

NORTH CAROLINA REGISTER

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July 15, 2021

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PROPOSED RULES

~~(b)~~ The complaint shall set forth the facts upon which the complaint is based and the complainant shall confirm he or she believes the facts stated are true and that he or she are prepared to prove them at a hearing. Supporting documents may be provided.

~~(a)(c)~~ Allegations or evidence of a violation of the Landscape Architecture Licensing Act or the rules in this Chapter shall be preliminarily reviewed by the Board Chair and legal counsel to the Board. Upon a determination that evidence of a violation exists, the matter shall be subject to Board investigation and may ultimately be subject to disciplinary action by the Board.

~~(b)(d)~~ An investigation shall be initiated by a written notice and explanation of the allegation being forwarded to the ~~person~~ licensee or entity against whom the charge is made and a response shall be requested of the ~~person~~ licensee or firm so charged within 30 days of receipt of said notice to show compliance with all ~~lawful~~ requirements for retention of the license. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt requested.

~~(e)(c)~~ In the discretion of the Board Chair, a field investigation may be performed.

~~(d)(f)~~ After additional evidence has been obtained, the Board Chair shall either:

- (1) recommend dismissal of the charge; or
- (2) refer the matter to the Disciplinary Review Committee.

~~(e)(g)~~ If the Board Chair recommends dismissal, the Chair shall give a summary report to the Board and a vote shall be called to dismiss the complaint. If the Board does not vote to dismiss the complaint, the matter shall be forwarded to the Disciplinary Review Committee for further consideration.

~~(f)(h)~~ The Disciplinary Review Committee shall be made up of a minimum of one member of the Board ~~and the~~ the Board Chair, Chair, and legal counsel to the Board.

~~(g)(i)~~ Upon review of the evidence, and further investigation if necessary, the Disciplinary Review Committee shall present to the Board a written recommendation that may include the following:

- (1) The charge be dismissed as unfounded or that the Board is without jurisdiction over the matter;
- (2) The charge is admitted as true, whereupon the Board may accept the admission of guilt by the ~~person~~ licensee or entity charged and discipline the ~~person~~ licensee or entity accordingly;
- (3) The Board may accept a proposed settlement negotiated in an effort to resolve the alleged violations; or
- (4) The charge be presented to the full Board for a hearing and determination of sanctions by the Board in accordance with the substantive and procedural requirements of the provisions of G.S. 150B, Article 3A.

~~(h)(j)~~ A consultant to the Disciplinary Review Committee shall be designated by the legal counsel of the Board if the Chair of the Disciplinary Review Committee determines that it needs assistance. The consultant shall be a currently licensed landscape architect selected from former Board members or other licensed professionals who are knowledgeable with the Board's processes and have expressed an interest in serving as a consultant. The consultant shall review all case materials and assist the

Disciplinary Review Committee in making a recommendation as to the merits of the case.

~~(i)(k)~~ At least 15 days written notice of the date of consideration by the Board of the recommendations of the Disciplinary Review Committee shall be given to the ~~person~~ licensee or entity against whom the charges have been brought and the person submitting the ~~charge~~ complaint.

~~(j)(l)~~ When the Board issues a notice of hearing against ~~whom the licensee or entity the charges are brought,~~ the ~~person~~ licensee or entity may request in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If, after the completion of a settlement conference, the person or entity and the Board's Disciplinary Review Committee do not agree to a resolution of the dispute for the full Board's consideration, the original disciplinary review process shall commence. During the course of the settlement conference, no sworn testimony shall be taken.

Authority G.S. 89A-3.1(7),(8),(9); 89A-7.

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 rule cited as 25 NCAC 01C .0405 with changes from the proposed text noticed in the Register, Volume 35 Issue 4.

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: *November 1, 2021*

Public Hearing:

Date: *July 30, 2021*

Time: *2:00 p.m.*

Location: *STATEOP Meeting_150 919 662-4657*

Reason for Proposed Action: *25 NCAC 01C .0405 - REPRINT DUE TO DUPLICATION WITH 25 NCAC 01C .0407. 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 exception categories. It also clarifies that the Rule applies to all temporaries employed by the state.*

Comments may be submitted to: *Denise H. Mazza, 116 West Jones Street, Raleigh, NC 27613; phone (984) 236-0823; email Denise.Mazza@nc.gov*

Comment period ends: *September 13, 2021*

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. If the Rules Review Commission receives*

PROPOSED RULES

written and signed objections 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 email. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

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 42 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.

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Human Resources Commission intends to repeal the rule cited as 25 NCAC 01C .0407.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

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: November 1, 2021

Public Hearing:

Date: July 30, 2021

Time: 2:00 p.m.

Location: STATEOP Meeting_150 919 662-4657

Reason for Proposed Action: 25 NCAC 01C .0407 - Deletes this rule as it is redundant of the text included in 25 NCAC 01C .0405.

Comments may be submitted to: Denise H. Mazza, 116 West Jones Street, Raleigh, NC 27613; phone (984) 236-0823; email Denise.Mazza@nc.gov

Comment period ends: September 13, 2021

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. If the Rules Review Commission receives written and signed objections 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 email. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

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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 (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

**25 NCAC 01C .0407
APPOINTMENT**

TEMPORARY PART-TIME

Authority G.S. 126-4.