

Selection of Applicants Policy

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§ 1. Policy

All agencies shall select from the pool of most qualified persons to fill vacant positions. Employment shall be offered based upon the job-related qualifications of applicants for employment using fair and valid selection criteria and not on political affiliation or political influence.

Definition: Political affiliation & political influence: For the purposes of this policy, political affiliation is the membership in, participation in, or support of, a particular political party, group, or candidate. Political influence occurs when political affiliation impacts the decision to hire or not to hire and the selection decision was not based on fair and valid selection criteria

The selection of applicants for vacant positions shall be based upon a relative consideration of their qualifications for the position to be filled. Using fair and valid selection criteria, the agency shall review the credentials of each applicant and determine who possesses the minimum qualifications. From those applicants who meet the minimum qualifications, a pool of most qualified candidates shall be identified. The pool of the most qualified candidates shall be those individuals determined to be substantially more qualified than other applicants. The individual selected for the position must be chosen from the pool of most qualified applicants.

Selection procedures and methods shall be validly related to the duties and responsibilities of the vacancy to be filled. The Office of State Human Resources will provide

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technical assistance, upon request, to agencies wishing to design or review selection procedures.

§ 2. **Written Notification to Applicants**

After making the selection decision, the agency shall provide timely written notice of non-selection to all unsuccessful candidates in the most qualified pool. In making the selection determination of minimally qualified and most qualified, policies regarding priority consideration must be applied. (See Section 7. Special Employment and Reemployment Considerations, in this policy.) As a best practice, and not as a requirement:

- Recruiters should seek to provide notice to applicants who did not meet the minimum qualifications within five business days of determination.
- Hiring managers/recruiters should provide notice to those applicants who were not selected, but who were determined to be qualified, no later than five business days after the selected applicant begins service in the position.

This enables qualified candidates to remain eligible for consideration in situations where the selected candidate does not accept/start the position.

§ 3. **Appeals**

A State employee or applicant for State employment who believes that he or she was denied selection because of harassment, discrimination or retaliation may appeal first through the informal EEO inquiry process and then through the agency grievance procedure.

A career State employee who believes he or she was denied priority consideration as a State employee for promotion may appeal through the agency grievance procedure.

A State employee or applicant for State employment who believes that he or she was denied a reduction in force priority in violation of law may appeal through the agency grievance procedure.

§ 4. **Applicant Information**

Applicants must furnish true, accurate, and complete information and documentation. When an agency discovers that an applicant provided false or misleading information on a State application, or its equivalent, the following shall occur:

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(1) When an agency discovers, prior to employment, that an applicant provided false or misleading information in order to meet position qualifications, the applicant shall be disqualified from consideration for the position in question.

(2) When an agency discovers, after employment, that an employee provided false or misleading information or concealed employment history or other required information significantly related to job responsibilities, but not used to meet minimum qualifications, disciplinary action is required and shall be administered in accordance with the following criteria:

- Disciplinary action, up to and including dismissal, shall be taken, but the severity of such action shall be at the discretion of the agency head.
- The agency head's decision, while discretionary, shall consider: the effect of the false, misleading or concealed information on the hiring decision, the advantage gained by the employee over other applicants, the effect of the false information on the starting salary, and the advantage gained by employee in subsequent promotion and salary increases. Job performance shall not be considered in such cases, nor can decisions be made on the basis of race, creed, color, religion, national origin, sex, age, disability or political affiliation.

(3) When an agency discovers that an employee was selected based on false or misleading work experience, education, registration, licensure or certification information in order to meet position qualifications, the employee shall be dismissed, regardless of length of service.

§ 5. Verification of Credentials

The employing agency shall verify dates of employment and complete references prior to extending an offer of employment. See *Applicant Reference Checks policy*.

The employing agency shall verify the validity of academic and professional credentials within 90 days from the date of the employee's initial employment. The agency shall inform applicants in writing at the time of selection that credentials must be verified within 90 days of initial employment and prior to the granting of a permanent or time-limited permanent appointment. If false or misleading information is discovered, then action shall be taken as listed above in Section 4.

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Advisory Note: Credentials that are required to be verified are (1) the highest post-secondary degree in all cases and (2) registrations, licenses, certifications, and work history that are used to qualify or set the salary of an applicant.

§ 6. Employment Limitations

§ 6.1. Age Limitations

The Fair Labor Standards Act sets 14 as the minimum age for most non-agricultural types of work but limits the number of hours that may be worked for minors under age 16. It also prohibits minors under age 18 from working in any occupation that is deemed to be hazardous. Agencies should review the Child Labor provisions in the FLSA if questions of minimum age arise. (Website: <http://www.dol.gov/dol/topic/youthlabor/agerequirements.htm>)

Advisory Note: North Carolina State government is not subject to the North Carolina Department of Labor laws and, therefore, does not require an Employment Certificate as issued by the Department of Social Services.

Law Enforcement Officers must be at least 20 years of age.

Maximum Age - There is no maximum age for employment.

§ 6.2. Employment of Relatives (Nepotism)

Members of an immediate family shall not be employed within the same agency if such employment will result in one member supervising another member of the employee's immediate family, or if one member will occupy a position which has influence over another member's employment, promotion, salary administration or other related management or personnel considerations. This includes employment on a permanent, temporary, or contractual basis.

The term immediate family includes wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson and granddaughter. Also included is the step-, half- and in-law relationships based on the listing in this Paragraph.

It also includes other people living in the same household, who share a relationship comparable to immediate family members, if either occupies a position which requires influence over the other's employment, promotion, salary administration or other related management or personnel considerations.

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§ 6.3. **Employment of Aliens**

The State is permitted to hire only properly identified U.S. citizens and aliens with proper work authorization from the Department of Homeland Security, Bureau of U.S. Citizenship and Immigration Services. *See Immigration/Employment of Foreign Nationals Policy.*

§ 6.4. **Federal Military Selective Service Act**

State law requires selected applicants to indicate if they are in compliance with the Federal Military Selective Service Act. Failure to comply with the registration requirements bars a person from State employment.

§ 7. **Special Employment and Reemployment Consideration Priorities**

Priority for vacant positions shall be given to:

- Employees separated from exempt policy-making/confidential positions or exempt managerial positions for reasons other than just cause (*See Priority Reemployment for Exempt Policy-Making/Confidential and Exempt Managerial Employees*);
- Employees notified of or separated by reduction in force (*See Reduction in Force Priority Policy*);
- Employees returning from workers' compensation leave (*See Workers' Compensation Policy*);
- Career State employees seeking promotions (*See Promotional Priority*); and
- Eligible veterans and National Guard members (*See Veterans' and National Guard Preference Policy*).

The Office of State Human Resources maintains a list of reduction-in-force priority status employees. The agency shall be responsible for assuring that these priorities, as well as the other priorities, are appropriately administered. If priority reemployment applicants are available, the appropriate priority must be afforded.

§ 8. **History of This Policy**

Date	Version
July 28, 1949	New Employment of Relatives Policy

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October 28, 1949	Added to the list of members considered immediate family.
August 4, 1967	Revised policy on Employment of Relatives to allow relatives to be considered under certain conditions.
March 23, 1973	Revised policy on Employment of Relatives – expanded on list of relatives and included that the degree of closeness of relationship of these listed or other relatives must be considered.
January 1, 1980	Gave reduction in force persons priority to any available position for which qualified; except they have second priority status after a career employee who meets certain eligibility requirements.
March 1, 1980	Revised policy on Employment of Relatives – added to immediate family half relationships.
June 1, 1985	Changed priority reemployment to include employees separated from policy-making exempt positions.
December 1, 1985	New Selection Policy.
June 1, 1986	Policy on Veterans' Preference Revised.
October 1, 1987	Policy on employment of aliens revised to comply with Immigration Reform and Control Act. Policy on Veterans' Preference Revised.
January 1, 1988	New policy on Verification of Credentials.
November 1, 1988	Statutory reference to Veterans' Preference points deleted.
January 1, 1990	Priority reemployment – deleted reference to steps to conform to new pay plan.
March 1, 1991	Priority reemployment – extended eligibility for priority reemployment to employees who have completed 6 months or more of training and to employees who attained permanent status prior to entering a trainee appointment.
September 1, 1991	Revised procedures for verification of credentials.
June 1, 1992	Priority reemployment – revised to include statutory provisions for priority reemployment when notified of RIF.
March 1, 1994	Changed “permanent” to “career.”
April 1, 1994	Priority reemployment – revised to change “permanent” to “career” to conform to N.C.G.S. § 162-1A.

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December 1, 1995	Added provision required by statute that employee with 10 years of service receive priority over a State employee having less than 10 years.
September 17, 1997	Revised to implement provisions of SB 886 (nonpolitical selection of the most qualified).
July 1, 2001	Revised to correct the statute reference under Age Limitations.
August 1, 2004	Revised to correct the minimum age requirement.
August 1, 2006	Revised minimum age for Law Enforcement Officers from 21 years to 20 years.
March 1, 2007	(1) Added policy statement and (2) Clarified that employee is to be dismissed immediately upon discovery that employee provided false information on the application in order to meet qualifications.
September 1, 2007	Information under paragraph on Employment of Aliens deleted. This has been revised and incorporated into a new policy "Immigration/Employment of Foreign Nations."
January 1, 2007	HB834 changed the appeals process for State employees; therefore, the section on Compliant Contested Case Procedures is being removed and a new Appeals section is being added. The appeals section of the policy now states that claims regarding selection must go through the agency grievance procedures.
February 2, 2017	Change the Selection policy to align with 25 NCAC 01H .0641, "Employment of Relatives" by adding "this includes employment on a permanent, temporary, or contractual basis" to the policy to provide consistency when hiring applicants within the NC State government.
July 1, 2017	Change the Selection policy from a requirement to hire from the "most qualified pool of applicants" to a requirement to hire from among the "qualified pool of applicants."
January 25, 2018	Change the Selection policy to align with N.C.G.S. § 126-14.2 which changed effective July 1, 2017, from a requirement to hire from the "qualified pool of applicants" to a requirement to hire from among the "most qualified pool of applicants." Change 3 mentions of "qualified"

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	to “most qualified” within the policy. Change the language in the policy to clarify the meaning of “most qualified.”
July 14, 2022	Added best practices about when to provide notice to applicants who were not selected. Clarified “verification of credentials” section to make clear which parts of the application are verified by the employing agency, and to make clear that if false or misleading information is discovered in an application, action shall be taken. Added National Guard priority, to match the addition of that priority already made in the Veterans’ and National Guard Preference Policy pursuant to the 2021 Appropriations Act. Removed reference to repealed statutes/codes.