

SUBCHAPTER 01B - STATE HUMAN RESOURCES COMMISSION

SECTION .0100 - GENERAL PROVISIONS

25 NCAC 01B .0101	PURPOSE
25 NCAC 01B .0102	EXTENT OF AUTHORITY
25 NCAC 01B .0103	LOCATION

History Note: Authority G.S. 126-1; 126-2; 126-4; 126-9; 126-11;
Eff. February 1, 1976;
Repealed Eff. November 1, 1988.

25 NCAC 01B .0104 STATE HUMAN RESOURCES DIRECTOR

History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.

25 NCAC 01B .0105 COMMISSION MEETINGS **25 NCAC 01B .0106 SERVICES TO LOCAL GOVERNMENT**

History Note: Authority G.S. 126-2; 126-10;
Eff. February 1, 1976;
Repealed Eff. November 1, 1988.

25 NCAC 01B .0107 CAREER STATE EMPLOYEE CLASSIFICATION DESIGNATION

History Note: Authority G.S. 126-1A; 126-4;
Eff. February 1, 1993;
Repealed Eff. August 1, 2004.

SECTION .0200 – RULE-MAKING

25 NCAC 01B .0201 CONTENT AND PROCEDURE

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule of the Commission shall address a petition to:

Office of State Human Resources
1331 Mail Service Center
Raleigh, North Carolina 27699-1331.

(b) The petition shall be labeled Petition for Rulemaking and contain the following information:

- (1) either a draft of the proposed rule or a summary of its contents;
- (2) reason for proposal;
- (3) effect on existing rules or orders;
- (4) data supporting proposal;
- (5) fiscal note on the impact of the proposed rule on existing practices in the area involved, including cost factors and basis of analysis;
- (6) names of those most likely to be affected by the proposed rule with addresses if reasonably known;
- (7) name(s) and address(es) of petitioner(s).

(c) The Office of State Human Resources shall examine the petition and weigh the information therein in relation to the public interest. The Office of State Human Resources shall consider all the contents of the submitted petition, plus any additional information the Office of State Human Resources deems relevant. The Office of State Human Resources shall make a recommendation to the Commission for the denial of the petition or the institution of rule-making proceedings, as the case may be.

(d) At the next regularly scheduled Commission meeting occurring at least 60 days after the submission of the petition, the Commission shall render a final decision. If the decision is to deny the petition, the Office of State Human Resources shall notify the petitioner in writing, stating the reasons therefor. If the decision is to grant the petition, the

Commission, within 30 days of submission, shall initiate rule-making proceedings by issuing a notice of rulemaking proceeding, in accordance with the requirements G.S. 150B.

History Note: Authority G.S. 126-2; 126-4; 150B-20;
Eff. February 1, 1976;
Amended Eff. February 1, 2008; March 1, 1996; June 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

25 NCAC 01B .0202 NOTICE

History Note: Authority G.S. 150B-12(c);
Eff. February 1, 1976;
Amended Eff. June 1, 1982;
Repealed Eff. November 1, 1988.

25 NCAC 01B .0203 ADDITIONAL INFORMATION

History Note: Authority G.S. 150B-12;
Eff. February 1, 1976;
Amended Eff. June 1, 1982;
Repealed Eff. March 1, 1996.

25 NCAC 01B .0204 PRESENTATIONS

- (a) Any person desiring to present oral data, views, or arguments on the proposed rule shall before the public hearing, file a notice with: Office of State Human Resources, 1331 Mail Service Center, Raleigh, North Carolina 27699-1331.
- (b) Any person permitted to make an oral presentation may submit a written copy of the presentation to the designated hearing officer at the public hearing.

History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Amended Eff. February 1, 2008; March 1, 1996; June 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

25 NCAC 01B .0205 ORAL PRESENTATIONS

A request to make an oral presentation shall contain a brief summary of the individual's views with respect thereto, and a statement of the length of time the individual desires. Presentations may not exceed three minutes.

History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Amended Eff. March 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

25 NCAC 01B .0206 ACKNOWLEDGMENT OF REQUESTS

25 NCAC 01B .0207 WRITTEN SUBMISSIONS

History Note: Authority G.S. 150B-12(e);
Eff. February 1, 1976;
Amended Eff. June 1, 1982;
Repealed Eff. March 1, 1996.

25 NCAC 01B .0208 HEARING PROCEDURE

Upon the commencement of a hearing, the presiding officer shall have complete control of the proceedings, including: extensions of any time requirements, recognition of speakers, time allotments for presentations, direction of the flow

of the discussion and the management of the hearing. The presiding officer, at all times, shall take care that each person participating in the hearing is given a fair opportunity to present views, data and comments.

History Note: Authority G.S. 150B-12(d),(e);
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

25 NCAC 01B .0209	HEARING RECORD
25 NCAC 01B .0210	RETENTION OF RECORD
25 NCAC 01B .0211	EMERGENCY RULES
25 NCAC 01B .0212	DECLARATORY RULINGS

History Note: Authority G.S. 150B-12(d),(e); 150B-13; 150B-17;
Eff. February 1, 1976;
Repealed Eff. November 1, 1988.

25 NCAC 01B .0213 REQUESTS FOR DECLARATORY RULING

All requests for declaratory rulings shall be written and mailed to: Office of State Human Resources, 1331 Mail Service Center, Raleigh, North Carolina 27699-1331.

History Note: Authority G.S. 126-2; 126-4; 150B-4;
Eff. February 1, 1976;
Amended Eff. February 1, 2008; March 1, 1996; June 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

25 NCAC 01B .0214 CONTENT

All requests for a declaratory ruling must include the following information:

- (1) name and address of petitioner;
- (2) statute or rule to which petition relates;
- (3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him;
- (4) a statement of whether an oral hearing is desired, and if so the reasons for such an oral hearing.

History Note: Authority G.S. 150B-17;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

25 NCAC 01B .0215 REFUSAL TO ISSUE RULING

Whenever the director believes for good cause that the issuance of a declaratory ruling is undesirable, he may refuse to do so. When good cause is deemed to exist, he will notify the petitioner of his decision in writing stating reasons for the denial of a declaratory ruling.

History Note: Authority G.S. 150B-17;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

25 NCAC 01B .0216 TIME

Where a declaratory ruling is deemed appropriate, the director will issue the ruling within 60 days of receipt of the petition.

History Note: Authority G.S. 150B-17;
Eff. February 1, 1976;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.

25 NCAC 01B .0217 PROCEDURE

(a) A declaratory ruling procedure may consist of written submissions, oral hearing, or such other procedure as may be appropriate in a particular case.

(b) Except in special circumstances, the commission will not, as a general rule, issue a declaratory ruling when the matter in respect of which a declaratory ruling requested is involved in a lawsuit pending in any state or federal court.

*History Note: Authority G.S. 150B-17;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014.*

SECTION .0300 - CONTESTED CASE HEARING PROCEDURE

25 NCAC 01B .0301 JURISDICTION

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

**25 NCAC 01B .0302 AVAILABILITY OF HEARING
25 NCAC 01B .0303 PUBLIC HEARING**

*History Note: Authority G.S. 126-4; 126-5; 126-16; 126-25; 126-36; 126-36.1; 126-39; 150B-2(2);
150B-32(a); 150B-23(e);
Eff. February 1, 1976;
Amended Eff. February 1, 1985; October 1, 1977;
Repealed Eff. July 1, 1988.*

25 NCAC 01B .0304 PRACTICE BEFORE THE COMMISSION

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

**25 NCAC 01B .0305 COMMENCEMENT OF PROCEEDINGS
25 NCAC 01B .0306 DEFICIENCY IN REQUEST**

*History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Amended Eff. February 1, 1985; October 1, 1977;
Repealed Eff. July 1, 1988.*

25 NCAC 01B .0307 ASSISTANCE FROM PERSONNEL OFFICER

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

25 NCAC 01B .0308 AGENCY NOTICE TO STATE PERSONNEL

History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Amended Eff. February 1, 1985;
Repealed Eff. July 1, 1988.

25 NCAC 01B .0309 PREHEARING MATTERS
25 NCAC 01B .0310 NOTICE
25 NCAC 01B .0311 MOTIONS TO INTERVENE
25 NCAC 01B .0312 ANSWER

History Note: Authority G.S. 150A-23(b),(c),(d); 150A-25(b);
Eff. February 1, 1976;
Amended Eff. August 1, 1977;
Repealed Eff. February 1, 1985.

25 NCAC 01B .0313 PREHEARING CONFERENCE

History Note: Authority G.S. 126-4; 150B-33(5);
Eff. February 1, 1976;
Amended Eff. February 1, 1985;
Repealed Eff. July 1, 1988.

25 NCAC 01B .0314 FACTS DISCLOSED PRIVILEGED

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

25 NCAC 01B .0315 CONDUCT OF HEARINGS
25 NCAC 01B .0316 FAILURE TO APPEAR
25 NCAC 01B .0317 PROCEDURE AT HEARINGS
25 NCAC 01B .0318 ORDER OF RECEIVING EVIDENCE
25 NCAC 01B .0319 DISCUSSION OF PENDING ACTION

History Note: Authority G.S. 126-4(9); 126-4(12); 150B-25(a); 150B-32;
Eff. February 1, 1976;
Amended Eff. February 1, 1985;
Repealed Eff. July 1, 1988.

25 NCAC 01B .0320 WITNESS FEES

History Note: Authority G.S. 126-44;
Eff. February 1, 1976;
Repealed Eff. February 1, 1985.

25 NCAC 01B .0321 EVIDENCE

History Note: Authority G.S. 150B-29;
Eff. February 1, 1976;
Amended Eff. February 1, 1985;
Repealed Eff. July 1, 1988.

25 NCAC 01B .0322 STIPULATIONS
25 NCAC 01B .0323 OFFICIAL NOTICE

History Note: Authority G.S. 150A-30; 150A-31;
Eff. February 1, 1976;
Repealed Eff. February 1, 1985.

25 NCAC 01B .0324 ABSTRACTS OF DOCUMENTS
25 NCAC 01B .0325 COPIES
25 NCAC 01B .0326 OTHER DOCUMENTS
25 NCAC 01B .0327 CROSS EXAMINATION
25 NCAC 01B .0328 REBUTTAL EVIDENCE
25 NCAC 01B .0329 HEARING OFFICERS
25 NCAC 01B .0330 HEARING OFFICER BIAS
25 NCAC 01B .0331 AUTHORITY OF HEARING OFFICER

History Note: Authority G.S. 126-4(a); 126-4(9); 126-4(11); 126-37; 150B-25(d); 150B-32;
150B-33;
Eff. February 1, 1976;
Amended Eff. February 1, 1985;
Repealed Eff. July 1, 1988.

25 NCAC 01B .0332 EX PARTE COMMUNICATIONS
25 NCAC 01B .0333 DISQUALIFICATION OF HEARING OFFICER
25 NCAC 01B .0334 DISQUALIFICATION OF COMMISSION MEMBER
25 NCAC 01B .0335 ASSIGNMENT OF NEW HEARING OFFICER

History Note: Authority G.S. 150A-32(b),(c); 150A-35;
Eff. February 1, 1976;
Amended Eff. October 1, 1977;
Repealed Eff. February 1, 1985.

25 NCAC 01B .0336 PROPOSED FINDINGS OF FACT: CONCLUSIONS OF LAW: BRIEF
25 NCAC 01B .0337 PROPOSAL FOR DECISION OF HEARING OFFICER
25 NCAC 01B .0338 SERVICE OF PROPOSAL
25 NCAC 01B .0339 PREPARATION OF PROPOSAL

History Note: Authority G.S. 126-4(9); 150B-34; 150B-34(b);
Eff. February 1, 1976;
Amended Eff. February 1, 1985;
Repealed Eff. July 1, 1988.

25 NCAC 01B .0340 DEPOSITIONS

History Note: Authority G.S. 126-4; 150A-28;
Eff. December 1, 1978;
Repealed Eff. February 1, 1985.

25 NCAC 01B .0341 GENERAL PRINCIPLES GOVERNING DISCOVERY

History Note: Legislative Objection Lodged Eff. April 5, 1983; Authority G.S. 126-4; 150B-28;
Eff. December 1, 1978;
Amended Eff. April 1, 1983;
Curative Amended Eff. May 12, 1983;
Repealed Eff. July 1, 1988.

25 NCAC 01B .0342 INTERROGATORIES TO PARTIES
25 NCAC 01B .0343 PRODUCTION OF DOCUMENTS AND THINGS FOR INSPECTION

25 NCAC 01B .0344 FAILURE TO MAKE DISCOVERY: SANCTIONS

History Note: Authority G.S. 126-4; 150A-28;
Eff. December 1, 1978;
Repealed Eff. April 1, 1983.

25 NCAC 01B .0345 REQUEST FOR CONTINUANCE

History Note: Authority G.S. 126-4(9);
Eff. August 1, 1980;
Repealed Eff. July 1, 1988.

25 NCAC 01B .0346 REQUIREMENT OF FACTUAL DISPUTE
25 NCAC 01B .0347 NOTIFICATION OF WITNESSES
25 NCAC 01B .0348 AVAILABILITY OF STATE EMPLOYEES TO TESTIFY
25 NCAC 01B .0349 HEARING OFFICER'S AUTHORITY TO RECOMMEND DISMISSAL

History Note: Authority G.S. 126-4(9); 126-37;
Eff. February 1, 1985;
Repealed Eff. July 1, 1988.

25 NCAC 01B .0350 TIME FRAME FOR RAISING ALLEGATION OF DISCRIMINATION

History Note: Authority G.S. 126-4; 126-34.01; 126-34.02; 126-38;
Eff. February 1, 1985;
Temporary Amendment Eff. May 23, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014;
Amended Eff. April 1, 2015;
Expired Eff. November 2, 2024 pursuant to G.S. 150B-21.3A.

25 NCAC 01B .0351 COMPUTATION OF TIME
25 NCAC 01B .0352 FILING OF PAPERS WITH STATE PERSONNEL
25 NCAC 01B .0353 RESOLUTION OF GRIEVANCES WITHOUT HEARING

History Note: Authority G.S. 126-4(9); 150B-2(2);
Eff. February 1, 1985;
Repealed Eff. July 1, 1988.

SECTION .0400 - APPEAL TO COMMISSION

25 NCAC 01B .0401 APPEAL
25 NCAC 01B .0402 WHEN APPEAL ALLOWED

History Note: Authority G.S. 126-4(9); 150A-34(a); 150B, Article 3;
Eff. February 1, 1976;
Amended Eff. July 1, 1989; August 1, 1980;
Repealed Eff. September 1, 1991.

25 NCAC 01B .0403 DECISION BY COMMISSION
25 NCAC 01B .0404 COMMISSION NOTIFICATION
25 NCAC 01B .0405 QUORUM
25 NCAC 01B .0406 BINDING DECISIONS
25 NCAC 01B .0407 OFFICIAL RECORD
25 NCAC 01B .0408 COST OF TRANSCRIPTS

25 NCAC 01B .0409 GIVING NOTICE OR FILING PAPERS WITH THE COMMISSION BY MAIL
25 NCAC 01B .0410 SERVICE OF PROCESS AND NOTICE
25 NCAC 01B .0411 COMPUTATION OF TIME

History Note: *Authority G.S. 126-2(f); 126-4(9); 126-37; 150A-23(c); 150A-37;*
Eff. February 1, 1976;
Repealed Eff. November 1, 1988.

25 NCAC 01B .0412 ATTORNEY FEES

History Note: *Authority G.S. 126-4(11);*
Eff. February 1, 1976;
Amended Eff. November 1, 1977;
Repealed Eff. September 1, 1987.

25 NCAC 01B .0413 EXERCISE OF COMMISSION DISCRETION

History Note: *Authority G.S. 126-4(9);*
Eff. August 1, 1980;
Amended Eff. May 1, 1989;
Temporary Amendment Eff. May 23, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28,
2014;
Amended Eff. April 1, 2015;
Expired Eff. November 1, 2024 pursuant to G.S. 150B-21.3A.

25 NCAC 01B .0414 SITUATIONS IN WHICH ATTORNEY'S FEES MAY BE AWARDED
25 NCAC 01B .0415 ATTORNEY'S FEES MAY BE AWARDED AS A RESULT OF A SETTLEMENT

History Note: *Authority G.S. 126-4(11);*
Eff. September 1, 1987;
Amended Eff. March 1, 1996; July 1, 1989;
Temporary Amendment Eff. February 18, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. May 23, 2014;
Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.

25 NCAC 01B .0416 PROVISIONS ON AWARDING ATTORNEY'S FEES
25 NCAC 01B .0417 LIMITATION ON REPRESENTATION
25 NCAC 01B .0418 COSTS AND TRAVEL TIME
25 NCAC 01B .0419 DUAL FEE RATES PERMITTED
25 NCAC 01B .0420 APPEAL/COMMISSION SOLELY/DETERMINE ATTORNEY'S FEE AWARD

History Note: *Authority G.S. 126-4(11);*
ARRC Objection July 16, 1987;
Eff. December 1, 1987;
Repealed Eff. March 1, 1989 in accordance with G.S. 150B-59(c).

25 NCAC 01B .0421 BACK PAY
25 NCAC 01B .0422 FRONT PAY
25 NCAC 01B .0423 LEAVE
25 NCAC 01B .0424 HEALTH INSURANCE

History Note: *Authority G.S. 126-4(9);*
Eff. September 1, 1987;
Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.

25 NCAC 01B .0425 INTEREST
25 NCAC 01B .0426 CERTAIN REMEDIES NOT AVAILABLE

History Note: Authority G.S. 126-4(9); 126-37;
ARRC Objection July 16, 1987;
Eff. December 1, 1987;
ARRC Objection Removed Eff. February 16, 1989;
Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.

25 NCAC 01B .0427 VOLUNTARY PROGRAMS OR BENEFITS
25 NCAC 01B .0428 REINSTATEMENT
25 NCAC 01B .0429 RECOMMENDATION OF DISCIPLINARY ACTION
25 NCAC 01B .0430 REMOVAL OF MATERIAL FROM PERSONNEL FILE
25 NCAC 01B .0431 CAUSES FOR REINSTATEMENT
25 NCAC 01B .0432 REMEDIES FOR PROCEDURAL VIOLATIONS
25 NCAC 01B .0433 SUSPENSION WITHOUT PAY
25 NCAC 01B .0434 DISCRIMINATION

History Note: Authority G.S. 126-4(6); 126-4(9); 126-16; 126-25 (prior to S.L. 2013-382); 126-35; 126-36; 126-36.1; 126-37; 126-38;
Eff. September 1, 1987;
Amended Eff. March 1, 1996; November 1, 1991;
Temporary Amendment Eff. February 18, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. May 23, 2014;
Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.

25 NCAC 01B .0435 REMEDIES: SALARY ADJUSTMENTS
25 NCAC 01B .0436 SETTLEMENTS/CONSENT AGREEMENTS IN GRIEVANCES, CONTESTED CASES

History Note: Authority G.S. 126-4; 126-4(2);
Eff. January 1, 1990;
Amended Eff. July 1, 2012; March 1, 1991;
Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.

25 NCAC 01B .0437 STATE HUMAN RESOURCES COMMISSION: PROCEDURES

History Note: Authority G.S. 126-4; 150B-36;
Eff. September 1, 1991;
Amended Eff. August 1, 2000; March 1, 1996;
Temporary Amendment Eff. January 1, 2001;
Amended Eff. August 1, 2012; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule expired November 1, 2014.

25 NCAC 01B .0438 ESTABLISHMENT OF REASONABLE ATTORNEY FEES BY THE COMMISSION
25 NCAC 01B .0439 CONTINUANCES

History Note: Authority G.S. 126-4(11); 150B-33(b)(11);
Eff. March 1, 1996;
Temporary Amendment Eff. May 11, 2001;
Amended Eff. August 1, 2012; February 1, 2008; August 1, 2002;
Pursuant to G.S. 150B-21.3A, rules expired November 1, 2014.