126-7;  
                          Eff. February 1, 1976;  
                          Amended Eff. July 1, 1980; August 1, 1978;  
                          Repealed Eff. August 1, 1985.

**25 NCAC 01D .1117      ANNIVERSARY DATES FOR EMPLOYEES BELOW STEP THREE**

**25 NCAC 01D .1118      REVISION OF ANNIVERSARY DATES**

**25 NCAC 01D .1119      NO CHANGE IN ANNIVERSARY DATE**

*History Note:*    Authority G.S. 126-4; 126-7;  
                          Eff. February 1, 1976;  
                          Amended Eff. November 1, 1988; August 1, 1985; June 1, 1983; August 1, 1982;  
                          Repealed Eff. January 1, 1990.

**25 NCAC 01D .1120      PAYMENT DATES**

*History Note:*    Authority G.S. 126-4; 126-7;  
                          Eff. August 1, 1978;  
                          Amended Eff. August 1, 1985; July 1, 1980;  
                          Repealed Eff. January 1, 1990.

**25 NCAC 01D .1121      PAYMENT DATES**

*History Note:*    Authority G.S. 126-4; 126-7;  
                          Eff. July 1, 1980;  
                          Amended Eff. January 1, 1982;  
                          Repealed Eff. August 1, 1985.

**25 NCAC 01D .1122      ANNUAL PERFORMANCE PAY COMPENSATION SURVEY**

**25 NCAC 01D .1123      ELIGIBLE EMPLOYEES**

**25 NCAC 01D .1124      BASIS FOR AWARDING INCREASES**

**25 NCAC 01D .1125      AMOUNT OF INCREASE**

**25 NCAC 01D .1126      PERFORMANCE SALARY INCREASE EFFECTIVE DATES**

**25 NCAC 01D .1127      LIMITATION ON FUNDS FOR PERFORMANCE INCREASE**

**25 NCAC 01D .1128      SALARY INCREASE FUNDS BECOME PART OF BASE SALARY**

*History Note:* Authority G.S. 126-4(2); 126-7;  
Eff. January 1, 1990;  
Amended Eff. July 1, 1991; January 1, 1991;  
Repealed Eff. June 1, 1994.

## SECTION .1200 - LONGEVITY PAY

### 25 NCAC 01D .1201 PURPOSE

The purpose of longevity pay is to recognize long-term service of full-time and part-time (half-time or more) employees with a permanent, probationary, trainee or time-limited appointment who have served at least ten years with the state.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1995; July 1, 1989; July 1, 1977.

### 25 NCAC 01D .1202 TIME AND METHOD OF PAY

- (a) Longevity pay is automatic; payment shall be made when all eligibility requirements are met as specified below.
- (b) Longevity payment shall be made in a lump sum.
- (c) Payment shall be made during the same monthly pay period or by the second bi-weekly pay period following the date the employee is eligible to receive longevity pay. This includes employees on workers' compensation leave.
- (d) If an employee retires, resigns or is otherwise separated or dies on or after the date of eligibility for a longevity payment, the payment shall be made to the employee or to the estate if deceased.
- (e) If an employee who has at least ten years of total state service retires, resigns or is otherwise separated or dies before a date on which eligible for the longevity payment, a longevity payment computed on a pro rata basis shall be paid if all other eligibility requirements are met. The payment shall be made to the employee or to the estate if deceased.
- (f) If an employee transfers between State agencies any time during the pay period or at the end of the pay period in which eligibility requirements are met, the receiving agency shall make the longevity payment based on the salary in effect on the eligibility date.
- (g) If an eligible employee goes on extended military leave without pay, a longevity payment computed on a prorata basis shall be paid the same as if the employee is separating. The balance will be paid when the employee returns and completes a full year. Then, a full payment will be made on the employee's longevity date that was established before going on leave without pay. [Example: Received longevity on 6-1-85 on 11 years; extended military leave without pay on 9-1-85 (pay 3/12 longevity on 12 years); reinstated on 12-1-86; pay 9/12 longevity effective 9-1-87 on 13 years (has 13 years 3 months total state service); pay full longevity effective 6-1-88 on 14 Years.]

*History Note:* Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 1995; July 1, 1989; March 1, 1989; May 1, 1980.

### 25 NCAC 01D .1203 AMOUNT OF LONGEVITY PAY

(a) Annual longevity pay amounts are based on the length of total state service and a percentage of the employee's annual rate of base pay on the date of eligibility. Longevity pay amounts are computed by multiplying the employee's base pay rate by the appropriate percentage from the following table. (Salary increases effective on the longevity eligibility date shall be incorporated in the base pay before computing longevity.)

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Years of Total State Service

Longevity Pay Rate

10 but less than 15 years	1.50 percent
15 but less than 20 years	2.25 percent
20 but less than 25 years	3.25 percent
25 or more years	4.50 percent

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(b) For an otherwise eligible employee who separates or goes on extended military leave without pay before the date of annual eligibility, a pro rated longevity payment will be made. The longevity pay amount shall be computed on the salary as of the last day worked; then it is prorated by an amount equal to the proportion of the year worked toward the annual eligibility date. For example: The employee will receive 1/12 of the annual amount for each month worked toward the next longevity payment. Thus, if an employee received longevity on January 1 and separates on July 31, 7/12 of the full longevity payment would be paid. The payment should be made to the nearest cent rather than the nearest dollar.

(c) The only exception to the above is if an employee has a fraction of a year toward the next higher percentage rate, the payment would be based on the higher rate. For example, if an employee has 19 years and 3 months service, the payment would be 3.25 percent rather than 2.25 percent.

*History Note: Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1989; March 1, 1989; May 1, 1980; July 1, 1977.*

## **25 NCAC 01D .1204 ELIGIBILITY REQUIREMENTS**

(a) An employee shall have at least ten years of total qualifying state service before being eligible for any longevity payments.

(b) The employee must have a full-time permanent probationary, trainee or time-limited appointment.

(c) An employee's earliest possible date of eligibility for a longevity payment is the date when ten years of total state service has been completed. If on the effective date of this policy an employee has completed the qualifying length of service but is somewhere between eligibility dates, longevity payment shall not be made until the next longevity anniversary date. In succeeding years, a longevity payment shall be made annually in the pay period in which the employee's longevity anniversary date falls. Periods of leave without pay in excess of one-half the workdays and holidays in a pay period with the exception of military leave and workers' compensation leave) shall delay the longevity anniversary date.

(d) Credit for the total service requirement shall not be given for temporary full-time or temporary part-time employment and periods of leave without pay in excess of one-half the workdays and holidays in a pay period, with the exception of military leave and workers' compensation leave.

(e) Upon change of appointment to temporary or exempt (except as provided by statute), the employee is ineligible for continued longevity pay; hence, if the employee has worked part but not all of one year since the last annual longevity payment, a pro rata payment shall be made as if the employee were separating from state service provided the change is not of a temporary nature. If an employee goes on leave without pay, longevity shall not be paid until the employee returns and completes the full year. If, however, the employee should resign while on leave without pay, then the pro rata amount for which the employee is eligible is paid. Exceptions:

- (1) An employee going on leave without pay due to short-term disability may be paid the prorated amount for which the employee is eligible;
- (2) An employee going on extended military leave without pay shall be paid the prorated amount for which eligible;
- (3) An employee on workers' compensation leave shall be paid longevity as if working.

(f) Partial Payments:

- (1) If an employee separates from a state agency and receives a partial longevity payment and is reinstated in another state agency, the balance of the longevity payment shall be made upon completion of additional service totaling 12 months since the last full longevity payment. The balance due is computed on the annual salary being paid at the completion of the 12 months.
- (2) If an employee comes to work in a position that is subject to the Personnel Act from a system (such as judicial, county, public schools, etc.) that has longevity policy which allows partial payments, the



receiving state agency shall verify that such payment was or was not made. Then the state agency shall pay the remainder of the payment when the employee is eligible.

*History Note:* Authority G.S. 126-4(5),(10);  
Eff. February 1, 1976;  
Amended Eff. July 1, 1983;  
Filed as a Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;  
Amended Eff. August 1, 1995; July 1, 1989; March 1, 1989;  
Recodified Paragraph (g) to 25 NCAC 01D .0112 Eff. December 29, 2003.

#### **25 NCAC 01D .1205 AGENCY RESPONSIBILITY**

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. May 1, 1989;  
Repealed Eff. July 1, 2012.

#### **25 NCAC 01D .1206 EFFECT OF LONGEVITY PAY**

Longevity pay is not considered a part of annual base pay for classification and pay purposes nor is it to be recorded in personnel records as a part of annual base salary.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976.

### **SECTION .1300 - HOLIDAY PREMIUM PAY**

#### **25 NCAC 01D .1301 POLICY**

(a) State employees subject to the State Human Resources Act who are required to work on designated holidays shall be given, in addition to regular salary, premium pay equal to one-half of their regular straight-time hourly rate for such hours as are worked on these days. If an agency or unit has regularly established work shifts that change at a time other than midnight, the time of shift change closest to midnight will set the hour limits of the day for purpose of computing premium pay. For example, if shifts change at 11:00 p.m., the holiday period will begin at 11:00 p.m. the night before and end at 11:00 p.m. on the night of the holiday.

(b) The State Human Resources Commission establishes one holiday schedule for most employees subject to the State Human Resources Act. Premium pay shall apply on any of the dates designated as holidays.

(c) Institutions of higher education establish their own holiday schedule to accommodate academic programs; other institutions requiring a 24-hour operation establish a separate holiday schedule to accommodate holidays occurring on Saturday or Sunday when employees are required to work. In such cases, holiday premium pay applies to work performed on those holidays established by individual institutions.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976.

#### **25 NCAC 01D .1302 CONTINUANCE OF EQUAL TIME OFF POLICY**

The present policy of providing equal time off at the convenience of the agency if an employee is required to work on a holiday shall be continued. This is necessary to avoid increasing the total work schedule of the employee beyond the hours for which he is compensated by his regular salary.

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976.

## **SECTION .1400 - SHIFT PREMIUM PAY**

### **25 NCAC 01D .1401 PURPOSE**

(a) The State shall provide additional compensation for employees who are regularly scheduled to work on either the second or third shift, or on a weekend shift when determined necessary to be competitive with the labor market.

(b) An employee with a permanent, probationary, trainee or time-limited appointment, who works on a regular recurring basis in a class that is approved for shift premium pay, shall receive premium pay for all hours designated as eligible.

*History Note: Authority G.S. 126-4; S.L. 1987, c. 738, s. 9; S.L. 1988, c. 1086, s. 100;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1981;  
Temporary Amendment Eff. September 21, 1988 for a Period of 180 Days to Expire on March 20, 1989;  
Amended Eff. August 1, 2004; August 1, 1995; January 1, 1991; January 1, 1989.*

### **25 NCAC 01D .1402 APPLICATION**

An employee with a permanent, probationary, trainee or time-limited appointment, who works on a regular recurring basis in a class that is approved for shift premium pay, shall receive premium pay for all hours designated as eligible.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. September 1, 2004; October 1, 1979.*

## **SECTION .1500 – ON-CALL/EMERGENCY CALL-BACK PAY COMPENSATION**

### **25 NCAC 01D .1501 POLICY**

(a) It is a policy of the state to provide additional compensation to employees who are required to serve in on-call status and who are called back to work or who must respond from home via telephone/computer.

(b) An employee in a position designated for emergency call-back or on-call pay and who is called in to work before or after his scheduled hours of work or on non-work days or is placed in on-call status shall be allowed compensatory time off or pay, as the facts in each case would require.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 2004; November 1, 1988; August 1, 1984.*

### **25 NCAC 01D .1502 APPLICATION**

Agency management shall select the job classes and individual positions that are subject to the policy and submit a list to the agency personnel director for approval. The agency personnel director shall consult with the Office of State Human Resources on final approval of on-call and/or emergency callback classes/positions.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 2004; November 1, 1988.*

### **25 NCAC 01D .1503 ADMINISTRATIVE OR EXECUTIVE EMPLOYEES**

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Repealed Eff. August 1, 2004.*

### **25 NCAC 01D .1504 COMPENSATORY TIME AND CASH PAYMENT: INCLUDING OVERTIME**

(a) The Office of State Human Resources shall determine the amount of emergency callback and on-call compensation based on documented survey data of prevailing practices in the applicable labor market. The rates shall be reported to the State Human Resources Commission.

(b) If time on call back exceeds the minimum approved, the employee shall receive compensation for the exact amount of time elapsed. Compensation may be compensatory time off or pay on either a straight-time or time and one-half basis whichever is applicable.

(c) FLSA exempt employees normally do not receive additional compensation for emergency callback. However, the agency head may determine that specific working or market conditions justify application of the policy. When recommended by the agency head, the Office of State Human Resources shall determine if the position is eligible and the appropriate compensation based on documented survey data of prevailing practices in the applicable labor market.

*History Note: Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. August 1, 2004; November 1, 1988; August 1, 1984.*

## **SECTION .1600 - FOREIGN SERVICE PAY**

### **25 NCAC 01D .1601 DEFINITION OF FOREIGN SERVICE EMPLOYEE**

A foreign service employee is defined as any full-time employee subject to the State Human Resources Act who is transferred from North Carolina to a foreign assignment to live and work for a period of time greater than three months. Foreign nationals employed in and assigned to work in their country of origin are not included in this policy.

*History Note: Authority G.S. 126-4;  
Eff. September 1, 1976.*

### **25 NCAC 01D .1602 FOREIGN SERVICE COMPENSATION**

(a) Salary. The employee's salary will be composed of a base salary according to the job classification plus an expatriation premium:

- (1) Base Salary. The position will be classified according to the nature of duties, and will be assigned to the appropriate range in the salary plan. This achieves internal equity, when compared to all other subject positions. The individual will receive salary increases in the same manner as provided for all employees subject to the State Human Resources Act.
- (2) Expatriation Premium.
  - (A) An American employee transferred to foreign service shall be paid an expatriation premium for the purpose of attracting and retaining qualified persons for such assignments. This premium is intended to offset the problems inherent in breaking home ties and adjusting to different cultures, and the costs connected with any travel for personal purposes between the foreign base and the United States.
  - (B) The expatriation premium shall be 15 percent of the employee's base salary. The premium pay shall be effective on the date of departure from the United States, and shall cease on the date of return to the United States at the end of the foreign assignment; this pay will not be interrupted by periods of leave or working trips to the United States. Such pay shall be adjusted each time there is a change in the employee's base salary.

(b) Foreign Service Living Allowance

- (1) In order to offset any monetary loss as a result of the added costs of living in a foreign country, a foreign service allowance will be paid to the employee in an amount equivalent to the increased living costs in the specific location assigned.
- (2) The foreign service living allowance includes amounts for increased costs for the following:
  - (A) goods and services, including housing costs;
  - (B) educational expenses necessitated by the cost of books and tuition in private English-speaking schools providing instruction comparable to elementary and secondary education in the United States.
- (3) The living allowance shall be adjusted quarterly to reflect fluctuation in the foreign exchange rate. When published survey data is made available the amount of the allowance shall be recomputed and any adjustments made as necessary.

- (4) A specific written agreement as to the formula to be followed in each case shall be developed in advance between the employing agency and the employee, with the direction and approval of the Office of State Human Resources.
- (5) If the cost of living in the foreign country in which the employee is assigned is lower than the United States, the employee will still receive his full salary; a negative living allowance will not be applied.
- (6) The foreign service living allowance is effective on the date of departure from the United States. Allowances will not be interrupted by periods of leave or working trips to the United States.

(c) Tax Reimbursement

- (1) The amount of the foreign service living allowance is based on the assumption that it is non-taxable to the employee for income tax purposes. However, since state employees do not have the same tax exclusion rights as those granted federal employees receiving foreign service compensation, the state employee will be taxed on the living allowance and expatriation premium. Therefore, the state shall assume the tax liability on the living allowance and premium pay.
- (2) The employing agency shall reimburse the employee for added federal and state income tax liability resulting from receipt of the living allowance and premium. The employee shall present statements showing the tax liability had the employee been performing his duties in North Carolina, and the actual tax liability with the foreign service additional compensation; the employing agency shall reimburse the employee for the difference. This is a reimbursement for expenses incurred and is not a part of salary.
- (3) The agency shall provide an income tax consultant, if needed, to assist the employee in providing the necessary documentation. The employee must submit verification that all income taxes have been paid.

*History Note: Authority G.S. 126-4;  
Eff. September 1, 1976;  
Amended Eff. January 1, 1989; February 1, 1983; May 1, 1980; January 1, 1978.*

**25 NCAC 01D .1603 BENEFIT PLANS**

All permanent employees on foreign service assignment will continue to receive the benefits for which they are eligible in North Carolina. If the amount of the benefit is determined by salary, foreign service living allowances are not to be considered when counting the benefit; the living allowance is not a form of salary. The expatriation premium is considered a part of salary. There are special provisions for the following benefits:

- (1) Sick Leave. State policy provides that an employee may use sick leave when there is a death in the immediate family. (See 25 NCAC 1E, Section .0300, Rule .0305.)
- (2) Vacation Leave. The employee on foreign service assignment will receive regular paid vacation leave as do other state employees.
- (3) Holidays. In lieu of the holidays observed by the agencies of North Carolina State government, the foreign service employee may choose the holidays observed in the foreign country where working or a combination of foreign and domestic holidays; however, the total number of holidays observed shall not exceed the total number established by the State Human Resources Commission for the calendar year in question.
- (4) Travel Time. In addition, an employee on foreign service assignment will be allowed time off, not chargeable to any leaves, equivalent to the length of time required to fly to the United States from the foreign assignment and to return to the foreign base from the United States in the event of a death in the immediate family. This leave with pay is not cumulative. Also, the employee on foreign service may receive time off with pay, not chargeable to any kind of leave, equivalent to the length of time required to travel by air from the foreign assignment to the United States and from the United States back to the foreign base once each year. This travel time is available only if used for such purpose and is not cumulative.

*History Note: Authority G.S. 126-4;  
Eff. September 1, 1976;  
Amended Eff. February 1, 1989; February 1, 1983.*

**SECTION .1700 - OVERTIME COMPENSATION**

25 NCAC 01D .1701	MINIMUM WAGE
25 NCAC 01D .1702	OVERTIME COMPENSATION
25 NCAC 01D .1703	EXEMPT EMPLOYEES
25 NCAC 01D .1704	SALARY
25 NCAC 01D .1705	THE WORKWEEK
25 NCAC 01D .1706	HOURS WORKED
25 NCAC 01D .1707	SPECIAL TYPES OF HOURS WORKED
25 NCAC 01D .1708	EQUAL PAY
25 NCAC 01D .1709	RECORDKEEPING
25 NCAC 01D .1710	ENFORCEMENT
25 NCAC 01D .1711	EXEMPTIONS
25 NCAC 01D .1712	EXECUTIVE EMPLOYEES
25 NCAC 01D .1713	ADMINISTRATIVE EMPLOYEES
25 NCAC 01D .1714	PROFESSIONAL EMPLOYEES
25 NCAC 01D .1715	SPECIAL PROVISIONS

*History Note:* Authority G.S. 126-4; 126-4(5);  
 Eff. December 1, 1976;  
 Amended Eff. August 1, 1984; April 1, 1983; February 1, 1983; October 1, 1982;  
 Repealed Eff. August 1, 1985.

## SECTION .1800 - EMPLOYMENT OF MEDICAL PERSONNEL EXTENDED DUTY

### 25 NCAC 01D .1801 PURPOSE

Critical shortage of coverage on evening and weekend shifts in certain medically related areas sometimes make it impossible to maintain an adequate staff to meet all workload requirements. In order to meet such workloads, an employee of the state who is exempt from the hours of work and overtime provisions of FLSA may, if he agrees, be scheduled to work additional hours beyond his regular work schedule. A list of professional medically related classes eligible to receive straight-time for extended duty beyond forty hours per week shall be maintained within the Office of State Human Resources.

*History Note:* Authority G.S. 126-4;  
 Eff. August 1, 1978;  
 Amended Eff. August 1, 1995.

### 25 NCAC 01D .1802 PAYMENT

(a) If such additional duty as described in Rule .1801 of this Section involves primarily the direct care and treatment of patients or other activities which can be performed only by the employee approved for extended duty, the employee may be paid for such additional time on a straight time basis at a rate of pay to be determined by the nature of the duties to be performed. Thus, an employee's rate of pay during the additional hours of work may be either higher, lower, or the same as his established rate of pay.

(b) Usually the source of funds for payment for such additional employment shall be the funds provided for a vacant position. Such a position shall be planned with specific work assignments and shall have a proper classification and pay level. In other cases, there may be available budgeted special funds for additional hours of such service. In these cases, it may become necessary to determine specifically what the work assignments are to be and to arrive, through proper evaluation, at the correct rate of pay for those duties.

*History Note:* Authority G.S. 126-4;  
 Eff. August 1, 1978;  
 Amended Eff. August 1, 1995.

## SECTION .1900 - HOURS OF WORK AND OVERTIME COMPENSATION

25 NCAC 01D .1901	MINIMUM WAGE
25 NCAC 01D .1902	OVERTIME COMPENSATION
25 NCAC 01D .1903	EXEMPT EMPLOYEES
25 NCAC 01D .1904	SALARY
25 NCAC 01D .1905	COMPENSATION
25 NCAC 01D .1906	HOURLY RATE OF PAY
25 NCAC 01D .1907	NON-OVERTIME WORKWEEKS
25 NCAC 01D .1908	THE WORKWEEK
25 NCAC 01D .1909	HOURS WORKED
25 NCAC 01D .1910	UNAUTHORIZED WORK
25 NCAC 01D .1911	ON CALL
25 NCAC 01D .1912	VACATION: SICK LEAVE: HOLIDAYS
25 NCAC 01D .1913	MEAL PERIOD
25 NCAC 01D .1914	GRIEVANCE TIME
25 NCAC 01D .1915	TRAINING TIME
25 NCAC 01D .1916	TRAVEL TIME
25 NCAC 01D .1917	RECORDKEEPING
25 NCAC 01D .1918	ENFORCEMENT
25 NCAC 01D .1919	EXECUTIVE: ADMINISTRATIVE: PROFESSIONAL EMPLOYEES
25 NCAC 01D .1920	EXECUTIVE EMPLOYEES
25 NCAC 01D .1921	ADMINISTRATIVE EMPLOYEES
25 NCAC 01D .1922	PROFESSIONAL EMPLOYEES
25 NCAC 01D .1923	SPECIAL PROVISIONS

*History Note:* Authority G.S. 126-4;  
Eff. August 1, 1985;  
Repealed Eff. January 1, 1989.

**25 NCAC 01D .1924 STATE EMPLOYEES SUBJECT TO THE FAIR LABOR STANDARDS ACT**  
State government shall comply with the Fair Labor Standards Act, including paying at the Federal minimum wage.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1989;  
Amended Eff. April 1, 2005.

### **25 NCAC 01D .1925 OVERTIME COMPENSATION**

(a) Employees shall be paid a premium rate of time and one-half in the form of monetary compensation or time off for hours worked in excess of 40 within a work week, with exception of employees exempt from the Fair Labor Standards Act.

(b) Agency heads and supervisors shall prohibit employees from working more than a 40-hour workweek except in those cases where excess hours of work are necessary because of weather conditions, necessary seasonal activity or emergencies.

(c) The practice of overtime work is subject to review by the Office of State Human Resources. The review shall take into consideration organizational structure, scheduling of work, position complement, and personnel classifications.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1989;  
Amended Eff. March 1, 2005.

## **25 NCAC 01D .1926 EXEMPT EMPLOYEES**

Each agency head has the responsibility to determine which employees are exempt from hours of work and overtime pay rules and procedures under the terms of exemptions as set out in this Section. The Office of State Human Resources will provide advice, technical assistance and oversight to agencies and universities on this responsibility.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 1989.*

## **25 NCAC 01D .1927 SALARY**

The annual and monthly salary rates of an employee are established under current personnel policy for each position. This salary is to represent the employees' straight-time (as opposed to overtime) pay for standard 40-hour workweek.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 1989.*

## **25 NCAC 01D .1928 COMPENSATION – NON-EXEMPT**

(a) The State of North Carolina shall, whenever possible, give compensatory time off, in lieu of monetary compensation for hours worked in excess of 40 hours per work week. The decision as to whether to give compensatory time off, rather than monetary compensation, for overtime worked is solely within the discretion of management. Compensatory time off shall be scheduled by management, although reasonable effort shall be made to accommodate the employee as to such scheduling.

(b) An employee shall be given compensatory time off on the basis of one and one-half times the amount of time worked beyond 40 hours during a week. Compensatory time may be accumulated up to a maximum of 240 hours (160 hours straight time) and shall be taken within 12 months from the date the overtime is performed. If compensatory time off is not given by the end of the 12-month period, the overtime pay shall be included in the employee's next regular paycheck. Any overtime worked above this amount shall be paid in the employee's next regular paycheck. Overtime worked shall be recorded and compensated in units of one-tenth of an hour.

This Paragraph is not applicable to persons in law enforcement or fire protection activities and in residence employees.

(c) Prior to employment, each successful candidate for state employment in a position subject to hours of work and overtime pay standards must sign a form acknowledging that it has been explained to him that it is the state's policy to give time off in lieu of monetary compensation, wherever possible, for hours worked beyond 40 in a work week. Agreement to this is a condition of employment with the state; failure or refusal to sign such agreement shall prevent employment of that person. This signed form shall be a part of the employee's personnel file; it must be kept for at least three years following that person's separation from state employment.

(d) Upon transfer to another agency or termination of employment, an employee shall be paid for unused compensatory time off at a rate of compensation not less than either the average regular rate received by such employee during the last three years of the employee's employment or the final regular rate received by such employee, whichever is higher.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 1989;  
Amended Eff. March 1, 2005; December 1, 1995; March 1, 1994.*

## **25 NCAC 01D .1929 HOURLY RATE OF PAY**

(a) An employee's hourly rate of pay is obtained by dividing the annual salary by 2080 hours (52 weeks multiplied by 40 hours per week).

(b) The rate that must be used in computing overtime is referred to as the regular hourly rate. The regular hourly rate must include all remuneration for employment paid to, or on behalf of, the employee, except payments specifically excluded by the Federal Fair Labor Standards Act.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 1989;  
Amended Eff. March 1, 2005.*

**25 NCAC 01D .1930      NON-OVERTIME WORKWEEKS**

*History Note:*    *Authority G.S. 126-4;*  
                          *Eff. February 1, 1989;*  
                          *Repealed Eff. March 1, 2005.*

**25 NCAC 01D .1931      THE WORKWEEK**

A workweek is a regularly recurring period of 168 consecutive hours. The workweek need not coincide with the calendar week. It may begin any day of the week and any hour of the day, but it must be in each case be established in advance. The workweek may be changed, but only if the change is intended to be permanent and is not made to evade the overtime policy. Any change in the established workweek must be approved in advance by the Office of State Human Resources.

*History Note:*    *Authority G.S. 126-4;*  
                          *Eff. January 1, 1989.*

**25 NCAC 01D .1932      HOURS WORKED**

*History Note:*    *Authority G.S. 126-4;*  
                          *Eff. February 1, 1989;*  
                          *Repealed Eff. March 1, 2005.*

**25 NCAC 01D .1933      UNAUTHORIZED WORK  
25 NCAC 01D .1934      ON CALL**

*History Note:*    *Authority G.S. 126-4;*  
                          *Eff. January 1, 1989;*  
                          *Repealed Eff. March 1, 2005.*

**25 NCAC 01D .1935      VACATION: SICK LEAVE AND HOLIDAYS**

- (a) In determining the number of hours worked by an employee within a given week, time spent on vacation, sick leave, and holidays will not be counted as time worked.
- (b) Such time off must be included in straight-time pay, but is not included in computing hours of work for overtime pay.

*History Note:*    *Authority G.S. 126-4;*  
                          *Eff. February 1, 1989.*

**25 NCAC 01D .1936      MEAL PERIOD**

*History Note:*    *Authority G.S. 126-4;*  
                          *Eff. January 1, 1989;*  
                          *Repealed Eff. March 1, 2005.*

**25 NCAC 01D .1937      GRIEVANCE TIME**

The time an employee spends during a regular work schedule in adjusting a grievance under the state procedure on Employee Appeals and Grievances is work time. Such time spent outside the employee's regular work schedule is work time only if the employee's attendance is required by the agency or the state.

*History Note:*    *Authority G.S. 126-4;*  
                          *Eff. January 1, 1989.*



**25 NCAC 01D .1938      TRAINING TIME**

*History Note:*    Authority G.S. 126-4;  
                          Eff. January 1, 1989;  
                          Repealed Eff. March 1, 2005.

**25 NCAC 01D .1939      TRAVEL TIME**

**25 NCAC 01D .1940      RECORDKEEPING**

**25 NCAC 01D .1941      EXECUTIVE: ADMINISTRATIVE AND PROFESSIONAL EMPLOYEES**

*History Note:*    Authority G.S. 126-4;  
                          Eff. February 1, 1989;  
                          Repealed Eff. March 1, 2005.

**25 NCAC 01D .1942      EXECUTIVE EMPLOYEES**

**25 NCAC 01D .1943      ADMINISTRATIVE EMPLOYEES**

**25 NCAC 01D .1944      PROFESSIONAL EMPLOYEES**

*History Note:*    Authority G.S. 126-4;  
                          Eff. January 1, 1989;  
                          Repealed Eff. March 1, 2005.

**25 NCAC 01D .1945      SPECIAL PROVISIONS**

(a) Agricultural Workers:

- (1) Hours worked by agricultural workers may be averaged over a 12-month period. The number of hours worked shall not exceed 2,080 hours. Upon leaving state service, an agricultural worker shall be paid for any accumulated overtime.
- (2) Agricultural workers are defined as workers who cultivate the soil or grow or harvest crops, engage in dairying, or who raise livestock, bees or poultry, or perform closely related research.

(b) Student Workers - A student shall be considered an employee subject to the State Human Resources Act only if the student-employee is employed by the institution the student attends on a full-time permanent basis (as defined by rules of the State Human Resources Commission) in a permanent position established and governed pursuant to requirements of the State Human Resources Commission.

(c) In-Resident Employment - In-Resident employment includes employees such as Cottage Parents and Dormitory Directors who reside on the employer's premises, or who are usually on duty or subject to call at all times except when the facility is closed. It is necessary that these employees be required to work irregular schedules. The employing agency shall arrive at an agreement with the employee as to what constitutes the normal number of hours worked during a given workweek, taking into consideration the time that the employee engages in private pursuits such as eating, sleeping, entertaining and the time they are able to be away from the facility for personal reasons. The following basis of pay may be adopted for employees in such categories:

- (1) Salary - The annual salary and monthly salary rates of an employee shall be established under current personnel policy. With the employee's agreement, this salary shall represent the employee's straight-time pay for the agreed upon normal number hours on duty per week.
- (2) Overtime Compensation - It is anticipated that weekly schedules will fluctuate. When it is necessary to work in excess of the agreed upon workweek hours, the employees shall be paid time and one-half the hourly rate for all hours worked in excess of the normal workweek.

(d) Registered Nurses:

- (1) When possible, the compensation shall be in the form of time off. When the employee normally has 24 hours responsibility, (as in the case of some supervisors and most directors), overtime compensation provisions shall not be applicable.
- (2) Where an employee is assigned duties at a lower classification level; the base rate of pay may not exceed the maximum rate of the lower level assignment.

*History Note:*    Authority G.S. 126-4;  
                          Eff. February 1, 1989;

*Amended Eff. March 1, 2005; August 1, 2004.*

**25 NCAC 01D .1946 OT/COMP TIME OFF OPT/LAW ENF: FIRE PROT/EMGCY RESP PERS**  
**25 NCAC 01D .1947 TOUR OF DUTY AND COMPENSABLE HOURS OF WORK**  
**25 NCAC 01D .1948 OCCASIONAL OR SPORADIC EMPLOYMENT//DIFFERENT CAPACITY**  
**25 NCAC 01D .1949 SUBSTITUTION**  
**25 NCAC 01D .1950 VOLUNTEERS**

*History Note: Authority G.S. 126-4;*  
*Eff. January 1, 1989;*  
*Repealed Eff. March 1, 2005.*

**25 NCAC 01D .1951 OVERTIME COMPENSATION PROHIBITED: EXEMPT EMPLOYEES**

*History Note: Authority G.S. 126-4(5), (10);*  
*Eff. September 1, 1989;*  
*Amended Eff. August 1, 2004;*  
*Repealed Eff. March 1, 2005.*

## **SECTION .2000 - UNEMPLOYMENT INSURANCE**

**25 NCAC 01D .2001 COVERAGE**

*History Note: Authority G.S. 96-8(6)j; 96-8(6)i;*  
*Eff. January 1, 1989;*  
*Repealed Eff. August 8, 1995.*

**25 NCAC 01D .2002 POLICY**

The Employment Security Commission (ESC) has sole jurisdiction over decisions concerning unemployment insurance (UI) claims adjudication and benefit rights, and has adopted regulations in conjunction with Employment Security Law for claims processing and benefits administration. It is the policy of the state to comply with Employment Security law and ESC regulations in a cooperative and expeditious manner. The purpose of this policy is to assure employees the benefits provided by law while protecting the state from undue benefit charges.

*History Note: Authority G.S. 96-8(6)j.; 96-8(6)i.;*  
*Eff. January 1, 1989.*

**25 NCAC 01D .2003 ADMINISTRATION**

(a) The Office of State Human Resources shall design, effect, and maintain a centralized unemployment insurance cost management program, which shall have as its goal effective claims administration and the control of benefit costs. This goal shall be accomplished by improved communications and agency training on unemployment insurance issues and procedure, conscientious monitoring and administration of individual claims and benefit charges, examination of payment options, the creation and maintenance of a comprehensive unemployment insurance database, and related efforts. When it is determined advantageous and cost effective, the Office of State Human Resources may engage the services of a qualified service firm to provide claims administration support.

(b) The Office of State Human Resources shall designate an UI Coordinator, whose responsibility it shall be to coordinate the overall program. The duties of the UI Coordinator shall include:

- (1) Development and distribution of a UI Cost Management Procedures Manual.

- (2) Contract oversight to assure the delivery of services, where a third party firm is engaged to establish and carry out a centralized claims administration system.
- (3) Action as an intermediary between state agencies and the claims services firm, if such a firm is retained.
- (4) Development and delivery of agency training programs on UI administration.
- (5) Service as a technical resource to the agencies on UI matters.
- (6) Assimilation of a comprehensive UI data base, which accurately records claims activity and benefit charges to state accounts, and provides the basis for sound reports that can be used to guide management decisions on the UI Program.
- (7) Initiation of studies, recommendations, and reports relevant to UI cost management.
- (8) Recommendations concerning the design and cost effectiveness of the centralized UI Program.
- (9) Coordination with the Office of State Budget where there is a need to examine costing methods or financial aspects.
- (10) The monitoring of legislative actions concerning UI law and benefits, and service as spokesperson before legislative committees when it is within program interests.
- (11) Coordination with the Employment Security Commission on relevant questions and issues.

*History Note:* Authority G.S. 96-8(6)j.; 96-8(6)i.;  
Eff. January 1, 1989.

#### **25 NCAC 01D .2004 AGENCY RESPONSIBILITIES**

Each agency and institution shall designate an employee, preferably with working knowledge of the unemployment insurance function, to coordinate the flow of necessary information between the agency, the Office of State Human Resources and any claims administrator retained by the Office of State Human Resources. The specific responsibilities of the Agency UI Coordinator are as follows:

- (1) Participate in the UI training opportunities offered by the Office of State Human Resources or its designated claims administration firm. Develop a working knowledge of the procedures outlined in the Procedures Manual for the centralized cost control program.
- (2) Ensure that agency hiring authorities maintain adequate documentation to provide and support the separation information required by the ESC on individual claims.
- (3) Provide detailed and timely wage and separation information, as necessary for the ESC to properly adjudicate an individual's claim for benefits, and to protect the state's interests against undue benefits.
- (4) Work with the Office of State Human Resources or its designated claims administrator to coordinate attendance of necessary witnesses and to assure the availability of documentation for UI hearings.
- (5) Communicate to the Office of State Human Resources or its designee any agency issue or action which may affect an individual's benefit entitlement.
- (6) Act as agency liaison for obtaining other information which may become relevant and valuable to the interests of the central UI cost management program.

*History Note:* Authority G.S. 96-8(6)j.; 96-8(6)i.;  
Eff. January 1, 1989.

#### **SECTION .2100 - SPECIAL SALARY ADJUSTMENTS**

**25 NCAC 01D .2101 DEFINITION AND POLICY**

**25 NCAC 01D .2102 APPLICABILITY**

**25 NCAC 01D .2103 JUSTIFICATION**

**25 NCAC 01D .2104 RESPONSIBILITY OF THE STATE PERSONNEL DIRECTOR**

*History Note:* Authority G.S. 126-4;  
Eff. March 1, 1989;  
Repealed Eff. January 1, 1992.

## **25 NCAC 01D .2105 INTRODUCTION**

The policy on retention salary adjustments is not intended to resolve all retention problems. Funds are available only from limited salary reserves of an agency or program and these funds must be managed to serve a variety of program necessities. Therefore, the implementation of special salary adjustments is limited to the most critical retention issues.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 1992.*

## **25 NCAC 01D .2106 PURPOSE**

The purpose of retention salary adjustments is to provide a last resort means to maintain employment of a key employee who has a similar job offer outside the government structure. It is not a purpose of the rules in this Section to reduce the employee turnover ratio of the employer in any appreciable sense; the purpose of the rules in this Section is to retain key employees. Key employees may exist at any hierarchical level in the organization and may represent most occupational families. They typically occupy one of a kind jobs or jobs that are documented as extremely hard to fill.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 1992.*

## **25 NCAC 01D .2107 POLICY**

- (a) Special Salary Adjustments/Retention are within grade pay increases not covered by other pay administration policies that may be necessary in cases of key employee retention problems related to critical and unusual labor market conditions.
- (b) Special salary adjustments are not permissible where the intent or result would violate or circumvent the provisions of other pay administration policies or any provision of law in effect at the time. Agency management and university management are responsible for maintaining internal equity among their employees and for assuring that special salary adjustments do not create other inequities.
- (c) Recommended adjustments under this Rule are subject to the availability of salary reserve funds and are subject to approval of the State Human Resources Director and the Director of State Budget and Management.
- (d) Justification, addressing the criteria listed in this Section must accompany requests for special salary adjustments, including specific outside salary offers.

*History Note: Authority G.S. 126-4;  
Eff. January 1, 1992.*

## **25 NCAC 01D .2108 CRITERIA**

Conditions to be met prior to requesting a retention increase are as follows:

- (1) There is a bona fide written job offer from an employer outside the government structure which provides greater compensation without increased responsibility.
- (2) There is no current employee with substantially equal qualifications for promotion to the potential vacancy.
- (3) Serious salary inequities would not be created by a special salary adjustment.
- (4) The position duties are key to agency or program mission accomplishment. The knowledge, skills and abilities required of an incumbent are clearly identified as difficult to recruit, or the occupational group is acknowledged by the Office of State Human Resources as having a critical labor market shortage.
- (5) The agency must confirm that the use of established personnel policies/actions are not feasible alternatives to a special salary adjustment (promotion, position reallocation, salary range revision, performance increase).
- (6) The agency must confirm that other management alternatives (realignment of duties; allocation of additional personnel, equipment, or other resources; commitment to personal development needs or future job opportunity; or other actions meeting mutually perceived needs that are not currently

available, but are perceived by the employee as being better satisfied by the external job offer) are not feasible.

- (7) The employee for whom the special salary adjustment is proposed must have an above satisfactory performance level.

*History Note:* Authority G.S. 126-4;  
Eff. January 1, 1992.

#### **SECTION .2200 - PAYMENT OF SALARY**

##### **25 NCAC 01D .2201 PAYMENT OF SALARY TO EMPLOYEES**

*History Note:* Authority G.S. 126-4(10);  
Eff. November 1, 1989;  
Recodified to 25 NCAC 01D .0113(a) Eff. December 29, 2003.

##### **25 NCAC 01D .2202 PAYMENT TO SEPARATED EMPLOYEES**

*History Note:* Authority G.S. 126-4(10);  
Eff. November 1, 1989;  
Recodified to 25 NCAC 01D .011(b)-(g)3 Eff. December 29, 2003.

##### **25 NCAC 01D .2203 POSTING OF NOTICE**

*History Note:* Authority G.S. 126-4(10);  
Eff. November 1, 1989;  
Recodified to 25 NCAC 01D .0113(h) Eff. December 29, 2003.

#### **SECTION .2300 - ACCELERATED PAY PLAN**

- 25 NCAC 01D .2301 POLICY**
- 25 NCAC 01D .2302 ELIGIBILITY FOR THE PLAN**
- 25 NCAC 01D .2303 ELIGIBILITY FOR ACCELERATED PAY INCREASES**
- 25 NCAC 01D .2304 ADMINISTRATION**
- 25 NCAC 01D .2305 DOCUMENTATION**

*History Note:* Authority G.S. S.L. 1990, c. 1066, s. 37;  
Eff. January 1, 1991;  
Repealed Eff. March 1, 1996.

#### **SECTION .2400 - ON CALL COMPENSATION**

- 25 NCAC 01D .2401 ELIGIBLE EMPLOYEES**
- 25 NCAC 01D .2402 RATE OF PAY/COMPENSATORY TIME**
- 25 NCAC 01D .2403 EMERGENCY CALL-BACK PAY**
- 25 NCAC 01D .2404 OVERTIME**

*History Note:* Authority G.S. 126-4; 126-4(5);  
Eff. December 1, 1993;  
Repealed Eff. August 1, 2004.

#### **SECTION .2500 - COMPREHENSIVE COMPENSATION SYSTEM**

<b>25 NCAC 01D .2501</b>	<b>CAREER GROWTH RECOGNITION AWARD</b>
<b>25 NCAC 01D .2502</b>	<b>AMOUNT OF CAREER GROWTH RECOGNITION AWARD</b>
<b>25 NCAC 01D .2503</b>	<b>EMPLOYEES ELIGIBLE FOR CAREER GROWTH RECOGNITION AWARD</b>
<b>25 NCAC 01D .2504</b>	<b>EFFECTIVE DATE OF CAREER GROWTH RECOGNITION AWARD</b>
<b>25 NCAC 01D .2505</b>	<b>COST-OF-LIVING ADJUSTMENT</b>
<b>25 NCAC 01D .2506</b>	<b>AMOUNT OF COST-OF-LIVING ADJUSTMENT</b>
<b>25 NCAC 01D .2507</b>	<b>EMPLOYEES ELIGIBLE FOR COST-OF-LIVING ADJUSTMENT</b>
<b>25 NCAC 01D .2508</b>	<b>EFFECTIVE DATE OF COST-OF-LIVING ADJUSTMENT</b>
<b>25 NCAC 01D .2509</b>	<b>PERFORMANCE BONUS</b>
<b>25 NCAC 01D .2510</b>	<b>AMOUNT OF PERFORMANCE BONUS</b>
<b>25 NCAC 01D .2511</b>	<b>EMPLOYEES ELIGIBLE FOR PERFORMANCE BONUS</b>
<b>25 NCAC 01D .2512</b>	<b>EFFECTIVE DATE OF PERFORMANCE BONUS</b>
<b>25 NCAC 01D .2513</b>	<b>BASES FOR AWARDED INCREASES</b>
<b>25 NCAC 01D .2514</b>	<b>FINAL DISCIPLINARY PROCEDURE</b>
<b>25 NCAC 01D .2515</b>	<b>PAY DISPUTE RESOLUTION PROCEDURE</b>

*History Note:* Authority G.S. 126-7;  
 Eff. June 1, 1994;  
 Temporary Amendment Eff. July 1, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner (Rule .2513);  
 Temporary Amendment Expired (Rule .2513);  
 Temporary Amendment Eff. September 1, 1996;  
 Amended Eff. March 1, 2005; August 1, 1998;  
 Repealed Eff. February 21, 2014 pursuant to G.S. 150B-21.7.

**25 NCAC 01D .2516 ELIGIBILITY FOR SEPTEMBER 1, 1996 LEGISLATIVE SALARY INCREASES**

*History Note:* Authority G.S. 126-4; S.L. 1995, c. 507, s. 7.14;  
 Temporary Adoption Eff. September 1, 1996;  
 Temporary Adoption Expired June 28, 1997.

**25 NCAC 01D .2517 ELIGIBILITY FOR JULY 1, 1997 LEGISLATIVE SALARY INCREASES**

*History Note:* Authority G.S. 126-4; S.L. 1997-443;  
 Temporary Adoption Eff. October 2, 1997;  
 Temporary Adoption Expired July 31, 1998.

**SECTION .2600 – IN-RANGE SALARY ADJUSTMENT**

**25 NCAC 01D .2601 PURPOSE**

Agencies may grant in-range salary adjustments to their current employees with permanent position appointments. Prior to granting increases pursuant to this Rule, agencies shall petition the State Human Resources Commission for approval of an in-range salary adjustment plan. Salary increases provided by this Rule shall not be allowed with inter-agency employee transfers. Upon approval of an in-range salary adjustment plan, agencies are authorized to grant in-range salary adjustments under the following circumstances:

- (1) To compensate employees for changes in duties and responsibilities as documented by position descriptions and work plans which shall be revised and retained by the agency where significant changes have occurred in duties and responsibilities which:

- (a) are at a higher level, but are not substantial enough to justify a higher salary grade through reclassification or a salary range revision; or
- (b) are at the same level, but the changes increase the variety and scope of duties, or accountability of the employee.

If the change in duties and responsibilities exists only for a limited time period, the employee's salary shall be reduced to the previous level when the additional duties and responsibilities are removed.

- (2) To establish equitable salary relationships among employees performing the same type and level of work considering education, skill, related work experience, length of service and performance level. A salary inequity is defined as a situation where the salaries of employees in positions of the same classification differ by more than 10% when considering education, skill, related work experience, length of service and performance level.
- (3) To increase employees' salaries in order to reduce turnover due to market or other conditions that may affect retention. Conditions to be met are:
  - (a) Serious salary inequities would not be created by a special salary adjustment.
  - (b) The position duties are key to agency or program mission accomplishment. The knowledge, skills, and abilities required of an incumbent are clearly identified as difficult to recruit, or the occupational group is acknowledged by the Office of State Human Resources as having a critical labor market shortage.
  - (c) The agency must confirm that the use of established personnel policies/actions are not feasible alternatives to a special salary adjustment (promotion, position reallocation, salary range revision, performance increase).
  - (d) The agency must confirm that other management alternatives are not feasible.

*History Note: Authority G.S. 126-4;  
Eff. December 1, 1995.*

## **25 NCAC 01D .2602 AGENCY RESPONSIBILITIES**

Agencies shall:

- (1) Develop and submit to the Office of State Human Resources an in-range salary adjustment plan that shall:
  - (a) Document management's commitment to the fair and equitable implementation of salary adjustments.
  - (b) Provide a mechanism for plan policies and procedures that ensures employee understanding.
  - (c) Establish a procedure for identifying the need for, and determining the priority and fiscal feasibility of, implementing in-range salary adjustments. This shall include a method for determining individual salary adjustments considering internal equity, salary history, consistency, fairness within the work unit and organization, and salary increases granted under other rules in this Subchapter.
  - (d) Ensure that no employee shall be granted more than a 10% salary increase under this Rule within a one-year period.
  - (e) Ensure that salary increases granted to an employee under other salary administration rules after an in-range adjustment shall be offset by the amount of the in-range increase to the extent that the factors used to justify the subsequent increase were the same as those used to justify the in-range increase.
  - (f) Ensure that the amount of an in-range salary adjustment for an employee who has previously received a salary adjustment under other salary administration rules shall be offset by the amount of the previous increase to the extent that the factors used to justify the previous increase are the same as those being used to justify the in-range increase.
  - (g) Provide that the amount of a promotional increase of an employee transferring from another agency shall be offset by the amount of any previous in-range adjustment based upon the same factors.
  - (h) Provide for the administration of the rules in this Section such that the agency does not engage in unlawful discrimination.
  - (i) Establish procedures to document the justification of all in-range adjustments including placing a summary of the justification on the Personnel Action Form (PD-105) and; establish

procedures to monitor, analyze and report trends annually including the impact on all demographic groups in granting increases, exceptions granted and the fiscal impact of administering the rules in this Section on the agency budget.

- (j) Designate a plan administrator who shall review and monitor agency administration and provide technical assistance in the administration of the plan to agency management.
- (k) Establish a procedure for updating and revising the plan in response to changing budgetary and organizational priorities.
- (2) Review the plan annually and submit any proposed revisions to the Office of State Human Resources.
- (3) Administer in-range adjustments according to their plan and the rules in this Section.
- (4) File a report annually, or as requested, with the Office of State Human Resources, regarding the administration of compensation and related personnel policies.

*History Note:* Authority G.S. 126-4;  
Eff. December 1, 1995.

### **25 NCAC 01D .2603 OFFICE OF STATE HUMAN RESOURCES RESPONSIBILITIES**

The Office of State Human Resources shall:

- (1) Provide training and consultation in the development of the agency plan.
- (2) Review agency in-range adjustment plans and recommend disposition to the State Human Resources Commission.
- (3) Monitor and audit agency adherence to their plan and the rules in this Section.

*History Note:* Authority G.S. 126-4;  
Eff. December 1, 1995.

### **25 NCAC 01D .2604 STATE HUMAN RESOURCES COMMISSION RESPONSIBILITIES**

Beginning in April 1996, the State Human Resources Commission shall:

- (1) Approve all plans and all plan revisions prior to implementation by any agency.
- (2) Review the agency reports for compliance with the rules in this Section and agency in-range adjustment plan.
- (3) Impose sanctions on agencies that fail to comply with the rules in this Section. Such sanctions shall include but not be limited to:
  - (a) letters of warning;
  - (b) limitations on agency authority to grant in-range salary adjustments; and
  - (c) withdrawal of agency authority to grant the in-range salary adjustments.

*History Note:* Authority G.S. 126-4;  
Eff. December 1, 1995.

## **SECTION .2700 - SEVERANCE SALARY CONTINUATION**

### **25 NCAC 01D .2701 SEVERANCE SALARY CONTINUATION**

G.S. 143-27.2 provides for severance salary continuation or a discontinued service retirement allowance when the Director of the Budget determines that the closing of a State institution or a reduction-in-force will accomplish economies in the State Budget, provided reemployment is not available. "Economies in the State Budget" means economies resulting from elimination of a job and its responsibilities or from a lack of funds to support the job. The provisions outlined below provide for uniform application of severance salary continuation for eligible employees:

- (1) Eligible Employees:
  - (a) A full-time or part-time (20 hours or over) employee with a permanent appointment who does not obtain another permanent or time-limited permanent job in State government or any other permanent position that is funded in part or in whole by the State by the effective date of the separation shall be eligible for severance salary continuation. Also eligible are employees with trainee appointments who have completed six months of service, and employees who had a permanent appointment prior to entering a trainee appointment;



- (b) An employee with a probationary, temporary or intermittent appointment is not eligible for severance salary continuation;
  - (c) An employee separated from a time-limited permanent appointment is not eligible for severance salary continuation. If the appointment extends beyond three years, the appointment is made permanent and the employee becomes eligible for severance salary continuation;
  - (d) An employee who is separated or scheduled to be separated due to reduction in force and who applies for retirement benefits based on early retirement, service retirement, long term disability or a discontinued service retirement as provided by G.S. 143-27.2 shall not be eligible for severance salary continuation. An employee who is eligible for early or service retirement may elect to delay retirement and receive severance salary continuation;
  - (e) An employee who is reemployed from any retired status with the State and who is subsequently terminated as a result of reduction in force shall be eligible for severance salary continuation;
  - (f) An employee who is receiving workers' compensation or short-term disability payments is eligible for severance salary continuation;
  - (g) An employee on leave with pay or leave without pay shall be separated on the effective date of the reduction-in-force, the same as other employees, and shall be eligible to receive severance salary continuation;
  - (h) An employee with a permanent appointment separated by reduction-in-force, may accept a temporary State position and remain eligible to receive severance salary continuation in accordance with this Section;
  - (i) An employee may continue to receive severance salary continuation if reemployed under a contractual arrangement in a State university or community college in accordance with G.S. 143-27.2. However, an employee receiving salary continuation may not be reemployed in any other State agency until 12 months have elapsed since the separation; and
  - (j) An employee with a permanent appointment scheduled to be separated through reduction-in-force may decline a lower level position with regard to salary grade (or salary grade equivalency), salary rate or appointment type and retain eligibility for severance salary continuation.
- (2) Amount and Method of Payment:
- (a) Severance salary continuation shall be based on total State service and supplemented by an age adjustment factor as follows:
    - (i) Amount of Salary Continuation:

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<u>Years of Service</u>	<u>Payment</u>
Less than 1 year	2 weeks
1 but less than 5 years	1 month
5 but less than 10 years	2 months
10 but less than 20 years	3 months
20 or more years	4 months

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- (ii) Age Adjustment Factor:  
An employee qualifies for the age adjustment factor at 40 years of age. To compute the amount of the adjustment, 2.5 percent of the annual base salary shall be added for each full year over 39 years of age; however, the total age adjustment factor payment shall be limited by the service payment and cannot exceed the total service payments;
- (b) When calculating severance, the employee's annual salary at the time of separation shall be used except when the employee has received a promotion to a higher salary grade (or salary grade equivalency) and salary rate within the previous 12 months. If an employee has been promoted within the last 12 months, the salary used to calculate severance is the employee's salary rate prior to the promotion, including any across-the-board legislative salary increases since the promotion;

- (c) Severance salary continuation shall be paid on a pay period basis and is not subject to employee or employer retirement contributions, and as a result, shall not be included in computing average final compensation for retirement purposes;
  - (d) Any period covered by severance salary continuation shall not be credited as a period of state service;
  - (e) An employee who is reemployed in any permanent position with the State or any other permanent position that is paid in part or in whole by the State while receiving severance salary continuation will no longer be eligible for such pay effective on the date of reemployment;
  - (f) If an employee dies while receiving severance salary continuation, the balance of such payment shall be made to the deceased employee's death benefit beneficiary as designated with the Teachers' and State Employees' Retirement System in a lump sum payment; and
  - (g) Funds for severance salary continuation shall be provided as directed by the Office of State Budget and Management.
- (3) For each employee who receives severance salary continuation, agencies shall show on the separate form, Form PD-105, the calculation and amount of such payment.

*History Note: Authority G.S. 126-4(10); 143-27.2;  
Eff. October 1, 1985;  
Amended Eff. October 1, 1995; September 1, 1991; November 1, 1990; November 1, 1988;  
Recodified from 25 NCAC 01D .0509 Eff. December 29, 2003;  
Amended Eff. March 1, 2009.*