

## SUBCHAPTER 1H - RECRUITMENT AND SELECTION

### SECTION .0100 - GENERAL PROVISIONS

#### 25 NCAC 01H.0101 ORGANIZATION

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Repealed Eff.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

#### 25 NCAC 01H.0102 FUNCTION

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Repealed Eff.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

### SECTION .0200 - RECRUITMENT

#### 25 NCAC 01H.0201 RECRUITMENT PROGRAMS

#### 25 NCAC 01H.0202 RECRUITMENT PUBLICITY

*History Note:* Authority G.S. 126-4;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1983; December 1, 1982; November 1, 1977;  
Repealed Eff. December 1, 1985.

#### 25 NCAC 01H.0203 FILING OF INTEREST CARD AND APPLICATIONS

#### 25 NCAC 01H.0204 SCREENING OF APPLICANTS

#### 25 NCAC 01H.0205 VACANCIES AND REFERRALS

#### 25 NCAC 01H.0206 AGENCY ACTION

*History Note:* Authority G.S. 96-29; 126-4; 126-16; 128-15;  
Eff. November 1, 1977;  
Amended Eff. February 1, 1983; July 1, 1981; August 1, 1980; March 1, 1980;  
Repealed Eff. December 1, 1985.

#### 25 NCAC 01H.0207 PROMOTION PROVISIONS

*History Note:* Authority G.S. 126-4;  
Eff. November 1, 1977;  
Repealed Eff. March 1, 1980.

#### 25 NCAC 01H.0208 INADEQUATE REFERRAL LIST

#### 25 NCAC 01H.0209 INTEREST CARD PROCEDURE

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*History Note:*      *Authority G.S. 126-4;*  
                          *Eff. November 1, 1977;*  
                          *Amended Eff. February 1, 1983; March 1, 1980; January 1, 1978;*  
                          *Repealed Eff. December 1, 1985.*

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*History Note:*      *Authority G.S. 126-4; 128-15;*  
                          *Eff. February 1, 1976;*  
                          *Amended Eff. August 1, 1980;*  
                          *Repealed Eff. December 1, 1985.*

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*History Note:*      *Legislative Objection Lodged Eff. June 13, 1983;*

*Authority G.S. 96-29; 126-4; 126-12; 128-15;*  
*Eff. February 1, 1976;*  
*Amended Eff. June 1, 1983; June 1, 1981; August 1, 1980; May 1, 1980;*  
*Curative Amended Eff. June 22, 1983;*  
*Repealed Eff. December 1, 1985.*

**25 NCAC 01H.0423      EMPLOYEES IN PROVISIONAL STATUS FOR ONE YEAR**

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*Repealed Eff.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

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*History Note:      Authority G.S. 126-4;*  
*Eff. February 1, 1976;*  
*Amended Eff. December 1, 1984; August 1, 1980; December 1, 1978;*  
*Repealed Eff. December 1, 1985.*

**SECTION .0500 - RECRUITMENT FORMS**

**25 NCAC 01H.0501      FORM107**  
**25 NCAC 01H.0502      FORMPD-1**

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

**SECTION .0600 - GENERAL PROVISIONS**

**25 NCAC 01H.0601      POLICY**

*History Note:      Authority G.S. 126-4(4)(10);*  
*Eff. December 1, 1985;*  
*Repealed Eff. November 1, 1988.*

**25 NCAC 01H.0602      POSTING AND ANNOUNCEMENT OF VACANCIES**

*History Note:      Authority G.S. 96-29; 126-4(4); 126-5(d); 126-7.1;*

*Eff. December 1, 1985;*  
*Temporary Amendment Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;*  
*ARRC Objection January 21, 1988;*  
*Curative Amended Eff. November 1, 1988;*  
*Amended Eff. August 1, 2000; August 3, 1992; June 1, 1992; March 1, 1990; November 1, 1989;*  
*Repealed Eff. February 1, 2007.*

**25 NCAC 01H.0603 SPECIAL RECRUITING PROGRAMS**

*History Note: Authority G.S. 126-4(4);*  
*Eff. December 1, 1985;*  
*Amended Eff. December 1, 1988;*  
*Repealed Eff. August 3, 1992.*

**25 NCAC 01H.0604 APPLICANT INFORMATION AND APPLICATION**  
**25 NCAC 01H.0605 SPECIAL APPLICANT CONSIDERATIONS: AGENCY RESPONSIBILITIES**  
**25 NCAC 01H.0606 SELECTION OF APPLICANTS**  
**25 NCAC 01H.0607 MINIMUM QUALIFICATIONS**

*History Note: Authority G.S. 96-29; 126-4(4); 128-15;*  
*Temporary Amendment Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988;*  
*Eff. December 1, 1985;*  
*Amended Eff. August 1, 2000; June 1, 1992; March 1, 1990; December 1, 1988; March 1, 1988; November 1, 1987;*  
*Repealed Eff. February 1, 2007.*

**25 NCAC 01H.0608 EMPLOYMENT PREFERENCE FOR VETERANS**

*History Note: Authority G.S. 126-4(4); 128-15;*  
*Eff. December 1, 1985;*  
*Repealed Eff. September 1, 1987.*

**25 NCAC 01H.0609 FINAL COMMITMENTS**

*History Note: Authority G.S. 126-4(4);*  
*Temporary Amendment Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988;*  
*Eff. December 1, 1985;*  
*Amended Eff. March 1, 1988;*  
*Repealed Eff. February 1, 2007.*

**25 NCAC 01H.0610 POLICY STATEMENT/VETERANS PREFERENCE/EMPLOYMENT/RETENTION**

*History Note: Authority G.S. 126-4(4); 128-15;*  
*Eff. September 1, 1987;*  
*Recodified to 25 NCAC 01H.1101 Eff. October 5, 2004.*

**25 NCAC 01H.0611 PERIODS OF WAR**

*History Note: Authority G.S. 126-4(4); 126-4(10); 128-15;*  
*Eff. September 1, 1987;*

*Repealed Eff. February 1, 2007.*

**25 NCAC 01H.0612 CLAIMING VETERAN'S PREFERENCE**

*History Note: Authority G.S. 126-4(4); 126-4(10); 128-15;  
Eff. September 1, 1987;  
Recodified to 25 NCAC 01H.1102 Eff. October 5, 2004.*

**25 NCAC 01H.0613 ALLEGATION OF DENIAL OF VETERAN'S PREFERENCE**

*History Note: Authority G.S. 126-4(10); 126-4(11); 126-37; 126-38; 150B-2(2); 150B, Article 3;  
Eff. September 1, 1987;  
Recodified to 25 NCAC 01H.1103 Eff. October 5, 2004.*

**25 NCAC 01H.0614 APPLICATION OF THE VETERAN'S PREFERENCE**

*History Note: Authority G.S. 126-4(4); 126-4(10); 128-15;  
ARRC Objection July 16, 1987;  
Eff. December 1, 1987;  
ARRC Objection Removed Eff. March 16, 1989;  
Recodified to 25 NCAC 01H.1104 Eff. October 5, 2004.*

**25 NCAC 01H.0615 ELIGIBILITY**

*History Note: Authority G.S. 126-4(10); 128-15;  
ARRC Objection July 16, 1987;  
Eff. December 1, 1987;  
ARRC Objection Removed Eff. March 16, 1989;  
Recodified to 25 NCAC 01H.1105 Eff. October 5, 2004.*

**25 NCAC 01H.0616 AGENCY RESPONSIBILITY**

**25 NCAC 01H.0617 EMPLOYEE'S RESPONSIBILITY**

*History Note: Authority P.L. 101-649; G.S. 126-4(4); 8 C.F.R. Parts 109 and 274a, 1987;  
Eff. November 1, 1987;  
Amended Eff. August 3, 1992;  
Repealed Eff. February 1, 2007.*

**25 NCAC 01H.0618 VERIFICATION OF CREDENTIALS**

**25 NCAC 01H.0619 COMPLETION OF APPLICATIONS**

*History Note: Filed as a Temporary Adoption Eff. January 1, 1988 For a Period of 180 Days to Expire on June 18, 1988;  
Authority G.S. 126-4; 126-30;  
ARRC Objection February 18, 1988;  
Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).*

**25 NCAC 01H.0620 VERIFICATION PROCEDURES**

**25 NCAC 01H.0621 AGENCY CERTIFICATION**

**25 NCAC 01H.0622 APPLICANT DISQUALIFICATION**

**25 NCAC 01H.0623 DISCIPLINARY ACTION**

**25 NCAC 01H.0624 DISMISSAL**

*History Note:* Authority G.S. 126-4; 126-30;  
Temporary Adoption Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988;  
Eff. March 1, 1988;  
Amended Eff. August 3, 1992; June 1, 1992; November 1, 1989; December 1, 1988; March 1, 1994;  
Repealed Eff. February 1, 2007.

**25 NCAC 01H.0625 PROMOTIONAL PRIORITY CONSIDERATION FOR CURRENT EMPLOYEES**

*History Note:* Filed as a Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;  
Authority G.S. 126-1A; 126-4; 126-7.1;  
ARRC Objection January 21, 1988;  
Curative Eff. November 1, 1988;  
Amended Eff. March 1, 1994;  
Recodified to 25 NCAC 01H.0801 Eff. December 29, 2003.

**25 NCAC 01H.0626 RELATIONSHIP TO OTHER EMPLOYMENT PRIORITY CONSIDERATIONS**

*History Note:* Filed as a Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;  
Authority G.S. 126-4; 126-7.1; 126-16;  
Eff. March 1, 1988;  
Amended Eff. June 1, 1992;  
Recodified to 25 NCAC 01H.0802 Eff. December 29, 2003.

**25 NCAC 01H.0627 RIGHT OF APPEAL: DENIAL OF PRIORITY AND NON-POSTING**

*History Note:* Filed as a Temporary Adoption Eff. October 1, 1987 For a Period of 180 Days to Expire on March 28, 1988;  
Authority G.S. 126-7.1; 126-39; 150B, Article 3;  
Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

**25 NCAC 01H.0628 RESOLUTION OF CONFLICT BETWEEN EMPLOYMENT PRIORITIES**

*History Note:* Filed as a Temporary Adoption Eff. October 1, 1987 For a Period of 180 Days to Expire on March 28, 1988;  
Authority G.S. 126-1A; 126-4; 126-7.1; 126-39;  
Eff. March 1, 1988;  
Amended Eff. March 1, 1994; June 1, 1992;  
Repealed Eff. December 1, 1995.

**25 NCAC 01H.0629 APPOINTMENT TO A POSITION**

An appointment may be made only if a classified and budgeted vacancy exists in the position complement authorized for the agency.

*History Note:* Authority G.S. 126-4;  
Eff. August 1, 2008.

**25 NCAC 01H.0630 RECRUITMENT AND SELECTION POLICY**

(a) State government shall meet its workforce needs through systematic recruitment programs, selection programs, and career support programs that are designed to identify, attract, and select from the most qualified applicants for State employment, and to encourage diverse representation at all occupational levels of the workforce. The recruitment and selection process shall be consistently applied, non-discriminatory and promote open and fair competition and the hiring of a diverse workforce.

(b) While most positions are filled through systematic recruitment, it is recognized that some positions in State government are exempt from various provisions of the State Human Resources Act because of the relationship between the position and the responsibility of elected or appointed officials expected to implement the public policy of the State. While these positions are exempt from various provisions of the State Human Resources Act, they are subject to the following requirements:

- (1) If an individual applies for an exempt position, written notification that a position is exempt shall be given to the individual at the time the individual makes application for the exempt position. Written notification that the position is exempt may be contained in the vacancy announcement if the position is posted as exempt, or in a letter that either acknowledges acceptance of an application for an exempt position or contains an offer of employment for an exempt position or a notification that the position is exempt;
- (2) In addition, written notification that a position is exempt shall be given to an employee placed in an exempt position not less than 10 working days prior to the employee's first day in the exempt position; and
- (3) If an employee occupies a subject position that is subsequently designated as exempt, the agency shall provide written notification to the employee that the position has been designated exempt. The exemption shall apply to the employee 10 working days after receiving written notification.

*History Note: Authority G.S. 126-4(4)(10);  
Eff. February 1, 2007.*

#### **25 NCAC 01H.0631 POSTING AND ANNOUNCEMENT OF VACANCIES**

(a) Vacant positions shall be publicized by the agency having the vacancy.

(b) Vacancies which shall be filled from within the agency workforce are to have an application period of not less than five working days and shall be posted in at least the following locations:

- (1) The personnel office of the agency having the vacancy; and
- (2) The particular work unit of the agency having the vacancy.

(c) Vacancies to be filled from within or outside the state government workforce are to be listed with the Office of State Human Resources and the Employment Security Commission as required by G.S. 96-29. The vacancies shall have an application period of not less than five working days. For purposes of this Rule, "state government workforce" means those employees who are subject to Articles 1, 2, 5, 6, 7, 8, 13 and 14 of Chapter 126 of the North Carolina General Statutes.

(d) Each vacancy shall be described in an announcement which includes:

- (1) For graded classes: the position number, classification title, salary grade and range, essential functions, knowledge, skills, abilities, minimum training and experience, and any vacancy-specific qualifications as determined by the agency in accordance with 25 NCAC 01H .0635(c) the application period, and the contact information;
- (2) For banded classes: the position number, banded class title, competency level, banded class salary range or recruitment range corresponding to the competencies and duties, salary grade equivalency, essential functions, competencies, minimum training and experience, vacancy-specific qualifications as determined by the agency in accordance with 25 NCAC 01H .0635(c), the application period, and the contact information; and
- (3) For all vacancy listings: a closing date unless the classification has been determined as critical. Factors used in determining critical classifications include agency turnover; number of positions in class; geographic location; scarcity of skills; and safety, health or quality of care for clients. The critical classifications shall be approved by the State Human Resources Commission. On those classes determined to be critical, which are considered open and continuous postings, agencies shall determine how long applications shall be considered active.

(e) Posting is not required when an agency determines that it will not openly recruit. This decision shall be based upon a bona fide business need and is the responsibility of the agency head. Examples are:

- (1) Vacancies that are committed to a budget reduction;
- (2) Vacancies used to avoid a reduction in force;
- (3) Vacancies used for disciplinary transfers or demotions;
- (4) Vacancies to be filled by transfer of an employee to avoid the threat of bodily harm;

- (5) Vacancies that are designated exempt policymaking under G.S. 126-5(d);
- (6) Vacancies that must be filled immediately to prevent work stoppage in constant demand situations, or to protect the public health, safety, or security;
- (7) Vacancies to be filled by chief deputies and chief administrative assistants to elected or appointed department heads; and vacancies for positions to be filled by confidential assistants and confidential secretaries to elected or appointed department heads, chief deputies, or chief administrative assistants;
- (8) Vacancies to be filled by an eligible exempt employee who has been removed from an exempt position and is being placed back in a position subject to all provisions of the State Human Resources Act;
- (9) Vacancies to be filled by a legally binding settlement agreement;
- (10) Vacancies to be filled in accordance with a pre-existing written agency workforce plan; and
- (11) Vacancies that must be filled immediately because of a widespread outbreak of a serious communicable disease.

(f) The Office of State Human Resources may withhold approval for an agency to fill a job vacancy as set out in GS.126-7.1.

*History Note:* Authority G.S. 96-29; 126-4(4); 126-5(d); 126-7.1;  
 Eff. March 1, 2007;  
 Amended Eff. August 1, 2009; May 1, 2008.

**25 NCAC 01H.0632 APPLICANT INFORMATION AND APPLICATION**

- (a) Applicants applying for a state vacancy shall complete and submit a State Application Form (Form PD-107 or its equivalent) to the hiring authority.
- (b) In completing an Application Form, persons subject to registration under the Military Selective Service Act (50 United States Code, Appx Section 453) shall certify compliance with such registration requirements to be eligible for State employment, as required by G.S. 143B-421.1. The knowing and willful failure of a subject person to certify compliance with this Act when submitting an application for consideration, or to falsely certify compliance, is grounds for dismissal from employment.
- (c) Persons eligible for veteran's preference shall submit a DD Form 214, Certificate of Release or Discharge from Active Duty, with the application. The agency shall verify eligibility for veterans' preference.

*History Note:* Authority G.S. 96-29; 126-4(4); 126-4(6);  
 Eff. February 1, 2007;  
 Amended Eff. August 1, 2010; April 1, 2009.

**25 NCAC 01H.0633 SPECIAL APPLICANT CONSIDERATIONS RELATED TO PRIORITY**

Priority consideration shall be given to the following applicants:

- (1) employees with career status who have received written notification of imminent separation due to reduction in force;
- (2) employees eligible pursuant to G.S. 126-5(e) who have been removed from exempt positions, for reasons other than cause;
- (3) employees eligible pursuant to G.S. 126-5(e) who have been removed from an exempt managerial position for a violation of G.S. 126-14.2;
- (4) employees returning from workers' compensation leave;
- (5) career State employees seeking promotions; and
- (6) eligible veterans as defined in G.S. 128-15(b)(3).

*History Note:* Authority G.S. 126-4(4); 128-15;  
 Eff. February 1, 2007;  
 Amended Eff. April 1, 2015.

**25 NCAC 01H.0634 SELECTION OF APPLICANTS**

- (a) All agencies shall select from the pool of the most qualified persons to fill vacant positions. Employment shall be offered based upon the job-related qualifications of applicants for employment using fair and valid selection criteria and not on political affiliation or political influence.



(b) Using fair and valid selection criteria, the agency shall review the credentials of each applicant in order to determine who possesses the minimum qualifications as defined in Rule .0635 of this Section including selective criteria. "Selective criteria" are defined as additional minimum qualifications identified by the agency. From those applicants who meet the minimum qualifications, a pool of the most qualified candidates shall be identified. The pool of most qualified candidates shall be those individuals determined to be substantially more qualified than other applicants pursuant to G.S. 126-14.2. The individual selected for the position shall be from among the most qualified applicants.

(c) Selection procedures and methods shall be validly related to the duties and responsibilities of the vacancy to be filled.

(d) The agency shall provide timely written notice of non-selection to all unsuccessful candidates in the most qualified pool.

*History Note:* Authority G.S. 126-4(4); 126-14.2; 126-14.3;  
Eff. February 1, 2007;  
Amended Eff. April 1, 2015.

#### **25 NCAC 01H.0635 MINIMUM QUALIFICATIONS**

(a) The employee or applicant must possess at least the minimum qualifications set forth in the class specification of the vacancy being filled. Additional minimum qualifications, if any, included on the specific vacancy announcement must also be met. The additional qualifications shall have a documented business need. Qualifications include training, experience, competencies and knowledge, skills and abilities. The minimum qualifications on the vacancy announcement shall bear a direct and logical relationship to the minimums on the class specification, class administration guidelines developed by the Office of State Human Resources, and the specific position description. This requirement shall apply in new appointments, promotions, demotions or reassignments, transfers, and reinstatements.

(b) Qualifications necessary to perform successfully may be attained in a variety of combinations. Reasonable substitutions of formal training and job-related experience, one for the other, may be made.

(c) Agency management is responsible for determining and defending the vacancy-specific qualifications that are in addition to minimum training and experience requirements. Such vacancy-specific qualifications shall bear a logical and job-related relationship to the minimum requirements.

(d) The Office of State Human Resources shall make the final determination as to whether the employee or applicant meets the minimum qualifications in questionable selection situations.

*History Note:* Authority G.S. 126-4(4);  
Eff. March 1, 2007.

#### **25 NCAC 01H.0636 EMPLOYMENT: E-VERIFY**

(a) The Immigration Reform and Control Act (IRCA) requires that all U.S. employees be either United States citizens or aliens with proper work authorization from the Bureau of U.S. Citizenship and Immigration Services.

(b) All State agencies shall, no later than the third working day after the hire, verify the employment eligibility of all employees hired after November 6, 1986. Verification shall establish both identity and employment authorization and shall follow the requirements of the IRCA, using the E-verify program that is administered by the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, Verification Division, which is hereby incorporated by reference including any subsequent amendments and editions. Information on the E-verify program may be found on the U.S. Department of Homeland Security website at <http://www.uscis.gov/e-verify>.

*History Note:* Authority G.S. 126-4(4); 8 C.F.R. Parts 109 and 274a, 1987; P.L. 101-649;  
Eff. February 1, 2007;  
Amended Eff. April 1, 2015.

#### **25 NCAC 01H.0637 CREDENTIALS VERIFICATION PROCEDURES**

In accordance with G.S. 126-30, for each new employee, agencies shall verify information on applications for State employment that is significantly related to the particular job responsibilities or is used to qualify or set the employee's salary, as determined by the agency. Agencies shall be responsible for obtaining written verification of applicants' post-secondary dates of enrollment, degrees awarded, professional licenses, professional registrations and professional certifications.

*History Note:* Authority G.S. 126-4; 126-30;  
Eff. February 1, 2007.

**25 NCAC 01H.0638 APPLICANT DISQUALIFICATION BECAUSE OF FALSE OR MISLEADING INFORMATION ON STATE APPLICATION**

When an agency discovers prior to employment that an applicant provided false or misleading information on a State application or its equivalent in order to meet position qualifications, the applicant shall be disqualified from consideration for the position in question.

*History Note:* Authority G.S. 126-4; 126-30;  
Eff. February 1, 2007.

**25 NCAC 01H.0639 DISCIPLINARY ACTION BECAUSE OF FALSE OR MISLEADING INFORMATION ON STATE APPLICATION**

When an agency discovers, after employment, that an employee provided false or misleading information on a State application, or its equivalent, or concealed employment history or other required information significantly related to job responsibilities, but not used to meet minimum qualifications, disciplinary action is required and shall be administered in accordance with the following criteria:

- (1) Disciplinary action, up to and including dismissal, shall be taken.
- (2) The agency head's decision, while discretionary, shall consider: the effect of the false, misleading or concealed information on the hiring decision, the advantage gained by the employee over other applicants, the effect of the false information on the starting salary, and the advantage gained by employee in subsequent promotion and salary increases; and
- (3) Job performance shall not be considered in such cases, nor can decisions be made on the basis of race, creed, color, religion, national origin, sex, age, disability or political affiliation.

*History Note:* Authority G.S. 126-4; 126-30;  
Eff. February 1, 2007.

**25 NCAC 01H.0640 DISMISSAL BECAUSE OF FALSE OR MISLEADING INFORMATION ON STATE APPLICATION**

When an agency discovers that an employee was selected based on false or misleading work experience, education, registration, licensure or certification information on the State application, or its equivalent, in order to meet position qualifications, the employee shall be dismissed, regardless of length of service.

*History Note:* Authority G.S. 126-4; 126-30;  
Eff. February 1, 2007.

**25 NCAC 01H.0641 EMPLOYMENT OF RELATIVES**

Members of an immediate family shall not be employed within the same agency if the employment results in one member supervising another member of the employee's immediate family, or if one member will occupy a position that has influence over another member's employment, promotion, salary administration, or other related management or personnel considerations. This includes employment on a permanent, temporary, or contractual basis. The term "immediate family" includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson and granddaughter. Also included is the step-, half- and in-law relationships based on the listing in this Rule. It also includes other people living in the same household, who share a relationship comparable to immediate family members, if either occupies a position that requires influence over the other's employment, promotion, salary administration, or other related management or personnel considerations.

*History Note:* Authority G.S. 126-4(4);  
Eff. April 1, 2015.

**SECTION .0700 - PRIORITY CONSIDERATION: GENERAL PROVISIONS**

**25 NCAC 01H.0701 GENERAL PROVISIONS**

(a) It is recognized that certain applicants for positions of State employment may receive a priority over other applicants for the position. Priority consideration in certain situations may be accorded to the following applicants:

- (1) Career State employees applying for a position that is a higher salary grade (or salary grade equivalency) as provided in 25 NCAC 01H .0800;
- (2) Career State employees who have received written notification of imminent separation due to a reduction in force;
- (3) Eligible employees in positions which are designated as exempt policymaking and who have less than 10 years of cumulative State service in subject positions as provided in 25 NCAC 01H .1000;
- (4) Eligible employees in positions which are designated as exempt managerial and who have less than 10 years of cumulative State service in subject positions and who have been removed from the exempt position for reasons other than cause but not because the employee's selection violated G.S. 126-14.2, as provided in 25 NCAC 01H .1000;
- (5) Eligible employees in positions which are designated as exempt managerial and who have less than 10 years of cumulative State service and who have been removed from the exempt managerial position because the employee's selection violated G.S. 126-14.2, as provided in 25 NCAC 01H .1000; and
- (6) Eligible veterans applying for initial employment or subsequent employment in State government, as provided in 25 NCAC 01H .1100.

(b) The priority consideration listed in Subparagraph (a)(6) of this Rule may only be asserted against substantially equal or less qualified non-veteran outside applicants or other State employees who do not fall into any of the categories listed in Subparagraphs (a)(1) – (a)(5) of this Rule.

(c) The priority consideration listed in Subparagraphs (a)(3), (a)(4) and (a)(5) of this Rule may be defeated by an employee with the priority listed in Subparagraph (a)(2) of this Rule or by a current State employee who has greater cumulative State service in positions subject to the State Human Resources Act. The selected applicant must meet the minimum qualifications, including training, experience, competencies and knowledge, skills and abilities.

*History Note:* G.S. 126-4; 126-82; 128-15;  
Eff. February 1, 2007;  
Amended Eff. June 1, 2008.

## **SECTION .0800 - PROMOTIONAL PRIORITY**

### **25 NCAC 01H.0801 PROMOTIONAL PRIORITY CONSIDERATION FOR CURRENT EMPLOYEES**

(a) Promotional priority consideration shall be provided when a career State employee, as defined in G.S. 126-1.1, applies for a position that is a higher salary grade (salary grade equivalency) or has a higher statewide journey market rate and the eligible employee is in competition with outside applicants.

(b) If it is determined that an eligible employee and an outside applicant have "substantially equal qualifications," then the eligible employee must receive the job offer over an outside applicant.

(c) "Substantially equal qualifications" occur when the employer cannot make a reasonable determination that the job-related qualifications held by one applicant are significantly better suited for the position than the job-related qualifications held by another applicant.

(d) For purposes of this Rule, an outside applicant is any applicant who is not a member of the State government workforce as defined in 25 NCAC 01H .0631(c).

*History Note:* Authority G.S. 126-1A; 126-4; 126-7.1;  
Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;  
ARRC Objection January 21, 1988;  
Curative Eff. November 1, 1988;  
Amended Eff. March 1, 1994;  
Recodified from 25 NCAC 01H .0625 Eff. December 29, 2003;  
Amended Eff. February 1, 2007.

### **25 NCAC 01H.0802 RELATIONSHIP TO OTHER EMPLOYMENT PRIORITY CONSIDERATIONS**

(a) Eligible exempt employees with priority consideration and employees with reduction-in-force priority status are not considered outside applicants for the purpose of promotional priority.

(b) Providing equal employment opportunity requires that hiring authorities act affirmatively in minimizing or eliminating underrepresentations of women, minorities and persons with disabilities throughout all levels of the State's workforce. Therefore, when promotional opportunities exist in occupational categories where there is an established underrepresentation of minorities, women, and persons with disabilities, and the selection decision will be made from among applicants in the existing State workforce, hiring authorities shall consider and support these equal employment opportunity needs. Affirmative recruitment efforts shall be taken, both internally and externally, to optimize the presence of the most qualified persons from the underrepresented categories in the applicant pool.

*History Note:* Authority G.S. 126-4; 126-7.1; 126-16;  
Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 28, 1988;  
Eff. March 1, 1988;  
Amended Eff. June 1, 1992;  
Recodified from 25 NCAC 01H.0626 Eff. December 29, 2003;  
Amended Eff. February 1, 2007.

## **SECTION .0900 - REDUCTION-IN-FORCE - PRIORITY REEMPLOYMENT**

### **25 NCAC 01H.0901 REDUCTION IN FORCE APPLICATION AND APPEAL**

- (a) The rules in this Section apply to employees notified of or separated due to a reduction in force.
- (b) Priority consideration shall be provided to career State employees who have received written notification of imminent separation due to reduction in force. An employee who is separated from a time-limited position is not eligible for priority consideration unless the time-limited appointment extends beyond three years.
- (c) A career State employee, as defined in G.S. 126-1.1, with priority consideration who has reason to believe priority consideration was denied in violation of G.S. 126 in a selection decision, and who chooses to appeal shall appeal 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. 126-1A; 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, 1991;  
Recodified from 25 NCAC 01D.0510 Eff. December 29, 2003;  
Amended Eff. February 1, 2007;  
Temporary Amendment Eff. May 23, 2014;  
Amended Eff. April 1, 2015.

### **25 NCAC 01H.0902 REQUIREMENTS FOR REDUCTION IN FORCE PRIORITY CONSIDERATION**

Upon written notification of imminent separation through reduction in force (RIF), a career state employee shall receive priority consideration for positions at an equal or lower salary grade (or salary grade equivalency) for a period of 12 months pursuant to G.S. 126-7.1, unless the priority has been satisfied in accordance with this section. The following conditions apply:

- (1) For employees receiving notification of imminent separation from trainee or flat rate positions, the salary grade for which priority is to be afforded shall be determined as follows: For employees in flat rate positions, the salary grade shall be the grade that has as its maximum a rate nearest to the flat rate salary of the eligible employee. For eligible employees in trainee status, the salary grade shall be the salary grade of the full class;
- (2) For employees receiving notification of imminent separation through reduction in force while actively possessing priority consideration from a previous reduction in force shall retain the initial priority for the remainder of the 12-month priority period. A new priority consideration period shall then begin at the salary grade (or salary grade equivalency), or salary rate of the position held at the most recent notification of separation and shall expire 12 months from the most recent notification date;
- (3) If after receiving formal notice of imminent reduction in force, an employee retires or applies for retirement prior to the separation date, an employee shall have no right to priority consideration;

- (4) Employees notified of separation from permanent full-time positions shall have priority consideration for permanent full-time and permanent part-time positions. Employees notified of separation from permanent part-time positions shall have priority consideration for permanent part-time positions only;
- (5) Employees who have priority consideration at the time of application for a vacant position, and who apply during the designated agency recruitment period, shall be continued as priority applicants until the selection process is complete;
- (6) If an employee with priority consideration applies for a position but declines an interview or offer of the position, the employee loses priority if the position is at a salary grade (or salary grade equivalency), or salary rate equal to or greater than that held at the time of notification;
- (7) If an employee with priority consideration is placed in another position prior to the separation due to reduction in force, the employee does not lose priority if the position is at a lower salary grade (or salary grade equivalency) or salary rate less than that held at the time of notification and if the position is at the same appointment status;
- (8) An employee with priority consideration may accept a temporary position at any level and retain priority consideration;
- (9) When priority has been granted for a lower salary grade (or salary grade equivalency) and salary rate than that held at the time of notification, the employee retains priority for higher salary grades (or salary grade equivalencies) up to and including that held at the time of the notification of separation;
- (10) An employee with priority consideration may accept employment outside State government or in a State position not subject to the State Human Resources Act and retain the priority consideration through the 12-month priority period;
- (11) Priority consideration for an eligible employee is terminated when:
  - (a) an employee accepts a permanent or time-limited position with the State at the same salary rate or higher rate than the salary rate at the time of notification of separation;
  - (b) an employee accepts a permanent or time-limited position with the State equal to or greater than the employee's salary grade (or salary grade equivalency) of the full-time or part-time position held at the time of notification, in accord with Item (4) of this Rule;
  - (c) an employee accepts a career banded position at the same or higher competency level in the same banded classification as held at the time of notification;
  - (d) an employee accepts a career banded position in a different banded classification with the same or higher journey market rate than that held at the time of notification;
  - (e) an employee has received 12 months priority consideration; or
  - (f) an employee applies for retirement or retires from State employment
- (12) Priority consideration for employees notified of or separated through reduction in force shall not include priority to any exempt positions;
- (13) When an employee with priority consideration accepts a position at a lower salary rate or lower employee's salary grade (or salary grade equivalency) and is subsequently terminated by disciplinary action, any remaining priority consideration ceases; and
- (14) An employee with priority consideration shall serve a new probationary period when there is a break in service, as defined in 25 NCAC 01D .0114.

*History Note:* Authority G.S. 126-4(6),(10); 126-7.1;  
 Eff. March 1, 1987;  
 Amended Eff. December 1, 1995; April 1, 1993; June 1, 1992; January 1, 1990;  
 Recodified from 25 NCAC 01D .0511 Eff. December 29, 2003;  
 Amended Eff. February 1, 2007;  
 Temporary Amendment Eff. May 23, 2014;  
 Amended Eff. April 1, 2015.

## **25 NCAC 01H.0903 REEMPLOYMENT AFTER PRIORITY EXPIRATION**

*History Note:* Authority G.S. 126-4(6),(10);  
 Eff. March 1, 1987;  
 Recodified from 25 NCAC 01D .0514 Eff. December 29, 2003;

*Repealed Eff. February 1, 2007.*

**25 NCAC 01H.0904 AGENCY AND EMPLOYEE RESPONSIBILITIES**

(a) The employing agency shall notify the employee of imminent separation in accordance with G.S. 126-7.1(b) and inform the employee of the priority consideration to be afforded.

(b) The agency shall notify the Office of State Human Resources when:

- (1) an employee is officially notified of reduction in force;
- (2) an eligible employee accepts a position that satisfies the priority consideration;
- (3) an eligible employee refuses an interview or an offer that would satisfy the priority consideration; or
- (4) other conditions that would satisfy or terminate an eligible employee's priority consideration under Rule .0902 of this Section are discovered.

*History Note: Authority G.S. 126-4(6),(10); 126-7.1;  
Eff. March 1, 1987;  
Amended Eff. December 1, 1995; June 1, 1992; November 1, 1988;  
Recodified from 25 NCAC 01D .0515 Eff. December 29, 2003;  
Amended Eff. November 1, 2011; February 1, 2007;  
Temporary Amendment Eff. May 23, 2014;  
Amended Eff. April 1, 2015.*

**25 NCAC 01H.0905 OFFICE OF STATE HUMAN RESOURCES RESPONSIBILITIES**

The Office of State Human Resources shall maintain a list of employees notified of reduction in force that shall serve as a reference for agencies in determining priority consideration for reemployment.

*History Note: Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Recodified from 25 NCAC 01D .0516 Eff. December 29, 2003;  
Amended Eff. November 1, 2011; February 1, 2007;  
Temporary Amendment Eff. May 23, 2014;  
Amended Eff. April 1, 2015.*

**SECTION .1000 – EXEMPT PRIORITY CONSIDERATION**

**25 NCAC 01H.1001 EXEMPT PRIORITY CONSIDERATION – POLICY AND SCOPE**

(a) The rules in this Section H .1000 apply to employees hired on or before August 20, 2013 and removed from:

- (1) Exempt policymaking positions for reasons other than just cause; and
- (2) Exempt managerial positions for reasons other than just cause.

(b) A career State employee with less than 10 years cumulative service in subject positions prior to placement in an exempt policymaking position, who is removed from an exempt policymaking position for reasons other than just cause, shall receive a one-time priority. This priority shall be exercised by the employee within one year following the date of the employee's separation. Upon notice to the agency that priority is being requested, the employee shall be offered any available non-exempt position for which the employee has applied and is qualified when the position applied for is equal to or below the salary grade (or salary grade equivalency) of the most recent subject position held prior to placement in the exempt policymaking position unless an offer has been made to, and accepted by, a person qualified under Rule .1005 of this Section or an employee notified of or separated by a reduction in force, or a current State employee with greater cumulative State service subject to the State Human Resources Act.

(c) A career State employee with less than 10 years cumulative service in subject positions prior to placement in an exempt managerial position, who is removed from an exempt managerial position for reasons other than just cause shall receive a one-time reemployment priority, to be exercised by the employee within one year following the date of the employee's separation. Upon notice to the agency that priority is being requested, the employee shall be offered any available non-exempt position for which the employee has applied and is qualified, when the position applied for is equal to or below the salary grade (or salary grade equivalency) of the most recent subject position held prior to placement in the exempt managerial position unless an offer has been made to, and accepted by, a person qualified under Rule .1005 of this Section, or an employee notified of or

separated by a reduction in force, or a current State employee with greater cumulative State service subject to the State Human Resources Act.

(d) The priority considerations described in Paragraphs (b) and (c) of this Rule shall expire when a written offer is extended for employment in the position for which the employee has applied regardless of the position's salary grade (or salary grade equivalency) if the employee has notified the agency in writing that the employee wishes to exercise priority consideration.

(f) If an eligible exempt employee applies for and accepts a position through the regular, non-priority selection process, which is at a salary grade (or salary grade equivalency) below that held in the most recent subject position, that person shall retain the one-time priority for higher level positions for the remainder of the 12-month period.

(g) If an employee does not receive notice as described in Rule .0630(b) of this Subchapter, the employee remains subject to the State Human Resources Act until 10 working days after the employee receives written notification of the exempt status. If an otherwise eligible employee is removed from the position designated as exempt, the employee has priority consideration to a position at the same salary grade (or salary grade equivalency) as the most recent subject position.

*History Note:* Authority G.S. 126-1.1; 126-5; S.L. 2013-382, s. 4.3, 4.4, 4.6, 7.6.;  
Eff. March 1, 1987;  
Amended Eff. June 1, 1994; June 1, 1992; November 1, 1988;  
Recodified from 25 NCAC 01D .0512 Eff. December 29, 2003;  
Amended Eff. February 1, 2007;  
Temporary Amendment Eff. May 23, 2014.

#### **25 NCAC 01H.1002 CUMULATIVE STATE SERVICE**

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. March 1, 1987;  
Recodified from 25 NCAC 01D .0513 Eff. December 29, 2003;  
Repealed Eff. February 1, 2007.

#### **25 NCAC 01H.1003 AGENCY AND EMPLOYEE RESPONSIBILITIES**

(a) The employing agency shall inform the employee of the priority consideration to be afforded.

(b) The Agency shall notify the Office of State Human Resources when:

- (1) an employee is officially notified of reduction in force;
- (2) an eligible employee accepts a position that satisfies the priority consideration;
- (3) an employee with priority status due to reduction in force is offered a lateral transfer or promotion and refuses, unless the position offered is more than 35 miles from the employee's original workstation; or
- (4) other conditions that would satisfy or terminate an eligible employee's priority consideration are discovered.

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. February 1, 2007;  
Amended Eff. November 1, 2011.

#### **25 NCAC 01H.1004 OFFICE OF STATE HUMAN RESOURCES RESPONSIBILITIES**

(a) The Office of State Human Resources shall maintain a list of employees that will serve as a reference for agencies in applying priority reemployment.

(b) The Office of State Human Resources shall also provide outplacement assistance to separated employees who wish to seek employment in the private sector. Such assistance includes resumé preparation, personal marketing, and interview skills, along with Employment Security Commission coordination for placement referral.

*History Note:* Authority G.S. 126-4(6),(10);  
Eff. February 1, 2007;  
Amended Eff. November 1, 2011.

#### **25 NCAC 01H.1005 MANDATORY RIGHT TO A POSITION**

(a) A State employee removed from an exempt policymaking position for reasons other than cause with 10 or more years of cumulative service in subject positions, including the immediately preceding 12 months prior to placement in the exempt

polymaking position, shall be reassigned to a subject position within the same agency, or if necessary within another agency, at the same salary grade (or salary grade equivalency) and salary rate as their most recent subject position, including all across-the-board legislative increases since placement in the position designated as exempt polymaking. The reassignment must be within a 35-mile radius of the exempt position from which separated. If an employee is offered a reassignment that meets these criteria and refuses to accept, the mandatory right to a position is terminated.

(b) A State employee removed from an exempt managerial position for reasons other than cause, but not because the employee's selection violated G.S. 126-14.2, with 10 or more years of cumulative service in subject positions, including the immediately preceding 12 months prior to placement in the exempt managerial position, shall be reassigned to a subject position within the same agency, or if necessary within another agency, at the same salary grade (or salary grade equivalency) and salary rate as their most recent subject position, including all across-the-board legislative increases since placement in the position designated as exempt managerial. The reassignment must be within a 35-mile radius of the exempt managerial position from which separated. If an employee is offered a reassignment that meets these criteria and refuses to accept, the mandatory right to a position is terminated.

(c) A career State employee removed from an exempt managerial position because the employee's selection violated G.S. 126-14.2 with 10 or more years service shall be placed in a comparable position at the same salary grade (or salary grade equivalency) and salary equal to that held in the most recent position.

(d) If an employee does not receive notice as described in 25 NCAC 01H .0630(b), the employee remains subject to the State Human Resources Act until 10 working days after the employee receives written notification of the exempt status. If the employee is removed from the position designated as exempt, the employee shall be placed in a position at the same salary grade (or salary grade equivalency) and salary equal to that held in the most recent subject position.

*History Note:* Authority G.S. 126-1.1; 126-5;  
Eff. February 1, 2007.

## **SECTION .1100 – VETERANS' PREFERENCE**

### **25 NCAC 01H.1101 VETERANS' PREFERENCE POLICY STATEMENT**

Eligible veterans shall be granted preference in employment with every state agency in accordance with Article 13 of G.S. 126.

*History Note:* Authority G.S. 126-4(4); 128-15;  
Eff. September 1, 1987;  
Recodified from 25 NCAC 01H .0610 Eff. October 5, 2004;  
Amended Eff. February 1, 2007.

### **25 NCAC 01H.1102 CLAIMING VETERANS' PREFERENCE**

In order to claim veterans' preference, all eligible persons shall submit a DD Form 214, Certificate of Release or Discharge from Active Duty, along with a State Application for Employment (PD-107 or its equivalent) to the appointing authority. Appointing authorities are responsible for verifying eligibility and may request additional documentation as is necessary to ascertain eligibility. Eligible veterans shall meet the minimum qualifications, as defined in 25 NCAC 01H .0635, for the position.

*History Note:* Authority G.S. 126-4(4); 126-4(10); 128-15;  
Eff. September 1, 1987;  
Recodified from 25 NCAC 01H .0612 Eff. October, 5, 2004;  
Amended Eff. June 1, 2008; February 1, 2007.

### **25 NCAC 01H.1103 DENIAL OF VETERANS' PREFERENCE**

*History Note:* Authority G.S. 126-4(10); 126-4(11); 128-15; 150B, Article 3; S.L. 2013-382, s. 6.1;  
Eff. September 1, 1987;  
Recodified from 25 NCAC 01H .0613 Eff. October 5, 2004;  
Amended Eff. June 1, 2008; February 1, 2007; February 17, 2014;  
Temporary Amendment Eff. February 28, 2014;  
Repealed Eff. May 1, 2015.



## **25 NCAC 01H.1104 APPLICATION OF THE VETERANS' PREFERENCE**

(a) Veterans' preference shall be accorded eligible veterans, as defined in 25 NCAC 01H.1105, by giving additional credit as follows:

- (1) In initial employment, subsequent employment, promotion, reassignment, and horizontal transfer procedures, where numerically scored examinations are used in determining the relative ranking of candidates, 10 points shall be awarded to eligible veterans.
- (2) In initial employment, subsequent employment, promotion, reassignment, and horizontal transfer procedures where structured interview, assessment center, in-basket, or any other procedure, not numerically scored, is used to qualitatively assess the relative ranking of candidates, the veteran who has met the minimum qualification requirements for the vacancy, and who has less than four years of related military experience beyond that necessary to minimally qualify, shall also receive additional experience credit for up to four years of unrelated military service. The spouse or dependent shall not receive additional experience credit for the veteran's unrelated military service. To determine the amount of additional experience credit to be granted for unrelated military service, first determine the amount of related military service possessed by the eligible veteran beyond that required to meet the minimum qualifications, then apply the following:
  - (A) If the total of such experience equals or exceeds four years, the additional credit for unrelated military service does not apply.
  - (B) If the total of such experience is less than four years, the veteran shall receive direct experience credit for unrelated military service in an amount not to exceed the difference between the eligible veteran's related military service and the four-year maximum credit that may be granted.
- (3) In reduction-in-force situations, when calculating length of service, the eligible veteran shall be accorded one year of State service for each year or fraction thereof of military service, up to a maximum of five years credit. This additional credit does not count as total state service.

(b) After applying the preference to candidates from outside the State government structure, upon initial employment or subsequent employment as outlined in Subparagraph (a)(1) or (2) of this Rule, the eligible veteran shall be hired when the veteran's overall qualifications are substantially equal to the non-veterans in the applicant pool as provided in 25 NCAC 01H.0701(b). Substantially equal qualifications occur when the employing agency cannot make a reasonable determination that the qualifications held by one or more applicants are significantly better suited for the position than the qualifications held by another applicant.

(c) The spouse, surviving spouse or surviving dependent of that veteran may claim veterans' preference without regard to whether such preference has been claimed previously by the veteran.

(d) For promotion, reassignment and horizontal transfer, after applying the preference to veterans who are current State employees as explained under Subparagraph (a)(1) or (2) of this Rule, the eligible veteran receives no further preference and competes with all other applicants who have substantially equal qualifications.

*History Note: Authority G.S. 126-4(4); 126-4(10); 128-15;  
ARRC Objection July 16, 1987;  
Eff. December 1, 1987;  
ARRC Objection Removed Eff. March 16, 1989;  
Recodified from 25 NCAC 01H.0614 Eff. October 5, 2004;  
Amended Eff. June 1, 2008; February 1, 2007.*

## **25 NCAC 01H.1105 ELIGIBILITY**

Persons eligible for veteran's preference shall have served in the Armed Forces of the United States on active duty, for reasons other than training, during periods of war, and shall have been discharged under other than dishonorable conditions. This particularly includes disabled veterans. Also eligible are spouses of disabled veterans, and the surviving spouse or dependent of a veteran who died on active duty during periods of war either directly or indirectly as a result of such service. Eligibility for veteran's preference shall further extend to veterans who suffer disabling injuries through service-related reasons during peacetime, to the spouses of such veterans, and to the surviving spouse or dependent of a veteran who died through service-related reasons during peacetime.

*History Note: Authority G.S. 126-4(10); 128-15;  
ARRC Objection July 16, 1987;*

*Eff. December 1, 1987;*

*ARRC Objection Removed Eff. March 16, 1989;*

*Recodified from 25 NCAC 01H .0615 Eff. October 5, 2004.*