

Recruitment and Posting of Vacancies Policy (cont.)

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§ 1. Policy

State Government shall meet its workforce needs through systematic recruitment, selection, and career support programs that identify, attract, and select from the most qualified applicants for State employment, and encourage diverse representation at all occupational levels of the workforce. No selection decision shall be made that will constitute unlawful discrimination in violation of State and Federal law.

This policy applies to those employees and positions that are subject to Articles 1, 2, 5, 6, 7, 8, 13 and 14 of N.C.G.S. § 126. This does not include temporary employees, or employees of the legislative and judicial branches, employees of the public school and community college systems, or other employees who are exempt from these Articles of the Human Resources Act.

§ 2. Recruitment and Selection

Each agency shall use a recruitment and selection process based on fair and valid selection criteria. Agencies shall be responsible for maintaining recruitment and selection data and documentation to support decisions and provide information to the Office of State Human Resources to prepare reports required by statute.

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The Office of State Human Resources shall consult, as requested, with the agencies in the design, development, and implementation of an education program for managers, supervisors, and Human Resources professionals in the recruitment and selection process.

§ 3. Exempt Positions

While most positions are filled through systematic recruitment, it is recognized that some positions in State government are exempt from various provisions of the 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 Human Resources Act, they are subject to the following requirements:

1. Exempt positions, including exempt managerial positions, that are subject to the limitation on political hirings (N.C.G.S. § 126-14.2) or the open and fair recruitment requirements (N.C.G.S. § 126-14.3) of Chapter 126 must follow the posting, recruitment, and selection requirements of this policy.
2. 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.
3. 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.
4. 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.

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§ 4. Vacancy Announcement

Vacant positions to be filled in State government shall be publicized by the agency having the vacancy to permit open and fair competition for all interested employees and applicants. The recruitment and selection process shall be consistently applied, nondiscriminatory and promote open and fair competition and the hiring of a diverse workforce.

Each vacancy will be described in an announcement which includes at minimum:

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

§ 5. Minimum Qualifications

The employee or applicant must possess at least the minimum qualifications required for the position being filled. Minimum qualifications are the education, experience, and knowledge, skills, and abilities/competencies in the vacancy announcement. The minimum education and experience qualifications on the vacancy announcement shall

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reflect the education and experience that are in the class specification and shall not be altered. The knowledge, skills, and abilities/competencies in 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, redeployments, and reinstatements. Please refer to Section 4.3 of the Pay Administration Policy for information related to Trainees and Trainee Progressions.

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

§ 6. Management Preferences

Agency management is responsible for determining the vacancy-specific knowledge, skills and abilities/competencies that are in addition to minimum education and experience requirements.

Hiring Managers cannot add a Management Preference for a degree or license or additional years of experience when the classification is one that allows substitution of experience for education to meet the minimum qualifications, except through the approval process described below. This includes:

- A preference for a specific academic degree or major that is not in the minimum Education and Experience in the class specification.
- Additional education above what is in the minimum education and experience in the class specification.
- A preference for a degree over related experience.

This does not prevent management from adding a preference that a candidate possess a certification that is job related.

If management believes a vacancy requires education or license beyond the minimum, such a preference may only be included with approval from the Agency Human Resources Director or designee. Agency Human Resources directors shall report all

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management preferences that require Agency Human Resources director or designee approval to the Office of State Human Resources on a quarterly basis. Such vacancy-specific qualifications shall bear a logical and job-related relationship to the minimum requirements. Management shall be responsible for the adverse effects resulting from the use of qualification standards that are unreasonably construed.

§ 7. Posting Period

Each permanent position to be filled shall be posted for not less than five working days. Temporary positions and positions for State government interns are not required to be posted. The following posting requirements apply:

§ 7.1. Internal to State Agency

The following applies only to postings that are only open to current employees of the posting agency.

Vacancies to be filled from within the agency workforce shall be prominently posted in at least the agency Human Resources office and the particular work unit of the agency having the vacancy. If the opening is not listed on a website maintained by the Office of State Human Resources, then the vacancy announcement shall be emailed to all employees of the agency. Applicants who may be considered for postings that are “For current [agency] employees” are probationary, permanent, and time limited employees currently employed by the posting agency and former agency employees who have priority reemployment rights due to a Reduction in Force from the agency posting the job. Agencies may choose to allow temporary employees¹ currently working with the posting agency to apply for “Internal to Agency” postings by indicating they are eligible to apply in the job posting. If not specifically noted in the posting, temporary employees are not eligible to apply.

¹ For the purposes of sections 7.1 and 7.2, temporary employee includes temporary employees employed by Temporary Solutions or directly by the agency. It does not include temporary employees of a third-party staffing agency or contractors.

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§ 7.2. **Internal to NC State Government and UNC System Employees**

The following applies only to postings that are only open to current state government and UNC System employees.

Vacancies to be filled by applicants who are NC state government or UNC System employees shall be posted in the agency Human Resources office and the particular work unit of the agency and shall also be listed on a website maintained by the Office of State Human Resources. Applicants who may be considered for postings that are “Internal to State Government and UNC System employees” are probationary, permanent, and time limited employees, including current State agency and UNC System employees and State agency and UNC System employees who have priority reemployment rights due to a Reduction in Force from a State agency or university. Agencies may choose to allow temporary employees currently working with a state agency to apply for “Internal to NC State Government and UNC System employees” postings by indicating they are eligible to apply in the job posting. If not specifically noted in the posting, temporary employees are not eligible to apply.

§ 7.3. **Internal and External to State Government**

Vacancies to be filled from within the state government or outside the state government workforce shall be posted in the agency Human Resources office and the particular work unit of the agency and shall also be listed on a website maintained by the Office of State Human Resources. In addition, vacancies to be filled from outside the state government workforce shall be listed with the Division of Employment Security of the Department of Commerce, either directly or through the Department of Commerce’s job listing website. When a vacancy is listed with the Division of Employment Security of the Department of Commerce, the local office with which the listing is made must be notified by the agency within 15 days after the vacancy is filled.

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§ 8. Posting Requirements Not Applicable

Posting is not required when an agency determines that it will not openly recruit. The decision shall be based upon a bona fide business need and is the responsibility of the agency head. Employees filling these positions are required to meet the minimum education and experience requirements of the position. Examples include vacancies which are:

- committed to a budget reduction,
- used to avoid a reduction in force,
- used to affect a disciplinary transfer or demotion,
- to be filled by transfer of an employee to avoid the threat of bodily harm,
- to be filled immediately to prevent work stoppage in constant demand situations, or to protect public health, safety or security,
- designated exempt policymaking [G.S. 126-5(d)],
- to be filled by chief deputies and chief administrative assistants to elected or appointed agency heads; and vacancies for positions to be filled by confidential assistants and confidential secretaries to elected or appointed agency heads, chief deputies, or chief administrative assistants,
- 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 Human Resources Act,
- to be filled by a legally binding settlement agreement,
- to be filled in accordance with a formal, pre-existing written agency workforce plan,
- to be filled immediately because of a widespread outbreak of a serious communicable disease, and
- to be filled as a result of a redeployment arrangement.
- to be filled by an employee who has already been hired into the position in trainee status, including without limitation trainees following the completion of an OSHR-recognized apprenticeship program.²

² See 25 NCAC 01K .0502 for additional details regarding apprenticeship programs. For additional details about trainee status, see the section entitled "Trainee Status" in the Appointment Types and Career Status Policy and the section entitled "Trainees" in the Pay Administration Policy.

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§ 9. Violation of Posting Requirements

The Office of State Human Resources may withhold approval for an agency to fill a vacancy if the agency cannot validate that it complied with these posting requirements. If any agency hires any person in violation of the posting requirements, and it is determined by the Office of State Human Resources that the employment of the person hired must be discontinued as a result of the posting violation, the agency shall pay such person for the time worked.

§ 10. Application for Employment

Applicants applying for a State vacancy or a temporary job must complete and submit a State Application Form (Form PD-107 or its equivalent) to the contact person in the hiring agency. In addition:

- Persons subject to registration under the Military Selective Service Act (50 United States Code, Appx Section 435) must certify compliance with such registration requirements to be eligible for State employment, as required by G.S. 143B-421.1; and
- 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.
- Persons eligible for National Guard preference shall submit a copy of the NGB 23A (RPAS), with the application. The agency shall verify eligibility for National Guard preference.

The knowing and willful failure of a subject person to certify compliance when submitting an application for formal consideration, or to falsely certify compliance, may be grounds for dismissal. See the Selection of Applicants Policy for further details on what may occur when an agency discovers that an applicant provided false or misleading information on a State application.

§ 11. Intra-Agency Application Sharing Pilot Program

Agencies may offer an option to applicants to have their application considered for other positions posted within the agency that are within the same or comparable classification for

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which the applicant applied and was qualified. OSHR will provide further guidance no later than January 2024.

§ 12. Recruiting or Search Firms

Under the following conditions, agencies may use recruiting or search firms to help fill vacant positions, and agencies may pay firms for those services. (This text summarizes Attorney General legal opinions on N.C.G.S. § 126-18 issued on November 4, 1988, and June 30, 2000. Copies of these legal opinions will be available on the Office of State Human Resources website.)

1. The agency must have posted the position openly, using the normal posting procedures required by this policy, unless the position is exempt from statutory posting requirements.
2. The agency must determine and document that the position is particularly difficult to fill. No particular form is required for this documentation.
3. It must be the practice of the recruiting or search firm to recruit job hunters for positions, rather than simply having job hunters signed up with the firm for the purpose of finding new jobs.

NOTE: The 1988 legal opinion notes, "A state agency could not simply ask an employment agency for help in finding a candidate for a job, hire someone listed with the employment agency, and then pay the agency's fee, no matter how much difficulty the State had experienced in recruiting for the position in question."

4. The recruiting or search firm must not charge fees to persons hired as a result of their search efforts.

For one example of what complies with the law, the 1988 legal opinion notes that it complies with the law for the State to pay fees "under an arrangement by which the employer pays for the [firm's] time and efforts in making the search, even if unsuccessful, plus an additional fee, based on the salary of the person employed, if they locate a candidate hired by the employer."

Even if the recruiting or search firm has not complied with conditions 3 and 4 listed above, State use of the firm may comply with N.C.G.S. § 126-18 if the firm has been, for at least one year, duly licensed and supervised by the North Carolina Department of Labor as

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a private employment service acting in the normal course of business. Agencies should consult their legal counsel if the recruiting or search firm has not complied with conditions 3 and 4 listed above.

§ 13. Sources of Authority

This policy is issued under the authority of any and all of the following:

- [N.C.G.S. § 126-14.3](#) (requiring the Commission to adopt rules or policies to assure recruitment, selection, and hiring procedures that, among other things, encourage open and fair competition for positions in State government employment, assure advertisement of job openings, and require closing dates for each job opening)

This policy is compliant with:

- N.C.G.S. §§ [96-29](#); [126-5\(b\),\(c\), and \(c7\)](#); [126-7.1](#); [126-14.2](#); [126-15](#); and [126-18](#),
- Section 39.3(a)(1) of the 2023 Appropriations Act, Session Law 2023-134, authorizing agencies, the Community College System Office, and The University of North Carolina to allow an individual the option of having the individual's application considered for future job postings at the same agency and at other agencies if the individual has been identified as a qualified applicant within the same or comparable classification.
- [25 N.C.A.C. 01H .0630 to .0641](#).

§ 14. History of This Policy

Date	Version
June 1, 1985	First version
October 1, 1987	Posting policy revised to comply with 1986 Immigration Reform and Control Act.
July 1, 1989	Revised to include legislative requirements for not filing jobs for 21 days when listed with Employment Security Commission Included legislative requirement for certifying compliance with Military Selective Service Act. Revised procedures for posting vacancies – must post salary if exception to promotional increase.
June 1, 1992	Revised recruitment policy to include statutory provisions for priority reemployment when notified of a reduction in force.

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	Revised recruitment procedures that when a vacancy is listed with Employment Security System, the vacancy has a classification for which the State Personnel Commission has recognized that candidates are in short supply and if the agency is hindered in providing essential services of the agency, the Employment Security Commission may waive the waiting period for agency to fill the position.
August 1, 1995	Deleted special recruitment program (targeted toward persons with skills or attributes).
September 17, 1997	Revised to implement provisions of SB 886 (nonpolitical selection of the most qualified).
February 7, 2000	Example added to "Posting Requirements Not Applicable" (Page 5) to clarify that agencies will not be required to openly recruit when a lateral appointment is made of an individual who has completed the requirements of the Governor's Public Management Fellowship Program or the Model Cooperative Education Program.
November 1, 2000	Advisory Note added to specify that applicants must meet the minimum training and experience requirements to fill positions that are not posted.
March 1, 2007	<ul style="list-style-type: none"> • New policy statement. • Added clarification of the statute that requires written notification when positions are designated exempt. • Changed required posting period from seven to five working days. • Added requirements for vacancy postings for banded classes. • Defined "state government workforce." • Clarified that the decision not to post must be based on a bona fide business need and added examples of when an agency might make this decision.
April 1, 2008	Corrected the rule citation on Page 4.
April 1, 2009	(1) Incorporates the rule change that allows a resume to be accepted in lieu of an application.

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	(2) Requires that persons claiming veterans' preference submit a DD Form 214, Certificate of Release.
March 1, 2010	Deleted provision to allow the use of a resume instead of the Application for Employment (Form PD-107) upon initial application. This will ensure more uniform opportunity to provide information.
July 1, 2010	Includes competency level as a requirement for the vacancy announcement for banded classes. This rule was changed August 2009 but was not updated in the policy.
July 1, 2014	Remove requirement for agencies to maintain an individual, State HR Commission approved Merit Based Recruitment and Selection Plan. In addition, advisory notes were removed and incorporated into the policy as appropriate. The advisory note related to hiring ranges was deleted.
December 8, 2022	Added language acknowledging that agencies may utilize recruiting firms in certain circumstances, consistent with legal opinions on N.C.G.S. § 126-18 issued by the North Carolina Attorney General. Updated section discussing job listings on the Department of Commerce / Division of Employment Security website. Removed section on promotional priority, which is covered in the Selection of Applicants and other policies. Made technical updates to reflect other programs having changed since the last update in 2014.
April 20, 2023 (effective June 1, 2023)	Implemented Executive Order 278 by establishing an escalation process, requiring HR Director (or designee) approval, for management preferences that go beyond the minimum established in the classification. Added new text that defines which employees are eligible when an agency determines that it will make a posting "Internal to Agency," "Internal to State Agency and University Employees," or open to everyone. For the two types of internal postings, probationary, permanent and time-limited employees will be eligible by default, but temporary employees are included only if the job posting specifically indicates that they are eligible to apply.

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	This matches existing practice at most agencies. Made other minor clarifying changes.
August 7, 2023	Clarified when a posting is labeled “Internal to Agency” or “Internal to State Agency and University Employees” and states temporary employees are eligible, temporary employees employed by Temporary Solutions or directly by the agency may apply, but not temporary employees of a third-party staffing agency or contractors.
October 19, 2023	<p>Added, in the list of situations where a new posting is not required, references to trainee status and to completion of apprenticeship programs by trainees.</p> <p>Added Section 11, Intra-Agency Application Sharing Pilot Program, which states that agencies may offer an option to applicants to have their application considered for other positions posted within the agency that are within the same or comparable classification for which the applicant applied and was qualified.</p> <p>Added N.C.G.S. § 126-4(3) and (4) and Section 39.3(a)(1) of the 2023 Appropriations Act, Session Law 2023-134 to the Sources of Authority.</p>
October 17, 2024	<p>Added “as a special exception through the Office of State Human Resources” to Section 4, Vacancy Announcement, consistent with changes to NCGS 126-14.3 in HB 223.</p> <p>Removed language from Section 7.3, Internal and External to State Government, that was struck from N.C.G.S. § 96-29 in HB 223.</p>