

**State Human Resources Commission
Report/Policy Summary
(February 4, 2021)**

Title of Policy/Report/Rule: Temporary Employee Rule 25 NCAC 01C .0405

Purpose: 2020 NC OSHR Policy Review Project

Period Covered (if applicable): n/a

Summary of Proposed Policy/Report/Rule and Revision(s):

A Public Hearing was held on September 1, 2020 to which no comments were received. The proposed rule was published in the North Carolina Register, Volume 35, Section 5 at pages 499-500 on August 17, 2020. The comment period ended on October 16, 2020. No comments were received.

The Rule was updated to include inmates, interns, and externs as exceptions to the mandatory break-in-service requirement for temporary employment. These three categories of temporary employees are already exempted in the Temporary Employment Policy and in practice. The updated Rule also more clearly defines each of the excepted categories. It also clarifies that the Rule applies to all temporaries employed by the state.

Commission Action Requested: Recommend approval of submission to Rules Review Commission as permanent rule.

Associated Rule(s) (if applicable): N.C.G.S. 126-4(10); Temporary Employee Policy

Submitted/Presented by: Joseph Gilroy/Christine Ryan

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- and prescribe in accordance with DEA rules;
- (b) refills shall be issued consistent with Controlled Substance Law and regulations; and
- (c) the supervising physician shall possess at least the same schedule(s) of controlled substances as the physician assistant's DEA registration;
- (5) Each prescription issued by the physician assistant contains, in addition to other information required by law, the following:
 - (a) the physician assistant's name, practice address, and telephone number; and
 - (b) ~~the physician assistant's license number and,~~ if applicable, the physician assistant's DEA number for controlled substances ~~prescriptions;~~ prescriptions. and
 - (c) ~~the authorizing supervising physician's, either primary or back up, name and telephone number;~~
- (6) The physician assistant documents prescriptions in writing on the patient's record, including the medication name and dosage, amount prescribed, directions for use, and number of refills;
- (7) A physician assistant who requests, receives, and dispenses medication samples to patients complies with all applicable State and federal regulations; and
- (8) A physician assistant shall not prescribe controlled substances, as defined by the State and federal controlled substances acts, for:
 - (a) the physician assistant's own use;
 - (b) the use of the physician assistant's supervising physician;
 - (c) the use of the physician assistant's immediate family;
 - (d) the use of any person living in the same residence as the physician assistant; or
 - (e) the use of any anyone with whom the physician assistant is having a sexual relationship.

As used in this Item, "immediate family" means a spouse, parent, child, sibling, parent-in-law, son-in-law or daughter-in-law, brother-in-law or sister-in-law, step-parent, step-child, or step-sibling.

Authority G.S. 90-5.1(a)(3); 90-18.1.

TITLE 25 – OFFICE OF STATE HUMAN RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Human Resources Commission intends to amend the rules cited as 25 NCAC 01C .0405; and 01E .0908.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://oshr.nc.gov/about-oshr/state-hr-commission/proposed-rulemaking>

Proposed Effective Date: December 1, 2020

Public Hearing:

Date: September 1, 2020

Time: 2:00 p.m.

Location: Teleconference: Call into STATEOP_MEETME_150 919-662-4658

Reason for Proposed Action:

25 NCAC 01C .0405 - This Rule is being updated to include inmates, interns, and externs as exceptions to the mandatory break-in-service requirement for temporary employment. These three categories of temporary employees are already exempted in the Temporary Employment Policy and in practice. The updated Rule also more clearly defines each of the exception categories. It also clarifies that the Rule applies to all temporaries employed by the state.

25 NCAC 01E .0908 - Changes were made to the text of the Rule to clarify that the policy applies to part-time employees (half-time or more) and does not apply to part-time employees (less than half-time) and to remove reference to trainee appointment.

Comments may be submitted to: Christine Ryan, OSHR, 1331 Mail Service Center, Raleigh, NC 27699-1331; phone (984) 236-0824; email christine.ryan@nc.gov

Comment period ends: October 16, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 01 - OFFICE OF STATE HUMAN RESOURCES

SUBCHAPTER 01C – PERSONNEL ADMINISTRATION

SECTION .0400 - APPOINTMENT

25 NCAC 01C .0405 TEMPORARY APPOINTMENT

(a) A temporary appointment is an appointment ~~for a limited term to a permanent or temporary position,~~ to fill a workforce need for a limited period of time. ~~Temporary employees may not be used to permanently expand the workforce beyond authorized levels.~~ Temporary appointments shall not to exceed 12-11 consecutive months, subject to the following exemptions:

- (1) ~~Full-time Students, students shall be exempt from the 12-months maximum limit. "Students" include those defined as those~~ undergraduate students taking at least 12 semester credit hours or graduate students taking at least nine semester 9 credit hours.
- (2) ~~Retired employees, employees defined as those individuals drawing a retirement income or Social Security benefits may have temporary appointments for more than 12 months if and he or she signs having signed a statement that he or she is they are not available for, nor seeking permanent employment. "Retired employees" include those drawing a retirement income or social security benefits.~~
- (3) Inmates that are on a work-release program.
- (4) Interns defined as those students who regardless of the number of credit hours enrolled work to

gain occupational experience for a short period of time, not to exceed three months.

(5) Externs defined as those students who regardless of the number of credit hours enrolled are employed as part of a written agreement between the state and an academic institution by which the student is paid and earns course credit.

(b) Employees with a temporary appointment shall not earn or accrue ~~leave, leave~~ or receive total state service credit, retirement credit, severance pay, or priority reemployment consideration.

(c) This Rule applies to all temporaries employed by the state.

Authority G.S. 126-4.

SUBCHAPTER 01E - EMPLOYEE BENEFITS

SECTION .0900 – HOLIDAYS

25 NCAC 01E .0908 ELIGIBILITY

Full-time and part-time (half-time or more) employees with a permanent, ~~probationary, trainee~~ probationary or time-limited appointment, are eligible for the paid holidays. Part-time (half-time or more) employees receive holidays on a pro rata basis. Temporary and part-time (less than half-time) employees are not eligible for paid holidays.

Authority G.S. 126-4.

**State Human Resources Commission
Report/Policy Summary
(June 4, 2020)**

Title of Policy/Report/Rule: Temporary Employee Rule 25 NCAC 01C .0405

Purpose: 2020 NC OSHR Policy Review Project

Period Covered (if applicable): n/a

Summary of Proposed Policy/Report/Rule and Revision(s):

The Rule is being updated to include inmates, interns, and externs as exceptions to the mandatory break-in-service requirement for temporary employment. These three categories of temporary employees are already exempted in the Temporary Employment Policy and in practice. The updated Rule also more clearly defines each of the excepted categories. It also clarifies that the Rule applies to all temporaries employed by the state.

Commission Action Requested: Recommend approval of policy as revised.

Associated Rule(s) (if applicable): N.C.G.S. 126-4(10); Temporary Employee Policy

Submitted/Presented by: Joseph Gilroy/Christine Ryan

Propose Amendment for Publication in the Register

1 25 NCAC 01C .0405 is proposed for amendment as follows:

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3 25 NCAC 01C .0405 TEMPORARY APPOINTMENT

4

5 (a) A temporary appointment is an appointment for a limited term to a permanent or temporary position, to fill a
6 workforce need for a limited period of time. Temporary employees may not be used to permanently expand the
7 workforce beyond authorized levels. Temporary appointments shall not to exceed 1211 consecutive months, subject
8 to the following exemptions:

9 (1) Full-time Students, students shall be exempt from the 12 months maximum limit. "Students" include
10 those defined as those undergraduate students taking at least 12 semester credit hours or graduate
11 students taking at least nine semester9 credit hours.

12 (2) Retired employees, employees defined as those individuals drawing a retirement income or Social
13 Security benefits may have temporary appointments for more than 12 months if and he or she signs
14 having signed a statement that he or she is they are not available for, nor seeking permanent
15 employment. "Retired employees" include those drawing a retirement income or social security
16 benefits.

17 (3) Inmates that are on a work-release program.

18 (4) Interns defined as those students who regardless of the number of credit hours enrolled work to gain
19 occupational experience for a short period of time, not to exceed 3 months.

20 (5) Externs defined as those students who regardless of the number of credit hours enrolled are
21 employed as part of a written agreement between the state and an academic institution by which the
22 student is paid and earns course credit.

23 (b) Employees with a temporary appointment shall not earn or accrue leave, leave or receive total state service
24 credit, retirement credit, severance pay, or priority reemployment consideration.

25 (c) This rule applies to all temporaries employed by the state.

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27 *History Note: Authority G.S. 126-4;*

28 *Eff. February 1, 1976;*

29 *Amended Eff. August 1, 1995; November 1, 1991; December 1, 1978;*

30 *Readopted Eff. April 1, 2016-2016;*

31 *Amended Eff. November 1, 2020.*