

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Repealed Eff.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Repealed Eff.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Repealed Eff.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 [email OSHR-hrcommission@nc.gov](mailto:OSHR-hrcommission@nc.gov) or 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) [the name and address of the petitioner;](#)
- (2) [the citation of the rule sought to be amended or repealed;](#)
- (3) [for petitions to adopt or amend a rule, a draft of the proposed rule or amendment and either a draft of the proposed rule or a summary of its contents;](#)
- (2) [reason for proposal; a statement of the effect of the requested rule change.](#)
- (3) [a citation to the rule for which an amendment or repeal is requested; and effect on existing rules or orders;](#)(4) [the name and address of the petitioner. \(4\) 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\(s\).](#)

(d) [The State Human Resources Commission shall grant or deny a petition for rulemaking within 120 days of the date the rule-making petition is received by the Office of State Human Resources. In making the decision, the State](#)

Human Resources Commission shall consider the information submitted in the petition and any other relevant information, including the following:

- (1) whether the Commission has authority to adopt the rule;
- (2) the effect of the proposed rule on existing rules, programs and practices;
- (3) potential costs of the proposed rule; and
- (4) the impact of the rule.

~~(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.~~

- ~~(a) A person aggrieved may request a declaratory ruling pursuant to G.S. 150B-4 by submitting a written request to OSHR-hrcommission@nc.gov or to:
[Office of State Human Resources](#)
[1331 Mail Service Center](#)
[Raleigh, North Carolina 27699-1331.](#)~~
- ~~(b) The written request shall be labeled "Request for Declaratory Ruling" and include the following:~~
- ~~(1) The names and contact information for the person aggrieved;~~
 - ~~(2) The statute or rule to which the petition relates;~~
 - ~~(3) A statement of the manner in which the person is aggrieved by the statute or rule; and~~
 - ~~(4) The question or issue on which a ruling is requested.~~
- ~~(c) The agency shall issue a declaratory ruling in accordance with G.S. 150B-4, except when:~~
- ~~(1) The subject matter of the request is involved in pending litigation that involves the person aggrieved;~~
 - ~~(2) The question to be ruled upon is academic, moot, or indefinite as to time or place;~~
 - ~~(3) The question involves disputed facts; or~~
 - ~~(4) The request does not comply with Paragraph (b) of this Rule.~~

History Note: *Authority G.S. ; 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.

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.

*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.*

*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.*

*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.*

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

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.

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

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

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

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

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.

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

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

*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.*