

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION**

**MATTHEW HODGE, DAVID  
HOLBROOK, PHILIP KAY, JACOB  
FRANCKOWIAK, BROOKS  
DICKERSON, and RALPH BROWN,**  
individually and on behalf of all others  
similarly situated,

Plaintiffs,

v.

**NORTH CAROLINA DEPARTMENT OF  
PUBLIC SAFETY and DIVISION OF  
ADULT CORRECTION AND JUVENILE  
JUSTICE,**

Defendants.

Civil Action No.: 5:19-cv-478

Class Action  
Jury Trial Demanded

**PLAINTIFFS' CLASS AND COLLECTIVE ACTION COMPLAINT**

Plaintiffs, Matthew Hodge, David Holbrook, Philip Kay, Jacob Franckowiak, Brooks Dickerson, and Ralph Brown (collectively, "Plaintiffs"), individually and on behalf of all others similarly situated (the "Class" or "FLSA Collective," as more fully defined below), upon personal knowledge of the facts pertaining to themselves and on information and belief as to all other matters, bring this Complaint against Defendants, North Carolina Department of Public Safety ("DPS") and Division of Adult Correction and Juvenile Justice ("DAC") (collectively "Defendants"), alleging as follows:

**INTRODUCTION**

1. Unless the Complaint states otherwise, the allegations pertain to the time period from three years before the date of filing of the Complaint through the present day (the "Relevant Time Period").

2. At all times during the Relevant Time Period, Plaintiffs and the Class members were and/or are non-exempt, hourly-paid employees of Defendants working as Corrections Officers at DPS facilities across the State of North Carolina.<sup>1</sup>

3. This is a collective/class action brought by Plaintiffs individually and on behalf of all similarly-situated current and former Corrections Officers employed by Defendants to recover unpaid wages owed under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*; the express written contract entered into by the parties; and the common laws of the State of North Carolina.

4. Plaintiffs and the Class members are and were paid pursuant to Section 7(k) of the FLSA, which allows payment of overtime to “any employee in law enforcement activities (including security personnel in correctional institutions)” based on a 28-day work period, known as a “tour of duty” rather than the traditional 40-hour work week. 29 U.S.C. § 207(k). Plaintiffs and the Class members are, therefore, entitled to receive overtime pay (or compensatory time) at the rate of one and one-half times their regular rates of pay for all hours worked over 171 hours in their 28-day tours of duty. Defendants’ failure to pay Plaintiffs and the Class members for all overtime hours worked forms the basis of their FLSA claim.

5. Plaintiffs and the Class members are entitled to receive compensation for all straight-time hours worked, including gap hours, pursuant to Defendants’ State Human Resources Manual, DPS Policy & Procedures, and DPS New Employee Manual, which form contracts between themselves and Defendants (the “Contracts”).<sup>2</sup> Specifically, although public

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<sup>1</sup> The term “Class” refers to the members of the FLSA Collective and Rule 23 Class, defined in Paragraphs 79 and 86 below.

<sup>2</sup> True and correct copies of the documents (or excerpts of the documents) which form the Contracts are attached hereto as follows: State Human Resources Manual, Section 4 (Exhibit B); State of

sector collective bargaining is disallowed in the State of North Carolina, Defendants assert a level of control over Plaintiffs and the Class members that is similar to a bargained for contract. Defendants imposed the Contracts on Plaintiffs and the Class members, which they accepted through their continued employment with Defendants. The Contracts provide, amongst other things, that Plaintiffs and the Class members will be paid for all hours worked, including gap hours, up to 171 hours in a 28-day tour of duty, at their straight time rates. The Contracts form the basis of Plaintiffs' and the Class members' common law breach of contract claim.

6. During the Relevant Time Period, Plaintiffs and the Class members have been paid for a standard 12.25 hours per shift, regardless of the hours that they actually worked.

7. During the Relevant Time Period, Defendants have required Plaintiffs and the Class members to arrive before the start of their shifts in order to pass through security, gather and put on critical safety equipment, and perform other pre-shift work critical to the safety and security of the prisons and their occupants. After going off-the-clock at the end of their shifts, Plaintiffs and the Class members are required by Defendants to wait for relief, share information with the officer coming on-shift, return equipment, and travel from their post to the facility exit.

8. All of the above-referenced activities, as well as others set forth herein (and those that will be adduced through discovery in this matter), are performed while in the presence of or in close proximity to inmates. Plaintiffs and the Class members are, therefore, required to remain vigilant and respond to emergencies, as necessary, at all times while they are performing this pre- and post-shift work at prison facilities. That is, they remain on duty from the moment they enter the prisons until they leave. As such, Plaintiffs and the Class members are engaged in the principal activity of maintaining the safety and security of Defendants' facilities and performing

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North Carolina Department of Public Safety Prisons Policy & Procedures (Exhibit C); and North Carolina Department of Public Safety New Employee Manual (Exhibit D).

activities that are integral and indispensable to that principal activity. These activities constitute compensable work under the FLSA. Plaintiffs and the Class members are also contractually entitled to be paid for this pre- and post-shift work pursuant to the Contracts.

### **JURISDICTION AND VENUE**

9. This Court has original subject matter jurisdiction over the FLSA claim pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b) because this action involves a federal question under the FLSA.

10. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a) because they are so related to the FLSA claim over which the Court has original subject matter jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

11. This Court has personal jurisdiction over Defendants because they operate within the State of North Carolina and within this District.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this District.

### **PARTIES**

#### **A. Plaintiffs**

13. Matthew Hodge is a resident of Spindale, North Carolina and a citizen of the State of North Carolina. He was employed by Defendants as a Corrections Officer I from 2016 until on or around June 20, 2019. During the Relevant Time Period, he worked for Defendants primarily at Rutherford Correctional Center in Spindale, North Carolina. During the Relevant Time Period, he also worked at Swannanoa Correctional Center for Women in Black Mountain, NC and Alexander Correctional Institution in Taylorsville, NC. His written consent to join this action is attached as Exhibit A-1.

14. David Holbrook is a resident of Morganton, North Carolina and a citizen of the State of North Carolina. He has been employed by Defendants as a Corrections Sergeant since 2007. During the Relevant Time Period, he worked for Defendants primarily at Rutherford Correctional Center in Spindale, North Carolina. During the Relevant Time Period, he also worked at Swannanoa Correctional Center for Women in Black Mountain, NC, and Alexander Correctional Institution in Taylorsville, NC. His written consent to join this action is attached as Exhibit A-2

15. Philip Kay is a resident of Asheville, North Carolina and a citizen of the State of North Carolina. He has been employed by Defendants as a Corrections Officer II since in or around March 2013. During the Relevant Time Period, he has worked at Craggy Correctional Center in Asheville, North Carolina. His written consent to join this action is attached as Exhibit A-3.

16. Jacob Franckowiak is a resident of Spruce Pine, North Carolina and a citizen of the State of North Carolina. He has been employed by Defendants as a Corrections Officer since in or around 2012. During the Relevant Time Period, he has worked at Avery-Mitchell Correctional Institution in Spruce Pine, North Carolina. His written consent to join this action is attached as Exhibit A-4.

17. Brooks Dickerson is a resident of Fair Bluff, North Carolina and a citizen of the State of North Carolina. He has been employed by Defendants as a Corrections Officer II since in or around 2007. During the Relevant Time Period, he has worked at Columbus Correctional Institution in Whiteville, North Carolina. His written consent to join this action is attached as Exhibit A-5.

18. Ralph Brown is a resident of Hudson, North Carolina and a citizen of the State of North Carolina. He was employed by Defendants as a Corrections Officer from in or around 2010 through in or around June of 2017. During the Relevant Time Period, he worked at Alexander Correctional Institution in Taylorsville, NC. His written consent to join this action is attached as Exhibit A-6.

19. At all relevant times, Plaintiffs and the Class members have been engaged in commerce or in the production of goods for commerce within the meaning of Sections 6 and 7 of the FLSA, 29 U.S.C. §§ 206-207.

**B. Defendant DPS**

20. DPS is an agency of the State of North Carolina, established and empowered by N.C. Gen. Stat. §§ 143B-600, *et seq.* DPS's stated mission is to "safeguard and preserve the lives and property of North Carolinians through prevention, protection and preparation with integrity and honor." See [www.ncdps.gov/about-dps](http://www.ncdps.gov/about-dps) (last accessed Oct. 23, 2019). DPS owns and/or operates correctional facilities across the State of North Carolina, where Plaintiffs and the Class members work or have worked.

21. At all relevant times, DPS has been a public agency and an employer within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

22. At all relevant times, DPS has been an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

23. At all relevant times, DPS has been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s) of the FLSA, 29 U.S.C. § 203(s)(1).

**C. Defendant DAC**

24. DAC is division of DPS, established and empowered by N.C. Gen. Stat. §§ 143B-630, *et seq.* DAC “is responsible for the care, custody and supervision of all adults and juveniles sentenced after conviction for violations of North Carolina law.” *See* <https://www.ncdps.gov/division-adult-correction-and-juvenile-justice> (last accessed Oct. 23, 2019). It also “provides training for employees across the Department of Public Safety.” *See* <https://www.ncdps.gov/Adult-Corrections/Staff-Development-Training> (last accessed Oct. 23, 2019).

25. At all relevant times, DAC has been a public agency and an employer within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

26. At all relevant times, DAC has been an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

27. At all relevant times, DAC has been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s) of the FLSA, 29 U.S.C. § 203(s)(1).

**GENERAL ALLEGATIONS**

28. North Carolina’s general statutes direct Defendants to provide adequate custodial care, educational opportunities, and medical and psychological treatment services to all incarcerated persons. N.C. Gen. Stat. §§ 143B-600, *et seq.*

29. To fulfill this function, Defendants operate 55 correctional institutions across the State of North Carolina, at which they employ or have employed Corrections Officers, including Plaintiffs and the Class members.

30. A list of all DPS correctional institutions may be found on DPS’s website. *See* [www.ncdps.gov/Adult-Corrections/Prisons/Prison-Facilities](http://www.ncdps.gov/Adult-Corrections/Prisons/Prison-Facilities) (last accessed Oct. 23, 2019).

**A. Plaintiffs and the Class Members Are Entitled to Overtime Compensation Pursuant to the Same Common Contracts, Plans, Policies, and Practices of Defendants**

31. Plaintiffs and the Class members have been employed as Corrections Officers during the Relevant Time Period at various correctional facilities owned and operated by Defendants throughout the State of North Carolina.

32. During the Relevant Time Period, Plaintiffs and the Class members have been subject to the same Contracts, plans, policies, and practices related to compensation, recording of their hours worked, scheduling, entitlement to overtime, security protocols, compensatory time, tours of duty, entitlement to be paid for all hours worked, and required pre- and post-shift work.

33. Plaintiffs and the Class members have been subject to the same terms and conditions of employment described herein throughout the Relevant Time Period, regardless of which of these types of institutions at which they have worked, the level of custody at the facility, the types or identities of offenders housed at the facility, their officer rank (whether Corrections Officer I, II, or III, or Sergeants), whether they work on a day shift or night shift, or other factors.

34. During the Relevant Time Period, Plaintiffs and the Class members have been subject to the State Human Resources Manual, including Section 4, Salary Administration.<sup>3</sup> Plaintiffs and the Class members are considered “employees in law enforcement activities,” which includes “security personnel in correctional institutions.” State Human Resources Manual, Salary Administration, Section 4, p. 71 (Ex. B). These institutions include any government facility maintained as part of a penal system for the incarceration or detention of

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<sup>3</sup> On information and belief, the prior version of the State Human Resources Manual, Section 4, Salary Administration contained substantially similar terms as those described herein.



persons suspected or convicted of having breached the peace or committed some other crime. Such facilities include penitentiaries; prisons; prison farms; county, city, and village jails; precinct house lockups; and reformatories.

35. During the Relevant Time Period, Plaintiffs and the Class members have been paid pursuant to Section 7(k) of the FLSA. Consistent with Section 7(k), their “work period” or tour of duty consists of 28 consecutive days. *See* 29 U.S.C. § 207(k); State Human Resources Manual, Salary Administration, Section 4, p. 72 (Ex. B).

36. Pursuant to the FLSA and the Contracts, Plaintiffs and the Class members are entitled to overtime compensation at the rate of one and one-half times the regular hourly rate at which they are employed for hours which, in the aggregate, exceed 171 hours in a 28-day tour of duty.<sup>4</sup> *Id.*

37. Plaintiffs and the Class members are typically scheduled for 160 hours in a 28-day tour of duty. The hours between the regular schedule of 160 hours and the maximum number of straight-time hours (171) are known as “gap hours.” When Plaintiffs and the Class members work gap hours, they are entitled, pursuant to the Contracts, to compensation at their regular hourly rate of pay. The overtime rate is legally required to begin after 171 hours.

38. Section 4 of the State Human Resources Manual contains Special Provisions relating to Law Enforcement Activities. During the Relevant Time Period, Plaintiffs and the Class members have been subject to these Special Provisions.

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<sup>4</sup> Alternatively, pursuant to the FLSA and the Contracts, as a public employer, Defendants may provide Plaintiffs and the Class members with compensatory time at the rate of one and one-half times the hours actually worked in lieu of cash payment for their overtime hours. *See* 29 U.S.C. § 207(o). Defendants have not, however, paid Plaintiffs or the Class members either cash overtime payments, or compensatory time, for the work that is the subject of this action. Plaintiffs and the Class members are equally damaged when they are not given the compensatory time to which they are entitled, which can be used as paid time off or, if it is not used within 180 days, converts to a cash payment pursuant to the Contracts.

39. The Special Provisions for Law Enforcement Activities provides:

The term “tour of duty” is a unique concept applicable only to employees in law enforcement and fire protection activities. This term means the time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Scheduled periods also include time spent in work outside the “shift” which the public agency employer assigns. Unscheduled periods include time spent in court by officers, time spent handling emergency situations and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance....

State Human Resources Manual, Salary Administration, Section 4, pp. 74-75 (Ex. B).

40. The aforementioned language of the Special Provisions constitutes an agreement to pay Plaintiffs and the Class members their hourly rate for all on duty time, including unscheduled periods (outside their paid 12.25 hour day).

41. Defendants promised Plaintiffs and the Class members, through the Contracts, that they would pay them for all hours worked up to 171 hours, including gap hours, at their straight time rate of pay (or as compensatory time), subject to offsetting.

42. During the Relevant Time Period, Plaintiffs and the Class members have been subject to the DPS New Employee Manual. On information and belief, the current version of the New Employee Manual was released in 2017. On information and belief, the prior version was released in 2015 and contains substantially similar provisions to those discussed herein.

43. The DPS New Employee Manual describes Gap Hours as follows:

Gap Hours, also known as straight time, are those hours that are caught in the gap between the maximum hours of work required to meet the work schedule standard and the overtime threshold. Gap hours ONLY apply to employees subject to overtime. These hours are subject to leave offsetting and are first applied to advanced leave liabilities and adverse weather leave.

The employee shall receive straight time compensation in either cash payout or compensatory leave for the remaining gap hours worked after offsetting depending on the position classification. It is the decision of agency management in consideration of budget and organization needs whether compensation will be

made monetarily (cash) or as time off. The decision to pay cash versus compensatory time off is not an employee decision.

New Employee Manual, p. 15 (Ex. D).

44. Plaintiffs and the Class members are each scheduled to work 12-hour shifts. The shifts run from either 6:00 a.m. until 6:00 p.m. (day shift) or 6:00 p.m. until 6:00 a.m. (night shift). In either case, they must arrive at lineup by 5:45.

45. Plaintiffs and the Class members are, without material exception,<sup>5</sup> paid this standard 12.25 hours, regardless of the hours that they actually work. That means that, when Plaintiffs and the Class members begin performing compensable work before their shifts begin at 5:45 or continued to perform compensable after their shifts end at 6:00, they are not paid for any work time beyond 12.25 hours.

46. The extra quarter hour (.25, or fifteen minutes) reflects the amount of time Plaintiffs and the Class members spend in the mandatory daily, pre-shift lineup, which begins at 5:45 a.m. (day shift) or 5:45 p.m. (night shift). It does not, however, compensate them for the substantial mandatory off-the-clock work, described herein, that Defendants require them to perform before the start of each pre-shift lineup and after the end of each shift.

**B. Plaintiffs and the Class Members Have Performed Significant Amounts of Compensable Pre- and Post-Shift Off-The-Clock Work**

47. Defendants routinely suffer and permit Plaintiffs and the Class members to perform pre- and post-shift off-the-clock work for which they are not compensated.

48. The primary of goal of DPS prisons “is to protect the citizens of North Carolina and provide a safe and humane environment for staff and offenders. Appropriate staffing levels,

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<sup>5</sup> Plaintiffs and the Class members are, for example, paid beyond their scheduled shift when a supervisor asks them to stay for another whole shift, or they are asked to stay to handle an emergency. However, no allowance is made to pay for the additional, routine, off-the-clock work that Defendants require Plaintiffs and the Class members to perform each day, as described herein.

supervisory organizational structure, Correctional Officer duties, and effective management of security posts are all key factors in the success of any prison system.” DPS Policy & Procedures Ch. F, § .1601(a) (Ex. C).<sup>6</sup>

49. “Correctional Officers are responsible for the control, custody, and welfare of offenders within their assigned areas. Duties are to be performed adequately. Discipline and security are to be maintained, and policies relating to the welfare of offenders implemented daily.” *Id.* § .1605(a).

50. New officers are to receive orientations that “should include a thorough briefing on all-basic security functions, departmental rules, procedures and post orders. All training related to security and specific post assignments will be documented in facility records.” *Id.* § .1604(f).

51. Plaintiffs and the Class members “shall have a thorough knowledge of policy to provide effective supervision of offenders. [They] must be capable of acting reasonably and efficiently in emergencies in accordance with established policies and procedures.” *Id.* § .1605(b).

52. Pre-shift duties performed off-the-clock by Plaintiffs and the Class members include waiting onsite at the prison, clearing security-related checkpoints, collecting and/or donning uniforms, equipment, and/or tools necessary for their duties—including keys and radios, waiting for line-up while preparing for the day, and traveling through the prison facility to arrive at the pre-shift briefing location.

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<sup>6</sup> See <https://www.ncdps.gov/adult-corrections/prisons/policy-procedure-manual> (last accessed Oct. 23, 2019).

53. After completing this pre-shift work, Plaintiffs and the Class members are required to attend a shift briefing, where they are inspected by the Officer-In-Charge “to determine that they are appropriately attired and prepared for duty.” *Id.* § .1604(o). Only at the beginning of the pre-shift briefing do they begin to be compensated.

54. At the end of their shifts, Plaintiffs and the Class members are required to wait at their post until the relieving officer arrives, perform a pass-down or exchange of information, doff and/or return equipment and tools necessary for their duties, and travel through the prison facility to exit. This activity happens after Plaintiffs and the Class members are no longer on-the-clock.

55. Defendants mandate that “Correctional Officers shall remain alert and in full possession of their faculties at all times while on duty. Failure to remain alert is unacceptable personal conduct and shall be cause for discipline consistent with the NCDPS-Prisons Disciplinary Policy and Procedures.” *Id.* § .1605(p). To that end, Plaintiffs and the Class members are required to be on alert and remain vigilant and respond to emergencies at all times while in prison facilities and while performing pre- and post-shift work because they are in the presence of, or in close proximity to, inmates.

56. This pre- and post-shift work is part of Plaintiffs’ and the Class members’ principal activities of guarding the inmates and DPS facilities and maintaining safety and security therein. It is also integral and indispensable to those principal activities.

57. For example, Plaintiffs and the Class members are required to abide by a Key and Lock Control during pre- and post-shift work “to maintain effective security through control of all doors, gates, grills and other locking devices that comprise physical plant security both inside and outside of the perimeter. This policy will ensure that correctional staff will have total

command of all keys and locking devices supplies, equipment and storage areas that support the key control program. In addition, this policy will promote safety by ensuring that in case of fire or other emergency, exit keys will be readily accessible to designated correctional staff.” *Id.* § .2401.

58. Plaintiffs and the Class members must also abide by the DPS Prison Entrance/Exit Policy, which was implemented “[t]o establish procedures to identify all persons, to search for contraband and to maintain safety and security at all facilities by utilizing metal detection, routine searches (pat/frisk) and special procedures for employee searches.” *Id.* § .3301. They are required to be “processed through the main entrance of the institution.” *Id.* § .3304.

59. Plaintiffs and the Class members “must be processed by passing through metal detection.” *Id.* § .3307(b)(4). They also “shall receive a routine search (pat/frisk) upon entry to a facility” and “are subject to a routine search of their person and personal effects” upon leaving. *Id.* § .3307(c)(1), (3). This process ensures that weapons and other contraband which could be used by prisoners to undermine safety and security are not brought into the facilities.

60. Should Plaintiffs and the Class members refused to submit to any search, they “shall be denied access to the facility” and subject to disciplinary action, including dismissal. *Id.* § .3307(d)(4)(A).

61. Plaintiffs and the Class members are “processed through the Gatelog system, having their card swiped. The officer operating the Gatelog system computer will positively identify the employee by photo identification after their card has been swiped. If a facility does not have the Gatelog system, departmental official visitors will sign in/out in an appropriate log book. The staff member will present his/her departmental identification card to entrance/exit point staff prior to entering or exiting the facility.” *Id.* § .3305(c)(3).

62. These logs are not used for timekeeping purposes. Instead, Plaintiffs and the Class members are uniformly paid the standard 12.25 hours per day, regardless of the hours they actually performed compensable work.

63. Defendants do not maintain accurate records of the time worked by Plaintiffs and the Class members as required by the FLSA.

64. Plaintiffs and the Class members are not permitted to bring cell phones, pagers, personal computers, PDAs, iPads, or a host of other items into DPS facilities. *Id.* § .3306(a)(12), (c). This prohibition ensures that such items cannot be used inside the facilities in a manner which would undermine safety and security.

65. Plaintiffs and the Class members must undergo extensive training in areas specifically related to their pre- and post-shift work, including but not limited to Defendants' security procedures, safety procedures, supervision of offenders, key control, and communication skills. *Id.* Ch. A, § .0904(c).

66. Plaintiffs and the Class members are informed by their supervisors that they must arrive early in order to clear security, collect their equipment and tools, proceed to the area where they must report to lineup and be at lineup, in uniform, and ready to work, by 5:45.

67. Plaintiffs and the Class members are required to attend lineup beginning at 5:45, but they are required to arrive at their facilities as early as 5:00 a.m. in order to perform their pre-shift work and arrive at lineup on time.

68. Plaintiffs and the Class members frequently work and record over 171 hours in a 28-day tour of duty. For example, during the pay period of February 1, 2018 through February 28, 2018, Plaintiff, Hodge, was compensated for 74.25 overtime hours (or 245.75 total hours); and during the pay period of July 1, 2018 through July 31, 2018, he was compensated for 12.25

overtime hours (or 183.75 total hours). However, he performed an additional 0.5 hours of compensable work before and after each shift (or 10 hours in each 28-day tour of duty) that was not compensated at either his regular or overtime rate of pay.

69. Defendants know or have reason to know that Plaintiffs and the Class members are performing compensable pre- and post-shift work on a regular basis. For example, Defendants instruct Plaintiffs and the Class members to arrive early in order to perform certain pre-shift duties and arrive at lineup by 5:45. Defendants also require Plaintiffs and the Class members to remain at their posts until the relieving officer arrives, and Defendants know or have reason to know that the relieving officers often arrive late.

70. Defendants also know *exactly* when Plaintiffs and the Class members arrive and depart from their facilities because Plaintiffs and the Class members are required to swipe a card. Those card swipes are not used for timekeeping or payroll purposes. However, on information and belief, these swipe card records show that Plaintiffs and the Class members worked at their facilities for far more time than that for which they were paid.

71. These hours worked for which they should have been paid include: (1) hours under 171, which Defendants promised to pay and for which Plaintiffs and the Class members are entitled to recover, pursuant to the Contracts; and (2) hours over 171, for which Plaintiffs and the Class members are entitled to recover pursuant to the FLSA.

72. Defendants' policy and practice of requiring off-the-clock work (both straight time and overtime) apply equally to all Plaintiffs and the Class members, State-wide, during the Relevant Time Period.



73. Defendants were aware or should have been aware of the FLSA's overtime requirements and were also aware of the promises they made through the Contract to pay Plaintiffs and the Class members for all straight-time hours worked.

74. Defendants nonetheless suffered or permitted Plaintiffs and the Class members to work off-the-clock without compensation.

75. Defendants suffered or permitted Plaintiffs and the Class members to work over 171 hours in a 28-day tour of duty without compensation for all hours over 171 in the tour at one and one-half times their regular rates of pay.

76. Defendants knew, or acted with reckless disregard for whether, Plaintiffs and the Class members worked in excess of 171 hours in individual 28-day tours of duty without receiving overtime at the rate of one and one-half times their regular rates of pay for hours worked over 171 in a 28-day tour.

77. Defendants' failure to pay straight time to Plaintiffs was, and is, a breach of their Contracts with Plaintiffs and the Rule 23 Class members. Defendants' failure to pay overtime to Plaintiffs and the FLSA Collective members was, and is, a willful violation of the FLSA. Defendants did not act in good faith when they failed to pay Plaintiffs and the Class members for all hours worked over 171 in a 28-day tour of duty at the rate of one and one-half times their regular rates of pay.

### **COLLECTIVE ACTION ALLEGATIONS**

78. Plaintiffs bring their FLSA claims individually and on behalf of similarly-situated employees who were not paid for all of their overtime hours during tours of duty worked for Defendants.

79. The collective of similarly situated employees sought to be certified as a collective action under the FLSA is defined as:

All current and former non-exempt, hourly-paid employees of Defendants who worked as security personnel in a correctional institution at any time during the Relevant Time Period (“FLSA Collective”).

80. Plaintiffs have consented in writing to be a part of this action pursuant to 29 U.S.C. § 216(b), and their consent forms are attached as Exhibits A-1 through A-6. As this case proceeds, it is likely that additional individuals will file consent forms and join as “opt-in” plaintiffs.

81. Plaintiffs seek conditional and final certification of this collective action under 29 U.S.C. § 216(b).

82. Defendants are liable under the FLSA for failing to properly compensate Plaintiffs and the FLSA Collective members at the rate of one and one-half times their regular rates of pay for all hours worked in excess of the relevant statutory overtime threshold.

83. There are many similarly-situated current and former employees of Defendants who—in violation of the FLSA—have been underpaid, in that they have not received all overtime compensation to which they are legally entitled, and who would benefit from issuance of Court-supervised notice of this lawsuit and the opportunity to join the lawsuit. Thus, notice should be sent to FLSA Collective members pursuant to 29 U.S.C. § 216(b).

84. The similarly-situated employees are known to Defendants, are readily-identifiable, and can be located through Defendants’ records.

### **CLASS ACTION ALLEGATIONS**

85. Plaintiffs bring their breach of contract claims under the common law of the State of North Carolina as a class action under Federal Rule of Civil Procedure 23.

86. The Class of employees sought to be certified as a class action under Federal Rule of Civil Procedure 23 is defined as:

All current and former non-exempt, hourly-paid employees of Defendants who worked as security personnel in a correctional institution in the State of North Carolina at any time during the Relevant Time Period (“Rule 23 Class”).

87. Defendants are liable for breach of contract to Plaintiffs and the Rule 23 Class members for breaching the Contract wherein they promised to pay Plaintiffs and the Rule 23 Class members for all hours worked, up to 171 hours in a 28-day tour of duty, at their regular hourly rate of pay.

88. Numerous individuals were victimized by Defendants’ policies and practices of refusing to pay Plaintiffs and the Rule 23 Class members for all hours worked. Specifically, Plaintiffs and the Rule 23 Class members did not receive pay for their hours worked when they performed the significant pre- and post-shift work and were required to be available to respond to emergencies as described herein, in breach of the Contracts with Defendants.

89. Defendants have consistently and uniformly applied policies and practices requiring Plaintiffs and the Rule 23 Class members to work off-the-clock, without compensation, both before and after their paid shifts.

90. Based on their experience working for Defendants, Plaintiffs are aware that Defendants’ illegal policy or practice of failing to pay for all hours worked was uniformly imposed on the Rule 23 Class members.

91. Plaintiffs and the Rule 23 Class members are paid in the same manner, pursuant to Section 7(k) of the FLSA and the Contracts. Each of them is required to arrive at work early enough to complete their pre-shift tasks and arrive at lineup by 5:45. None of them are paid for their pre-shift work. Each is also required to remain at work until relief arrives, and to complete various other post-shift tasks before ending work for the day. Similarly, none of them are paid for their post-shift work and for the time that they are required to be available to respond to emergencies.

92. Plaintiffs' experiences are therefore typical of those of the Rule 23 Class they seek to represent.

93. Defendants' failure to pay Plaintiffs and the Rule 23 Class members the hourly wages to which they are entitled results from a generally applicable, systemic, policy or practice, which is not dependent on the personal circumstances of the Rule 23 Class members, but rather, was applied equally to all Rule 23 Class members.

94. Upon information and belief, Defendants employed thousands of Rule 23 Class members during the Relevant Time Period. The precise numbers and identities of the Rule 23 Class members are identifiable from the business records, tax records, and/or employee and personnel records maintained by Defendants.

95. Plaintiffs have no interests contrary to or in conflict with the Rule 23 Class members they seek to represent, nor does their counsel.

96. Like each Rule 23 Class member they seek to represent, Plaintiffs have an interest in obtaining the unpaid wages owed pursuant to their Contracts with Defendants.

97. A class action such as this one is superior to other available means for fair and efficient adjudication of the lawsuit.

98. Absent a class action, many of the Rule 23 Class members will not obtain redress of their injuries and Defendants will reap the unjust benefits of breaching their Contracts with Plaintiffs and the Rule 23 Class members.

99. Even if some of the Rule 23 Class members Plaintiffs seek to represent could afford individual litigation against Defendants, it would be unduly burdensome to the judicial system.

100. If individual actions were required to be brought by each Rule 23 Class member, it would necessarily result in a multiplicity of lawsuits and it would create hardship to Rule 23 Class members, Defendants, and the Court.

101. Concentrating the litigation in one forum will promote judicial economy and parity among the claims of the Rule 23 Class members and provide for judicial consistency.

102. The questions of law and fact common to each of the Rule 23 Class members predominate over any questions affecting solely the individual members. Among the common questions of law and fact are:

- a. Whether there is a contract between Defendants, on the one hand, and Plaintiffs and the Rule 23 Class members, on the other, requiring Defendants to pay Plaintiffs for all hours worked up to 171 in a 28-day tour of duty;
- b. Whether Plaintiffs and the Rule 23 Class members performed work for which they were not paid;
- c. Whether Defendants knew or had reason to know that Plaintiffs and the Rule 23 Class members performed this work
- d. Whether Plaintiffs and the Rule 23 Class members were in prison facilities and/or in the presence of inmates while performing this work;
- e. Whether Plaintiffs and the Rule 23 Class members were required to remain vigilant and respond to emergencies while performing this work and in prison facilities;
- f. Whether Defendants have maintained accurate records of the time worked by Plaintiffs and the Class members as required by the FLSA; and

g. Whether Defendants have any contractual defenses which bar the claims of Plaintiffs and Rule 23 Class members.

103. Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its ability to go forward as a class action.

104. Plaintiffs will fairly and adequately represent and protect the interests of the Rule 23 Class members.

105. Plaintiffs have retained counsel who are qualified and experienced in the litigation of class actions.

## **CAUSES OF ACTION**

### **COUNT I**

#### **FLSA – FAILURE TO PAY OVERTIME WAGES (PLAINTIFFS AND FLSA COLLECTIVE)**

106. Plaintiffs reallege and incorporate paragraphs 1-77 and 78-84, as though fully set forth herein.

107. Defendants are joint employers of Plaintiffs and the FLSA Collective members.

108. Pursuant to Section 7(k) of the FLSA, Plaintiffs and the FLSA Collective members were entitled to receive overtime compensation (or compensatory time off) at the rate of one and one-half times their regular rate of pay for all hours worked over 171 in a 28-day tour of duty.

109. Defendants suffered or permitted Plaintiffs and the FLSA Collective members to work, without compensation, both before the start of, and after the end of, their scheduled shifts. This has resulted in Plaintiffs and the FLSA Collective members routinely working in excess of 171 hours during their 28-day tours of duty without compensation.

110. By failing to pay Plaintiffs and the FLSA Collective members overtime compensation (or compensatory time) at a rate of one and one-half times their regular rates of pay for all hours worked over 171 in a 28-day tour of duty, Defendants violated the FLSA.

111. Defendants have failed to maintain accurate records of all time worked by Plaintiffs and the Class members as required by the FLSA.

112. Defendants did not act in good faith when they engaged in the above-described conduct.

113. By engaging in the above-described conduct, Defendants willfully, knowingly, and/or recklessly violated the FLSA.

114. Because of Defendants' policies or practices, Plaintiffs and the FLSA Collective members have not received overtime wages due to them pursuant to the FLSA.

115. The State of North Carolina has waived sovereign immunity for purposes of the FLSA. *See* N.C. Gen. Stat. § 143-300.35(a)(1). Accordingly, Defendants do not enjoy immunity from Plaintiffs' FLSA claims and may be sued under the Act. *See also, e.g., Blackmon v. Cohen*, No. 1:17CV890, 2018 WL 2451246, at \*4 (M.D.N.C. May 31, 2018).

116. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs and the FLSA Collective members have suffered and will continue to suffer a loss of income and other damages. Plaintiffs and the FLSA Collective are entitled to liquidated damages, attorneys' fees, and costs incurred in connection with this claim.

## **COUNT II**

### **BREACH OF CONTRACT (PLAINTIFFS AND RULE 23 CLASS)**

117. Plaintiffs reallege and incorporate paragraphs 1-77 and 85-106, as though fully set forth herein.

118. Plaintiffs and the Rule 23 Class members “are expected to comply with all section, division, and work-unit specific requirements, policies, and procedures.” New Employee Manual at 9 (Ex. D).

119. “The DPS Human Resource Manual and the DPS Fiscal Manual are to be used in conjunction with the State Personnel Manual from the Office of State Personnel and the State Budget Manual.” *Id.* The State Human Resources Manual, also known as the State Personnel Policy Manual, has been adopted by Defendants in full and governs the terms and conditions of Plaintiffs’ and the Rule 23 Class’s employment by Defendants. Ex. B.<sup>7</sup>

120. On information and belief, Plaintiffs and the Rule 23 Class members were provided copies of the Contracts at the beginning of, and/or during, their employment with Defendants and may have been required to execute and return signed copies to Defendants as a term or condition of their employment.

121. Defendants made the following promises to Plaintiffs and the Rule 23 Class members, pursuant to the State Human Resources Manual (Ex. B):

- a. Plaintiffs and the Rule 23 Class members will be paid their hourly rate of pay for all hours worked, up to 171 hours in a 28-day tour of duty.
- b. All time Plaintiffs and the Rule 23 Class members are “required, suffered, or permitted to be on the employer’s premises on duty or at a prescribed work place, except for meals or other periods when the employee is free from duty, is considered as hours worked.”

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<sup>7</sup> See <https://www2.ncdps.gov/index2.cfm?a=000002,002186> (last accessed Oct. 23, 2019).



- c. Plaintiffs and the Rule 23 Class members “who [are] required to remain on call on the employer’s premises or so close thereto that the time cannot be used for the employee’s own purposes [are] considered working time.”

122. Defendants made the following additional promises to Plaintiffs and the Rule 23 Class members, pursuant to the New Employee Manual (Ex. D):

- a. “Position information (work schedule, overtime eligibility, shift premium eligibility, etc.) has been entered into the HR Payroll System. As a result, the HR Payroll System SAP system automatically calculates overtime, shift premium, holiday premium, weekend premium, and on-call/ callback pay based on the position profile.”
- b. “All positions have minimum standard hours to be worked in an overtime period. The position you occupy determines your minimum standard hours (40 hrs, 160 hrs) and your overtime period (7-day, 28-day, etc.).”
- c. Plaintiffs and the Rule 23 Class members will be paid “for hours worked/leave taken from the 1st of the month through the last day of the month.”
- d. Plaintiffs and the Rule 23 Class members “shall receive straight time compensation in either cash payout or compensatory leave for the remaining gap hours worked after offsetting depending on the position classification.”

123. Plaintiffs and the Rule 23 Class members accepted these promises by entering into and continuing their employment with Defendants and abiding by Defendants’ policies, procedures, and manuals, forming express contracts between the parties.

124. Defendants breached the Contracts by failing to pay Plaintiffs and the Rule 23 Class members for all hours worked, including gap hours. This failure to pay proximately caused damages to Plaintiffs and the Rule 23 Class members.

125. The State of North Carolina is not immune from a claim for breach of contract. By entering into the contract, the governmental body waives immunity and consents to be sued for damages for breach of the contract. *See State v. Smith*, 289 NC 303 (1976). Accordingly, Defendants do not enjoy immunity from Plaintiffs' Breach of Contract claims.

126. As a direct and proximate cause of Defendants' unlawful conduct, Plaintiffs and the Rule 23 Class members were damaged in that they were deprived of wages to which they were contractually entitled. Plaintiffs and the Rule 23 Class members are entitled to actual damages, attorneys' fees, and costs incurred in connection with this claim.

#### **JURY DEMAND**

Plaintiffs demand a trial by jury of all claims asserted in this Complaint.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs, individually and on behalf of all the Class members, pray for judgment against Defendants as to each and every count, including:

1. Certifying this case as a collective action in accordance with 29 U.S.C. § 216(b);
2. Ordering prompt notice, pursuant to 29 U.S.C. § 216(b), to all FLSA Collective members that this litigation is pending and that they have the right to "opt in" to this litigation;
3. Certifying this case as a class action in accordance with Fed. R. Civ. P. 23 with respect to the Breach of Contract claims set forth above; appointing Plaintiffs and their counsel as representatives of the Rule 23 Class, and requiring Defendants to bear the cost of class notice;
4. Declaring that Defendants willfully violated the FLSA as set forth above;

5. Declaring that Defendants did not act in good faith with respect to the FLSA violations as set forth above;
6. Declaring that Defendants breached their contractual obligations to Plaintiffs and the Class members as set forth above;
7. Enjoining Defendants from future FLSA violations, including but not limited to maintaining accurate records of all time worked by Plaintiffs and the Class members;
8. Awarding Plaintiffs and the Class members their actual damages for unpaid wages;
9. Awarding Plaintiffs and the Class members liquidated damages in an amount equal to the unpaid overtime wages found due;
10. Awarding reasonable attorneys' fees and costs incurred by Plaintiffs in filing and prosecuting this action;
11. Awarding pre- and post-judgment interest to Plaintiffs on these damages; and
12. Granting such further relief as this Court deems appropriate.

Respectfully submitted,

/s/ Daniel K. Bryson

Daniel K. Bryson

N.C. State Bar No.: 15781

Patrick M. Wallace

N.C. State Bar No.: 48138

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***Counsel for Plaintiffs and the Putative Class and Collective***

*\* To File Notice of Special Appearance*

# EXHIBIT A

# EXHIBIT A-1

## CONSENT TO JOIN FORM

1. I Consent to be a party plaintiff in a lawsuit against Defendants North Carolina Department of Public Safety ("NCDPS") and/or related entities in order to seek redress for violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b).

2. I hereby designate the law firms of DiCello Levitt Gutzler LLC, Cuneo Gilbert & LaDuca, LLP, Berger Montague, and other attorneys with whom they associate to make decisions on my behalf concerning the litigation. I agree to be bound by any adjudication of this action by the Court, or by any settlement, whether it is favorable or unfavorable.

Date: 6-4-19

Signature: Matthew Hodge

Print Name: Matthew Hodge



# EXHIBIT A-2

## CONSENT TO JOIN FORM

1. I Consent to be a party plaintiff in a lawsuit against Defendants North Carolina Department of Public Safety ("NCDPS") and/or related entities in order to seek redress for violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b).

2. I hereby designate the law firms of DiCello Levitt Gutzler LLC, Cuneo Gilbert & LaDuca, LLP, Berger Montague, and other attorneys with whom they associate to make decisions on my behalf concerning the litigation. I agree to be bound by any adjudication of this action by the Court, or by any settlement, whether it is favorable or unfavorable.

Date: 6-4-19

Signature: David Lee Harbuck

Print Name: David Lee Harbuck

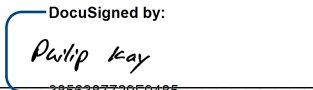
# EXHIBIT A-3

### CONSENT TO JOIN FORM

1. I Consent to be a party plaintiff in a lawsuit against Defendants North Carolina Department of Public Safety (“NCDPS”) and/or related entities in order to seek redress for violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b).

2. I hereby designate the law firms of DiCello Levitt Gutzler LLC, Cuneo Gilbert & LaDuca, LLP, Berger Montague, and other attorneys with whom they associate to make decisions on my behalf concerning the litigation. I agree to be bound by any adjudication of this action by the Court, or by any settlement, whether it is favorable or unfavorable.

Date: 10/8/2019

Signature:  3856387729F9485...

Print Name: Philip Kay

# EXHIBIT A-4

### CONSENT TO JOIN FORM

1. I Consent to be a party plaintiff in a lawsuit against Defendants North Carolina Department of Public Safety (“NCDPS”) and/or related entities in order to seek redress for violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b).

2. I hereby designate the law firms of DiCello Levitt Gutzler LLC, Cuneo Gilbert & LaDuca, LLP, Berger Montague, and other attorneys with whom they associate to make decisions on my behalf concerning the litigation. I agree to be bound by any adjudication of this action by the Court, or by any settlement, whether it is favorable or unfavorable.

Date: 10/8/2019

DocuSigned by:  
*Jacob Franckowiak*  
1FFEBAE1C3A8487...  
Signature: \_\_\_\_\_  
Print Name: Jacob Franckowiak

# EXHIBIT A-5

### CONSENT TO JOIN FORM

1. I Consent to be a party plaintiff in a lawsuit against Defendants North Carolina Department of Public Safety (“NCDPS”) and/or related entities in order to seek redress for violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b).

2. I hereby designate the law firms of DiCello Levitt Gutzler LLC, Cuneo Gilbert & LaDuca, LLP, Berger Montague, and other attorneys with whom they associate to make decisions on my behalf concerning the litigation. I agree to be bound by any adjudication of this action by the Court, or by any settlement, whether it is favorable or unfavorable.

Date: 10/10/2019

Signature:  90EAD42BC6A84E1

Print Name: Brooks Dickerson



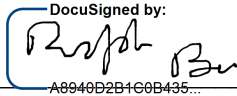
# EXHIBIT A-6

### CONSENT TO JOIN FORM

1. I Consent to be a party plaintiff in a lawsuit against Defendants North Carolina Department of Public Safety (“NCDPS”) and/or related entities in order to seek redress for violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b).

2. I hereby designate the law firms of DiCello Levitt Gutzler LLC, Cuneo Gilbert & LaDuca, LLP, Berger Montague, and other attorneys with whom they associate to make decisions on my behalf concerning the litigation. I agree to be bound by any adjudication of this action by the Court, or by any settlement, whether it is favorable or unfavorable.

Date: 10/8/2019

Signature:  \_\_\_\_\_  
A0940D2B1C0B435...

Print Name: Ralph Brown

# EXHIBIT B

## Hours of Work and Overtime Compensation

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- [Minimum Wage](#)
- [Overtime Compensation](#)
- [Exempt Employees](#)
- [Salary](#)
- [Compensation](#)
- [Pay Rate for Compensatory Time](#)
- [Hourly Rate of Pay](#)
- [Non-Overtime Workweeks](#)
- [The Workweek](#)
- [Gap Hours](#)
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  - [OT/Comp Time Exception Enforcement/Fire/ Emergency](#)
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  - [Tour of Duty and Compensable Hours of Work](#)
  - [Occasional or Sporadic Employment](#)
  - [Substitution](#)
  - [Volunteers](#)

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Effective February 19, 1985, the Supreme Court declared State and local governments subject to the Fair Labor Standards Act. These revisions are in accordance with that ruling.

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## Hours of Work and Overtime Compensation (continued)

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### Minimum Wage

Employees shall be paid the Federal minimum wage or the North Carolina minimum wage, whichever is higher. Effective January 1, 2007, the North Carolina minimum wage is \$6.15. The Federal minimum is \$7.25 effective July 24, 2009.

All of the approved salary rates published by the Office of State Personnel provide more than the federal or state minimum wage to all employees certified for employment. Under this policy, compliance with the required minimum wage should be automatic.

---

### Administration of Overtime

The payment of premium time and one-half rates in form of monetary compensation or time off is required for hours worked in excess of 40 within a week, with exception of those considered exempt.

Agency heads and supervisors shall hold hours worked by the employee to the State's established 40-hour workweek standard except in those cases where excessive hours of work are necessary because of weather conditions, necessary seasonal activity or emergencies. It shall be a responsibility of each agency or executive head to determine that the provision of overtime pay is administered in the best interest of the State. Although each agency head is responsible for the manner in which overtime is authorized, it is equally important to control unauthorized overtime. The practice of overtime work will be subject to review by the Office of State Personnel. Such review will take into consideration organizational structure, scheduling of work, position complement, and personnel classifications.

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### Exempt Employees

Each agency head will recommend which employees are exempt from hours of work and overtime pay standards under the terms of exemptions. The present practice of submitting this information to the Office of State Human Resources for review will be continued.

## Hours of Work and Overtime Compensation (continued)

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No employee whose position is designated as exempt from overtime compensation provisions shall be paid in any way for hours worked in excess of forty in a workweek unless a specific exception has been approved. This shall not be construed to prohibit any agency from adopting and using a compensatory leave policy in accordance with the Compensatory Leave Policy.

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### Salary

The annual and monthly salary rates of an employee are established under current personnel policy for each position. This salary is to represent the employee's straight-time pay for a standard 40-hour workweek.

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### Overtime Compensation

For employees whose regular work schedule is 40 hours per week, the employee shall receive straight-time pay for a standard 40-hour workweek, with the provision that:

- an additional amount equal to 1½ times the employee's regular hourly rate times the number of hours worked in excess of 40 shall be added to the base pay or.
- an employee shall be given compensatory time off on the basis of 1½ times the amount of time worked beyond 40 hours during a week.

The following provisions apply to Overtime Compensatory Time:

- Overtime compensatory time may be accumulated up to a maximum of 240 hours (160 hours straight time). Any overtime worked above this amount shall be paid in the employee's next regular paycheck.
- Overtime compensatory time off cannot be denied to an employee unless the compensatory time off will unduly disrupt agency operations.
- Overtime compensatory time shall be taken before any vacation or bonus leave. (Exceptions may be made for retirees who may need to exhaust vacation leave prior to retirement.)
- Agencies should allow overtime compensatory time to be taken as soon as possible.

## Hours of Work and Overtime Compensation (continued)

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- Overtime compensatory time shall be taken within twelve months from the date the work is performed. If not taken within 365 days, the time shall be paid out in the next paycheck.
- If an employee separates before taking overtime compensatory time, it shall be paid in a lump sum along with unused vacation.
- If an employee transfers to an exempt-FLSA position or to another agency before taking overtime compensatory time, it shall be paid in the current or next regular paycheck by the releasing agency.

NOTE: The preceding provisions are not applicable to persons in law enforcement or fire protection activities and in-residence employees. For provisions relating to those groups, see SPECIAL PROVISIONS section.

Prior to employment, each successful candidate for State employment in a position subject to hours of work and overtime pay standards must sign a form acknowledging that it has been explained that it is the State's policy to give time off in lieu of monetary compensation, wherever possible, for hours worked beyond 40 in a work week. Agreement to this is a condition of employment with the State; failure or refusal to sign such agreement will prevent employment of that person. This signed form shall be a part of the employee's personnel file; it must be kept for at least three years following that person's separation from State employment.

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### Pay Rate for Overtime Compensatory Time

Overtime compensatory time shall be paid at a rate of compensation not less than either the average regular rate received by such employee during the last three years of the employee's employment or the final regular rate received by such employee, whichever is higher.

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### Overtime Hourly Rate of Pay

The hourly rate of pay is the rate published by the Office of State Personnel and is obtained by dividing the annual salary by 2080 hours (52x40).

## Hours of Work and Overtime Compensation (continued)

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The rate that must be used in computing overtime is referred to as the regular hourly rate. The regular hourly rate must include all remuneration for employment paid to, or on behalf of, the employee, except payments specifically excluded by the Act. Payments that are not excluded and must be included in the hourly rate are: (a) Shift Premium Pay, (b) Longevity Pay as explained below and (c) On-Call Compensation. These payments must be included in order to comply with the provisions of the Fair Labor Standards Act.

Longevity pay must be included in the regular rate when computing overtime.

Overtime for an employee working in two positions with different rates of pay is paid at the average of the two rates of pay for each position.

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### Non-Overtime Workweeks

When an employee works 40 hours or less during a workweek because of vacation, holidays, or sick leave, the regular weekly salary is paid in accordance with established personnel policies.

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### The Workweek

A workweek is a regularly recurring period of 168 consecutive hours. The workweek need not coincide with the calendar week. It may begin any day of the week and any hour of the day, but it must in each case be established in advance. The workweek may be changed, but only if the change is intended to be permanent and is not made to evade the overtime policy.

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### Gap Hours

For permanent subject-FLSA employees whose regular work schedule is less than 40, gap hours are those hours that are caught in the gap between the maximum hours of work required to meet the work schedule and the overtime threshold. For example, if a permanent part-time employee is required to work 20 hours a week, the hours worked between 21 and 40 would be considered "gap hours."



## Hours of Work and Overtime Compensation (continued)

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For permanent subject-FLSA law enforcement employees whose regular work schedule is 28 days, gap hours are those hours that are caught in the gap between 160 hours and 171 hours worked before overtime compensation begins.

Gap hours can also occur during a workweek when a permanent subject-FLSA employee takes a holiday, civil leave, or other management approved leave that is not offset by hours worked in the same workweek. Example, if a full-time employee has a holiday on Monday, but also works 40 hours in the same workweek as the holiday. The employee will receive 8 hours pay for the holiday, 32 hours regular straight-time pay, and 8 additional hours compensation.

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### Gap Hours Compensation

Employees shall receive straight time pay for the gap hours worked with the provision that agencies will be given the option of providing cash payment or compensatory time for gap hours worked. The decision to pay cash versus compensatory time shall not be an employee decision. The agency head, or his designee, shall determine the best method of compensation for gap hours worked based on consideration of budget and organization needs of the agency. The decision to pay cash versus compensatory time should be applied consistently throughout an agency. The agency head shall report their compensation method to the Office of State Human Resources. Exceptions to the agency's chosen compensation method must be reviewed and approved by the Office of State Human Resources.

The following provisions apply to Gap Hours Compensatory Time:

- Gap hours compensatory time cannot be merged with overtime compensatory time or any other compensatory leave accounts.
- There is no maximum accumulation for gap hours compensatory time. Agencies may choose to pay out accumulated compensatory time at any time based on consideration of budget and organization needs.

## Hours of Work and Overtime Compensation (continued)

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- Gap hours compensatory time shall be taken before any vacation or bonus leave. (Exceptions may be made for retirees who may need to exhaust vacation leave prior to retirement.)
- Gap hours compensatory time shall be taken within twelve months from the date the work is performed. If not taken within 365 days, the time shall be paid out in the next paycheck.
- If an employee separates before taking gap hours compensatory time, it shall be paid in a lump sum along with unused vacation.
- If an employee transfers to an exempt-FLSA position or to another agency before taking gap hours compensatory time, it shall be paid in the current or next regular paycheck by the releasing agency.

Note: Temporary subject-FLSA employees or other hourly subject-FLSA employees who are in a non-leave earning appointment type shall receive straight time monetary payment for a standard 40-hour workweek, and an additional amount equal to 1½ times the employee's regular hourly rate for all hours worked in excess of 40. Also, temporary subject-FLSA Law Enforcement employees shall receive straight time monetary payment for all hours worked up to 171 hours, and an additional amount equal to 1½ times the employee's regular hourly rate for all hours worked in excess of 171. There is no option to award overtime compensatory time or gap hours compensatory time for these temporary/hourly employees.

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### Hours Worked

Generally, all time during which an employee is required, suffered, or permitted to be on the employer's premises on duty or at a prescribed work place, except for meals or other periods when the employee is free from duty, is considered as hours worked. This is so even if the duties are pleasurable rather than burdensome and even if no productive work is actually performed.

As a general rule, hours worked will include:

## Hours of Work and Overtime Compensation (continued)

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- all time during which an employee is required to be on duty on the employer's premises or at a prescribed work place, and
  - all time during which an employee is suffered or permitted to work whether or not required to do so. In the large majority of cases, the determination of an employee's working hours will be easily calculable under this formula and will include, in the ordinary case, all hours from the beginning of the work day to the end with exception of periods when the employee is relieved of all duties for the purpose of eating meals.
- 

### Unauthorized Work

Hours worked by an employee without the employer's permission or contrary to instructions may or may not be considered as hours worked. Unrecorded hours worked during a workweek by an employee at the job site or at home must be counted as hours worked if the employer knows or has reasons to know of such practice. The employer must enforce the no-work rule and may not unjustly benefit from work performed without knowledge of it.

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### On Call

Time spent by an employee who is required to remain on call on the employer's premises or so close thereto that the time cannot be used for the employee's own purposes is considered working time. Employees who are merely required to leave word as to where they may be reached are not on call in this sense.

The fact that an employee lives on the employer's premises and is on call for 24 hours a day does not mean that the employee is entitled to pay for all those hours. Such an employee has regular duties to perform but is subject to work at any time in the event of an emergency. Ordinarily, employees have a normal nights sleep, ample eating time and may, during certain periods, come and go as the employee pleases.

An agreement should be reached with an employee in this category as to the extent of duty which will make clear the time that should be considered as hours not worked. As a

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## Hours of Work and Overtime Compensation (continued)

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rule, allowance for 8 hours sleep and 3 hours for meal periods might be reasonable, plus any other hours that the employee may be free of unnecessary restrictions of use of the time.

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### Vacation, Sick Leave and Holidays

In determining the number of hours worked by an employee within a given week, time spent on vacation, sick leave, and holidays will not be counted as time worked. Such time off must be included in straight-time pay, but is not included in computing hours of work for overtime pay.

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### Meal Period

A bona fide meal period is a span of at least 30 consecutive minutes (never less) during which an employee is completely relieved of duty and free to use the time for his/her own purposes. It is not counted as hours worked or paid time. Any so-called "meal period" of less than 30 consecutive minutes must be paid as hours worked.

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### Grievance Time

The time an employee spends during a regular work schedule in adjusting a grievance under the State policy on Employee's Appeals and Grievances is work time. Such time spent outside the employee's regularly work schedule is work time only if the employee's attendance is required by the agency or the State.

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### Training Time

Required attendance at training sessions, workshops and other meetings, whether before, during or after the employee's regular work schedule, is work time.

Voluntary attendance at training sessions, workshops and other meetings is not work time. Attendance is voluntary only if the employee is not led to believe that working conditions or continued employment would be adversely affected by nonattendance.

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## Hours of Work and Overtime Compensation (continued)

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### **Travel Time**

Whether travel time is considered as hours worked depends on the circumstances and should be determined on a case-by-case basis.

#### **Home To Work**

An employee who travels from home before the regular workday and returns home at the end of the workday is engaged in ordinary home to work travel that is a normal incident of employment. This is true whether the employee works at a fixed location or at different job sites. Normal travel from home to work is not work time.

#### **Home To Work On Special One-Day Assignments in Another City**

When an employee who regularly works at a fixed location in one city is given a special one-day assignment in another city, such travel cannot be regarded as home-to-work travel. For example, an employee who works in Raleigh with regular working hours from 8:30 a.m. to 5:30 p.m., may be given a special assignment in another city, with instructions to leave Raleigh at 7:00 a.m. The employee arrives at 12 noon, ready for work. The special assignment is completed at 3:00 p.m., and the employee arrives back in Raleigh at 8:00 p.m. Such travel cannot be regarded as ordinary home-to-work travel occasioned merely by the fact of employment. It was performed for the State's benefit and would, therefore, qualify as an integral part of the "principal" activity that the employee was hired to perform on that particular workday. All the time involved, however, need not be counted as work time. Since, except for the special assignment, the employee would have had to report to the regular work site, the travel between home and the airport, or the usual time required to travel from home to work may be deducted, such time being in the "home-to-work" category. Also, of course, the usual mealtime would be deductible.

#### **Travel That Is All In The Day's Work**

Time spent by an employee in travel, as part of the employee's principal activity, such as travel from job site to job site during the workday, must be counted as hours worked. When an employee is required to report at the employer's premises, or at a meeting place, to receive instructions or to perform other work there, the travel time for this designated place to the work place is part of the day's work and must be counted as hours worked.

## Hours of Work and Overtime Compensation (continued)

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If an employee normally finished work at a particular job site at 5:00 p.m., and is required to go to another job that is finished at 8:00 p.m., and is required to return to the employer's premises arriving at 9:00 p.m., all of the time is working time. However, if the employee goes home instead of returning to the employer's premises, the travel after 8:00 p.m. is home-to-work travel and is not hours worked.

### Travel Away From Home Community

Travel that keeps an employee away from home overnight is travel away from home. Travel time away from home community is work time when it cuts across the employee's regular scheduled workdays. The time is not only hours worked on regular working days during normal working hours but also during the corresponding hours on nonworking days. Therefore, if an employee regularly works from 8:30 a.m. to 5:30 p.m., from Monday through Friday, the travel time during these hours is work time on Saturday and Sunday as well as the other days. Regular meal period time is not counted. That time spent in travel away from home outside of regular working hours (8:30 - 5:30) as a passenger on airplane, train, bus, or automobile is not considered as work time. The example below will help explain the accountability for travel time away from home community.

#### Example:

An employee who has headquarters in Raleigh leaves for Asheville on Sunday afternoon at 2:00 p.m., and arrives in Asheville at 7:00 p.m.:

- The 3-1/2 hours traveled between 2:00 p.m. and 5:30 p.m., are hours worked and must be included in the total hours worked within the workweek. If the total hours worked exceeds 40 per week, the employee is to be compensated in accordance with the State's overtime time-off policy.
- The 1-1/2 hours traveled between 5:30 p.m. and 7:00 p.m. are not considered as time worked for the purpose of determining total hours worked. However, it shall be considered as time earned and may be given as time off on straight-time basis.

Administrative, Executive, and Professional employees may be granted time off as a result of travel in accordance with the agency leave policy.

## Hours of Work and Overtime Compensation (continued)

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### Recordkeeping

Records of hours worked and wages paid are required to be kept for each employee subject to this policy. Each agency head is responsible for making available the following information for review by Federal and State auditors and the Office of State Human Resources. Records must be preserved for at least three years.

- Name
  - Home Address
  - Date of Birth, if under 19
  - Sex and position classification in which employed (sex may be indicated by use of prefixes Mr., Mrs. or Ms.)
  - Time and day of week the workweek or work period begins
  - Total wages paid each pay period
  - Date of payment and pay period covered
  - Basis on which wages are paid (such as \$10.00 hr., \$400 wk., or \$1600 a month)
  - Regular hourly rate of pay for any work week or work period in which overtime is worked
  - Amount and nature of each payment excluded from regular rate
  - Hours worked each workday and total hours worked each workweek or work period
  - Total daily or weekly straight-time earnings or wages
  - Total overtime earnings for the workweek
  - Total additions to or deductions from wages paid each pay period plus the dates, amounts and nature of the items which make up the total additions and deductions
  - Compensatory time accrued, used or paid
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## Hours of Work and Overtime Compensation (continued)

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### Enforcement

The Secretary of Labor is authorized by the FLSA to sue for back wages and for an equal amount of liquidated damages without a written request from the employees even though the suit might involve issues of law that have not been finally settled by the courts.

The act also specifically authorizes suits against public employers by their employees. This amendment clarifies the right of State and local government employees to bring private actions in Federal and State courts against their employers to enforce their rights and recover any back wages that may be due under the Fair Labor Standards Act.

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### Executive, Administrative and Professional Employees

The exempt or non-exempt status of any particular employee must be determined on the basis of whether duties, responsibilities and salary meet the requirements for exemption. The employee's title or classification is of no significance in determining whether the tests are met.

It shall be the responsibility of the agency head to determine whether the exemption is applicable to particular employees.

Following is an outline of the terms and conditions to be followed in determining those employees exempt from this policy.

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### Executive Employee Exemption

To meet the executive exemption, an employee has the following requirements:

- primary duty is management of the enterprise or of a customarily recognized department or subdivision;
- customarily and regularly directs the work of two or more employees;
- has authority to hire or fire other employees or whose suggestions and recommendation as to hiring, firing, advancement, promotion or other change of status of other employees are given particular weight; and



## Hours of Work and Overtime Compensation (continued)

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- is paid at least \$455 a week or \$23,660 annually free and clear of board, lodging or other non-cash items.

**Primary Duty** - Primary duty means the principal, main, major or most important duty that the employee performs. An employee's primary duty is determined by looking at all the facts, with the major emphasis on the character of the employee's job as a whole.

Important factors to consider when determining the primary duty include:

- the relative importance of the exempt duties as compared with other types of duties;
- the amount of time spent performing exempt work;
- the employee's relative freedom from direct supervision; and
- the relationship with the employee's salary and wages paid to other non-exempt workers for the same kind of nonexempt work.

Employees who spend more than 50% of their time performing exempt work will generally satisfy the primary duty requirement. However, the regulations do not **require** that exempt employees spend more than 50% of their time performing exempt work.

**Management** - The primary duty must be management. Management includes activities related to supervising employees such as interviewing, selecting and training of employees; setting and adjusting pay rates and work hours; conducting performance appraisals, handling employee complaints and grievances; and disciplining employees. Other management duties include planning and controlling the budget; monitoring or implement legal compliance measures; providing for the safety and security of employees or property; planning and apportioning work among employees; and other functions related to running or servicing a business.

## Hours of Work and Overtime Compensation (continued)

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A “customarily recognized department or subdivision” must have a permanent status and continuing function. To meet this requirement, this does not include a mere collection of employees assigned from time to time to a specific job.

**Supervision of other workers** - The phrase “customarily and regularly” means a frequency that must be greater than occasional but which may be less than constant. Normally an exempt executive employee must direct the work of other employees at least once a week, but not every day. The phrase “two or more other employees” means that the exempt manager must supervise two full-time employees or equivalent. The exempt executive generally must supervise other employees who work a total of 80 work hours.

**Particular weight** - An exempt executive employee must have “the authority to hire or fire other employees” or must have his or her suggestions and recommendations as to hiring, firing advancement, promotion or any other change of status be given “particular weight.”

Factors to consider when determining whether an employee’s recommendation is given “particular weight” include, but are not limited to:

- whether it is part of the employee’s job duties to make recommendations;
- the frequency with which recommendations are made or requested (does not include occasional suggestions); and
- the frequency with which the recommendations are relied upon.

Suggestions/recommendations may be reviewed by a higher-level manager. The exempt employee need not have authority to make the ultimate decision.

**Concurrent Duties** - Concurrent performance of exempt and nonexempt work does not automatically disqualify an employee from exemption.

- Exempt employees generally decide when to perform nonexempt duties and remain responsible for success or failure of business operations.

## Hours of Work and Overtime Compensation (continued)

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- Nonexempt employees generally are directed by a supervisor to perform the exempt work or perform the exempt work for defined time periods

For example, an assistant manager can supervise employees, and serve customers at the same time without losing the exemption. In contrast, a relief supervisor or working supervisor whose primary duty is performing nonexempt work on the production line in a manufacturing plant does not become exempt merely because he occasionally has some responsibility for directing the work of other nonexempt production line employees when, for example, the exempt supervisor is on vacation.

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### Administrative Employee Exemption

To meet the administrative exemption, an employee has the following requirements:

- primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers;
- primary duty includes the exercise of discretion and independent judgment with respect to matters of significance; and
- is paid at least \$455 a week or \$23,660 annually free and clear of board, lodging or other non-cash items

**Management or General Business Operations** - The phrase "management or general business operations" refers to the type of work performed by the employee. To meet this requirement, the employee must perform work directly related to assisting with the running or servicing of the business. This includes but is not limited to, work in such areas as tax, finance, accounting, budgeting, auditing, insurance; quality control, purchasing; advertising, marketing; research, safety and health; human resources; public relations; legal and regulatory compliance; and similar activities.

**Discretion and Independent Judgment** - Exercising "discretion and independent judgment" generally involves an employee comparing and evaluating possible courses of conducting and acting or making a decision after the various possibilities have been

## Hours of Work and Overtime Compensation (continued)

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considered. The term implies that the employee has authority to make an independent choice, free from immediate direction or supervision. However decisions and recommendations may be reviewed at a higher level and, upon occasion, revised or reversed. The term “matters of significance” refers to the level of importance or consequence of the work performed.

Discretion and independent judgment factors include but are not limited to whether the employee:

- has authority to formulate, affect, interpret, or implement management policies or operating practices;
- carries out major assignments in conducting the operations of the business;
- performs work that affects business operations to a substantial degree, even if the employee’s assignments are related to the operation of a particular segment of the business;
- has the authority to commit the employer in matters that have significant financial impact;
- has the authority to waive or deviate from established policies and procedures without prior approval;
- has authority to negotiate and bind the company on significant matters;
- provides consultation or expert advice to management;
- is involved in planning long or short term business objectives;
- investigates and resolves matters of significance on behalf of management;
- represents the company in handling complaints, arbitrating disputes or resolving grievances.

Discretion and independent judgment **does not include** applying well-established techniques, procedures or specific standards described in manuals or other sources; clerical or secretarial work; recording or tabulating data; or performing mechanical, repetitive, recurrent or routine work. Exempt employees may use manuals, guidelines or other established procedures if they contain or relate to highly technical, scientific, legal

## Hours of Work and Overtime Compensation (continued)

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financial, or other similar complex matters and they can be understood or interpreted by those with advanced or specialized knowledge and skills.

Examples of employees that would meet the administrative exemption criteria:

- an employee who leads a team of other employees assigned to complete major projects;
- an executive assistant or administrative assistant to a business owner or senior executive of a large business who has been delegated authority regarding matters of significance; or
- a management consultant who studies the operations of a business and proposes changes in organization.

Examples of **non-exempt** positions include ordinary inspection work involving well established techniques and procedures; examiners and graders who perform work involving comparisons of products with established standards; and public sector inspectors or investigators.

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### Professional Employee Exemption

**Learned Professional** - To meet the earned professional exemption, an employee has the following requirements:

- primary duty must be performance of work requiring advanced knowledge;
- is in a field of science or learning;
- customarily acquired by a prolonged course of specialized intellectual instruction; and
- is paid at least \$455 a week or \$23,660 annually free and clear of board, lodging or other non-cash items. (Exception: The salary level and salary basis tests do not apply to doctors, lawyers, and teachers.)

**Advanced Knowledge** - The learned professional exemption applies only if the employee's primary duty is the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course in specialized

## Hours of Work and Overtime Compensation (continued)

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intellectual instruction. The work requiring “advanced knowledge” means work that is predominately intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment. An exempt professional employee uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances. It is not work involving routine mental, manual, mechanical or physical work. Advanced knowledge cannot be attained at the high school level.

Fields of science are occupations with recognized professional status. Fields of science or learning include law, theology, medicine, pharmacy, accounting, teaching, architecture, engineering, and the physical, chemical or biological sciences.

The phrase “prolonged course of specialized intellectual instruction” means that the learned professional exemption is limited to professions where specialized, academic training is a standard prerequisite for entering the profession. The best evidence that an employee meets this requirement is possession of the appropriate academic degree. It is not available for occupations that may be performed with only the general knowledge acquired by an academic degree in a field; knowledge acquired through an apprenticeship; or training in the performance of routine mental, manual, mechanical or physical processes.

Exemption is also available to employees in such professions who possess substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attain the advanced knowledge through a combination of work experience and intellectual instruction.

Occupations meeting professional exemptions include doctors, physician assistants, lawyers, teachers, architects, engineers, pharmacists, chefs, and actuaries.

**Creative Professional** - To meet the creative professional exemption, the employee’s primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor

## Hours of Work and Overtime Compensation (continued)

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The recognized fields of artistic or creative endeavor include music, writing, acting and the graphic arts. Exempt creative professionals include musicians, composers, conductors, novelists, screenwriters, actors, painters and photographers.

The requirement of “invention, imagination, originality of talent” distinguishes the creative professions from work that primarily depends on intelligence, diligence and accuracy. The determination of exempt creative professional status must be made on a case-by-case basis, based on the extent of the invention, imagination, originality or talent exercised by the employee.

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### Computer Employee Exemption

To qualify for the computer employee exemption an employee must meet the following tests:

- is compensated either on a salary or fee basis at a rate not less than \$455 a week or, if compensated on an hourly basis, at a rate not less than \$27.63 an hour; and
  - is employed as a computer system analyst, computer programmer, software engineer or other similar skilled worker in the computer field performing the duties described below.
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- The employee’s primary duty must consist of:
    - (1) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
    - (2) the design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
    - (3) the design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
    - (4) a combination of the aforementioned duties, the performance of which requires the same level of skills.

## Hours of Work and Overtime Compensation (continued)

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The computer employee exemption **does not include** employees engaged in the manufacture or repair of computer hardware and related equipment. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computers systems analysis and programming or other similarly skilled computer-related occupations identified in the primary duties test described above, are also not exempt under the computer employee exemption.

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### Highly Compensated Test

An employee must meet the following criteria to meet the highly compensated test exemption:

- total annual compensation is at least \$100,000;
- is paid at least \$455 per week on a salary or fee basis;
- performs office or non-manual work; and
- customarily and regularly performs any one or more of the exempt duties identified in the standard tests for the executive, administrative or professional exemptions.

Total annual compensation does not include credit for board lodging or other facilities, payments for medical or life insurance, and contributions to retirement plans or other fringe benefits. Tasks or work performed “customarily and regularly” include work normally and recurrently performed every workweek. If a highly compensated “white collar” employee customarily and regularly performs one or more exempt duties, detailed analysis of all the job duties performed is not necessary. For example, an employee may qualify as a highly compensated executive employee if the employee customarily and regularly directs the work of two or more other employees, even though the employee does not meet all of the other requirements in the standard test for exemption as an executive.



## Hours of Work and Overtime Compensation (continued)

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### First Responders Not Exempt

Police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees (“first responders”) who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victim, preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspected an convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects preparing investigative reports; and other similar work **are not exempt** under Section 13 (a) (1) of the regulations and thus are protected by the minimum wage and overtime provisions of the FLSA.

First responders generally do not qualify as exempt employees because their primary duty is not management. They are not exempt administrative employees because their primary duty is not the performance of office or non-manual work directly related to the to management or general business operations of the employer or their employer’s customers. They are not exempt learned professionals because their primary duty is not the performance of work requiring knowledge of an advance type in a field or learning customarily acquired by a prolonged course of specialized intellectual instruction. Although some first responders have college degrees, a specialized academic degree is not a standard prerequisite for employment.

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### SPECIAL PROVISIONS

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#### Child Labor

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. Of particular interest to all agencies are Hazardous Orders prohibiting

## Hours of Work and Overtime Compensation (continued)

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the employment of minors between 16 and 18 years of age such as motor vehicle drivers and helpers, operators of elevators and in occupations involving the operation of certain power driven woodworking and bakery machines.

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>)

The FLSA provides for a civil penalty of up to \$1,000 for each violation of the child labor provisions of the Fair Labor Standards Act.

Minors will be paid the same rate of pay as other employees doing similar type work, including overtime premium pay for hours worked in excess of 40 per week. The only exception is for agriculture workers as explained below.

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### Agriculture Workers

The FLSA exempts agricultural employees from overtime compensation, however it is State policy that hours of work for these employees are highly variable during seasonal periods and the hours worked may be averaged over a 12-month period but shall not exceed 2080 hours. Upon leaving State service, an agricultural employee shall be paid for any accumulated overtime balance remaining in the time records.

Agricultural workers are defined as workers who cultivate the soil or grow or harvest crops, dairying, or who raise livestock, bees, poultry or perform closely related research

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### Student Workers

The employment of students by the institutions in which they are enrolled is designed primarily to constitute one type of student financial aid. Such employment usually is characterized by flexible accommodation of the student's primary involvement in educational pursuits. Thus, in terms of hours worked, scheduling of work, and required

## Hours of Work and Overtime Compensation (continued)

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skill and productivity, such student workers are materially distinguishable from regular career employees.

Any person who during any period of enrollment as a student in a public educational institution concurrently is employed by that institution shall be considered an employee within the meaning of and subject to the State Human Resources Act only if the student-employee is employed by the institution on a full-time permanent basis (as defined by regulations issued by or under the authority of the State Human Resources Commission) in a permanent position established and governed pursuant to requirements of the State Human Resources Commission.

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### In-Residence Employment

Employees such as Cottage Parents and Dormitory Directors who reside on, or spend a substantial amount of time on the premises, are usually on duty or subject to call at all times except when the dormitory is closed. It is necessary that these employees be required to work irregular schedules on a 5, 6, or 7-day workweek. Where this type of employment arrangement is necessary, the hours of work and overtime procedures must be established so as to accommodate work requirements.

While it will be difficult to determine the exact number of hours worked by such employees, it is permissible, under ruling of the Wage and Hour Division, to arrive at a reasonable agreement with the employees as to what constitutes the normal number of hours worked during a given workweek, taking into consideration the time they engage in private pursuits such as eating, sleeping, entertaining and the time they are able to be away from the dormitory for personal reasons. The following basis of pay may be adopted for employees in such categories:

**Salary** - The annual salary and monthly salary rates of an employee are established under current personnel policy for each position to which the appointment is made. With the employee's agreement, this salary is to represent the employee's straight-time pay for the agreed upon normal number of hours on duty per week. The hourly rate of pay is

## Hours of Work and Overtime Compensation (continued)

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to be determined by dividing the stated annual salary by 52 to obtain the weekly salary and dividing this amount by 40 to obtain the hourly rate.

**Overtime Compensation** - Under this plan it is anticipated that weekly schedules will fluctuate and workweek schedules will be provided on a 40-45, 55, etc. basis. The employee is to receive straight-time pay for the established workweek with the proviso that where the agreed upon workweek exceeds 40 hours an additional amount equal to one-half of the hourly rate times the number of hours in excess of 40 will be added to the base pay. When it is necessary to work in excess of the agreed upon workweek hours, the employees will be paid time and one-half the hourly rate for all hours worked in excess of the normal workweek.

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### Registered Nurses

There are work units in State government where the presence of one or more Registered Nurses is required at all times. Due to emergencies or to labor market shortages, occasions occur when Registered Nurses are required to work additional hours in excess of their regular weekly schedule. There is often little or no opportunity to allow these employees to take time off on a straight time basis.

When it is necessary for an employee in a professional nursing class to work more than a regularly scheduled 40-hour workweek the excess hours shall be subject to hours of work and overtime compensation. When possible, the compensation should be in the form of time off. When the person in the position normally has twenty-four hours responsibility, (as in the case of some supervisors and most directors), overtime compensation provisions shall not be applicable.

The overtime premium pay will be based on the employee's regular hourly rate of pay, except in cases where an employee may be assigned duties at a lower classification level; in such cases the base rate of pay may not exceed the maximum rate of the lower level assignment.

## Hours of Work and Overtime Compensation (continued)

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### Law Enforcement Activities

The term law enforcement activities refers to any employee (1) who is a uniformed or plainclothes member of a body of officers and subordinates who are empowered by statute or local ordinance to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power of arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction and study which typically includes physical training, self-defense, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics. Employees who meet these tests are considered to be engaged in law enforcement activities regardless of their rank, or of their status as “probationary” or “permanent” employee, and regardless of their assignment to duties incidental to the performance of their law enforcement activities.

The term “employees in law enforcement activities” also includes “security personnel in correctional institutions”. This includes any government facility maintained as part of a penal system for the incarceration or detention of persons suspected or convicted of having breached the peace or committed some other crime. Such facilities include penitentiaries, prisons, prison farms, county, city and village jails, precinct house lockups and reformatories. Employees of correctional institutions who qualify are those who have responsibility for controlling and maintaining custody of inmates and of safeguarding them from other inmates or for supervising such functions regardless of whether their duties are performed inside the correctional institution or outside the institution (as in the case of road gangs). These employees are considered to be engaged in law enforcement activities regardless of their rank. Law enforcement employees may include, for example, fish and game wardens or criminal investigative agents assigned to the attorney general’s staff or any other law enforcement agency concerned with keeping public peace and order and protecting life and property.

## Hours of Work and Overtime Compensation (continued)

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Not included in the term “employee in law enforcement activities” are the so-called “civilian” employees of law enforcement agencies or correctional institutions that engage in such support activities as those performed by dispatchers, radio operators, apparatus and equipment maintenance and repair workers, janitors, clerks, and stenographers. Nor does the term include correctional program assistants, directors or supervisors or employees in correctional institutions who engage in building repair and maintenance, culinary services, teaching or in psychological, medical and paramedical services. This is so even though such employees may, when assigned to correctional institutions, come into regular contact with the inmates in the performance of their duties, or may be required by statute or regulation to be certified by the Criminal Justice Training and Standards Council.

Because of the varied nature of law enforcement activities throughout the State, it may not be possible for all law enforcement classifications to be considered under the same plans for overtime. Under the Wage and Hour Law two options are permissible

- (1) For schedules requiring a 40-hour workweek, the policies on hours of work and overtime pay for a 40-hour workweek will apply.
- (2) For schedules requiring more than 40 hours in a workweek the following is permissible. The “work period” will consist of 28 consecutive days. In the workweek period of 28 consecutive days the employee shall receive, for tours of duty, which in the aggregate exceed 171 hours, compensation at a rate of one and one-half times the regular hourly rate at which employed. (The regular hourly rate is the rate computed on a 40-hour basis and published in the Salary Plan by the Office of State Human Resources, plus shift premium pay, if any.)

See the “Gap Hours” section of this policy for provisions on how to compensate for hours worked between 160 and 171.

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### Overtime/ Compensatory Time off Option for Law Enforcement, Fire Protection and Emergency Response Personnel

The following provisions are applicable only to agencies that employ persons in nonexempt law enforcement/fire protection/emergency response positions. Such

## Hours of Work and Overtime Compensation (continued)

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agencies may, by letter to the State Human Resources Director, choose to utilize the following overtime compensation provisions in lieu of the customary overtime compensation provisions elsewhere in this policy:

- (1) Under these provisions, nonexempt persons in law enforcement/fire protection/emergency response positions who work more than 171 for law enforcement employees or 212 hours for fire protection employees in a 28 consecutive day work period may be given compensatory time off in lieu of cash payment for these overtime hours worked.
- (2) Overtime compensatory time off earned must be used no later than 180 days from the date the compensatory time off was earned.
- (3) Overtime compensatory time off earned but not used within 180 days from its being earned must be paid for in cash in the first pay period following the expiration of the 180 days.
- (4) Overtime earned under these provisions must be compensated at the rate of one and one-half time the regular hourly rate or one and one-half hours of compensatory time off for each hour of overtime earned.
- (5) If an employee under these provisions has a positive balance of earned overtime compensatory time off and is promoted to an exempt position, the accumulation of earned compensatory time off must be paid in cash before the employee goes into the exempt position.
- (6) Employees cannot accumulate more than 480 hours of compensatory time. Any compensatory time earned in excess of 480 hours must be paid in cash as earned.

The exempt or non-exempt status of law enforcement personnel will be determined under the terms of exemption for Executive, Administrative and Professional employees.

Employees engaged in law enforcement activities may also engage in some non-law enforcement work as an incident to or in conjunction with their law enforcement activities. The performance of such work will not cause the employee to lose law enforcement status unless such work exceeds twenty percent of the total hours worked

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## Hours of Work and Overtime Compensation (continued)

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by that employee during the workweek or the applicable work period. A person who spends more than twenty percent of his working time in non-law enforcement activities shall not be considered as being engaged in law enforcement activities for coverage under this subsection of policy.

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### Overtime Pay for Exempt Employees When the Governor Declares an Emergency or a Disaster

Agencies are authorized to pay overtime (1) at time and one-half for FLSA non-exempt employees and (2) at straight-time rates to FLSA exempt employees when all of the following conditions occur:

- There is a gubernatorial declaration of a state of emergency/disaster;
- Employees are performing law enforcement activities or response/recovery activities during the emergency/disaster;
- There is a requirement by management for employees to work overtime during the emergency/disaster; and
- Funds are available. The agency shall determine if funds are available and obtain prior approval from the Office of State Budget and Management to use such funds to cover the overtime payments. The agency shall distribute any overtime pay consistently with a pre-defined standard that treats all employees equitably.

The absence of any of these conditions will require the agency to follow (1) the Hours of Work and Overtime Policy for FLSA nonexempt employees and (2) the agency's compensatory leave policy for FLSA exempt employees.

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### Tour of Duty and Compensable Hours of Work

The term "tour of duty" is a unique concept applicable only to employees in law enforcement and fire protection activities. This term means the period of time during which an employee is considered to be on duty for purposes of determining compensable hours. It may be a scheduled or unscheduled period. Scheduled periods also include time spent in work outside the "shift" which the public agency employer



## Hours of Work and Overtime Compensation (continued)

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assigns. Unscheduled periods include time spent in court by officers, time spent handling emergency situations and time spent working after a shift to complete an assignment. Such time must be included in the compensable tour of duty even though the specific work performed may not have been assigned in advance. The tour of duty does not include time spent substituting for other employees by mutual agreement as set out elsewhere in this policy. The tour of duty also does not include time spent in volunteer law enforcement and fire protection activities performed for a different jurisdiction.

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### Occasional or Sporadic Employment in a Different Capacity

Where employees, solely at their option, work occasionally or sporadically on a part-time basis for the same public agency in a different capacity from their regular employment, the hours worked in the different jobs shall not be combined for the purpose of determining overtime compensation under this policy.

**“Occasional or Sporadic”** - The term “occasional or sporadic” means infrequent, irregular or occurring in scattered instances. There may be an occasional need for additional resources in the delivery of certain types of services which is at times best met by the part-time employment of an individual who is already employed by the State. Where employees freely and solely at their own option enter into such activity, the total hours worked will not be combined for purposes of determining any overtime compensation due on the regular, primary job. However, in order to prevent overtime abuse, such hours worked are to be excluded from computing overtime compensation due only where the occasional or sporadic assignments are not within the same general occupational category as the employee’s regular work.

In order for hours of such work not to be combined with hours worked on the primary, regular job, the employee’s decision to work in a different capacity must be made freely and without coercion. The employee’s decision to perform such work will be considered to have been made at his sole option when it has been made without fear of reprisal or promise of reward.

## Hours of Work and Overtime Compensation (continued)

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Typically, recreation and park facilities, university athletic facilities or other public events may need to utilize employees in occasional or sporadic work. Employment in such activity may be considered occasional or sporadic for regular State employees even when the need for such work can be anticipated because it recurs seasonally (the State Fair, for example).

In order to be “occasional or sporadic” it is essential that the character of the activity be intermittent and irregular, rather than continuous or regular.

In order for employment in these occasional or sporadic activities not be considered subject to the overtime provisions of this policy, the regular State employment of the individual must also be in a different capacity; that is, it must not fall within the same general occupational category.

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### Substitution

Two persons employed by the same agency may agree, solely at their option and with the approval of the agency, to substitute for one another during scheduled work hours in performance of work in the same capacity. The hours worked in a substituting capacity shall be excluded from the calculation of hours for which the substituting employee is entitled to overtime compensation under this policy. This provision will apply only if the employees’ decisions to substitute for one another are made freely and without coercion, direct or implied. An agency may suggest that an employee substitute or “trade time” with another employee working in the same capacity during regularly scheduled hours, but each employee must be free to refuse to perform such work without sanction, and without being required to explain or justify that decision. Such a decision will be considered voluntary when it has been made without fear of reprisal or promise of reward and for the employee’s convenience, rather than the convenience of the agency.

Agencies whose employees engage in substitute work under this provision are not required to keep a record of the hours of the substitute work. There is also no limit on the

## Hours of Work and Overtime Compensation (continued)

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period of time during which hours worked may be traded or paid back among employees. Any agreement between employees to substitute for one another at their own option must be approved by the agency; this approval must be prior to the substitution and the agency must know what work is being done, who is doing the work, and when and where the work is being done. The type of approval (formal, informal, oral, written or otherwise) is left to the decision of the agency.

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### Volunteers

State policy does not recognize volunteer work as creating an employer-employee relationship so as to require coverage under wage and hour and overtime compensation standards. The following provisions are intended to provide guidance in determining whether service performed is voluntary, and thus exempt from treatment under this policy.

A volunteer is one who performs hours of service for a State agency for civic, charitable or humanitarian reasons without promise or expectation of compensation for services provided. Service provided by a volunteer is not subject to the provisions of this policy. However, an individual shall not be considered a volunteer if the person is otherwise employed by the same agency to perform the same type of services as those for which the person proposes to volunteer. Volunteers may receive expenses, reasonable benefits, a nominal fee or any combination thereof without losing their status.

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# EXHIBIT C



*State of North Carolina*  
*Department of Public Safety*  
*Prisons*

Chapter:  
Section:  
Title: **Table of Contents**  
Issue Date: 05/21/19  
Supersedes: 08/24/15

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**POLICY & PROCEDURES**

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	.0310 - Processing Incoming and Outgoing Mail		
	.0311 - Packages and Other Items		



<b>CHAPTER D - PUBLIC COMMUNICATIONS (Continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.0500 - Public Relations/Media Policy</b>	<b>06/25/18</b>	<b>06/25/18</b>
	.0501 - General		
	.0502 - Matters of Public Record		
	.0503 - Role of the Communications Office		
	.0504 - Role of Facility Management		
	.0505 - Media Inquiries		
	.0506 - Release of Information In Crisis Situations		
<b>SECTION</b>	<b>.0600 - Access to Information/Inmate Records</b>	<b>11/14/11</b>	<b>11/14/11</b>
	.0601 - Inmate Records		
	.0602 - Research		
<b>SECTION</b>	<b>.0700 - Inmate Labor for Public Work Projects</b>	<b>11/22/05</b>	<b>09/07/07</b>
	.0701 - Policy		
	.0702 - Safety		
	.0703 - Compensation		
	.0704 - Approval of Contracts		
	.0705 - Suspension of Contracts		
	.0706 - Community Work Program		
	.0707 - Correction Enterprises		
<b>SECTION</b>	<b>.0800 - Inmate Access to Telephone</b>	<b>05/13/14</b>	<b>05/13/14</b>
	.0801 - General		
	.0802 - Responsibility		
	.0803 - Procedures		
	.0804 - Other Program Requirements		
<b>SECTION</b>	<b>.0900 - Victim Services</b>	<b>06/15/17</b>	<b>06/15/17</b>
	.0901 - Policy		
	.0902 - Sources		
	.0903 - Definitions		
	.0904 - Victim Confidentiality		
	.0905 - Roles and Responsibilities of the Office of Victim Services		
	.0906 - Roles and Responsibilities of the Rehabilitative Programs & Services Victim Services Coordinator		
	.0907 - Roles and Responsibilities of Prisons Region Program Coordinators		
	.0908 - Roles and Responsibilities of the Facility Victim Information Coordinators		
	.0909 - Notifications		
	.0910 - SAVAN		

<b>CHAPTER D - PUBLIC COMMUNICATIONS (Continued)</b>	<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
.0911 - Response to Significant Issues		
.0912 - Escape and Capture Procedures		
<b>SECTION .1000 - Role of Outside Agencies</b>	<b>Rescinded</b>	
.1001 - General		
.1002 - Purpose		
.1003 - Procedure		
<b>SECTION .1100 - Library Services</b>	<b>06/01/17</b>	<b>06/01/17</b>
.1101 - General		
.1102 - Procedures		
.1103 - Coordination and Supervision		

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<b>CHAPTER E - TREATMENT</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.0100 - Food and Nutrition Management</b>	<b>09/18/07</b>	<b>07/01/17</b>
	.0101 - Purpose		
	.0102 - General		
<b>SECTION</b>	<b>.0200 - Health Care Policy</b>	<b>08/01/17</b>	<b>08/01/17</b>
	.0201 - Division Responsibility		
	.0202 - Facility Responsibility		
	.0203 - Responsible Health Authority		
	.0204 - Staff Responsibility		
	.0205 - Central Office Staff		
	.0206 - Consultants		
	.0207 - Medical Autonomy		
	.0208 - Meetings and Reports		
	.0209 - Policy and Operating Procedures		
	.0210 - Review/Revision of Health Care Procedure Manual/Nursing Protocols and Chronic Disease Guidelines		
<b>SECTION</b>	<b>.0600 - Prison Dog Training Programs</b>	<b>06/15/17</b>	<b>06/15/17</b>
	.0601 - General		
	.0602 - Purpose		
	.0603 - Definitions		
	.0604 - Program Management		
	.0605 - Inmate Selection and Removal Criteria		
	.0606 - Roles and Responsibilities		
	.0607 - Routine and Emergency Veterinarian Care		
	.0608 - Apprenticeship		
<b>SECTION</b>	<b>.0700 - Work Release</b>	<b>06/15/17</b>	<b>06/15/17</b>
	.0701 - Purpose		
	.0702 - Work Release Eligibility		
	.0703 - Work Release Conditions		
	.0704 - Concurrent: Consecutive Sentences		
	.0705 - Probation Revoked		
	.0706 - Processing Procedures		
	.0707 - Other Requirements/Conditions		
	.0708 - Transportation		

<b>CHAPTER E - TREATMENT (continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.0900 - AA and NA Correctional Facility Representative Program</b>	<b>11/01/17</b>	<b>11/01/17</b>
	.0901 - General		
	.0902 - The Role of the AA or NA Correctional Facilities Representative		
	.0903 - The Role of the Prisons Staff Coordinator		
	.0904 - Eligibility Criteria for Representative		
	.0905 - Screening and Approval Process		
	.0906 - Authorization Process		
	.0907 - Approval Revocation or Dismissal		
	.0908 - Disapproval of AA/NA Correctional Facility Representative Applicant.		
	.0910 - One Time Volunteers		
	.0911 - Special Provisions		
<b>SECTION</b>	<b>.1100 - Restitution Program</b>	<b>09/18/07</b>	<b>06/30/10</b>
	.1101 - General		
	.1102 - Procedures - Active Sentence of Five Years or Less		
	.1103 - Procedures - Active Sentence More Than Five Years		
	.1104 - Procedures - Notification of Completed Restitution/Reparation		
<b>SECTION</b>	<b>.1300 - Study Release</b>	<b>06/15/17</b>	<b>06/15/17</b>
	.1301 - General		
	.1302 - Eligibility Requirements		
	.1303 - Study Release Conditions		
	.1304 - Application Procedure		
	.1305 - Reinstatement		
	.1306 - Study Release Fiscal Policies and Procedures		
	.1307 - Change in Education Plan		
	.1308 - Removal From or Completion of Study Release		
<b>SECTION</b>	<b>.1400 - Mandatory Education Program</b>	<b>06/01/17</b>	<b>06/01/17</b>
	.1401 - Mandatory Education Program		
	.1402 - Criteria for Mandatory Participation		
	.1403 - Identification of Inmates with Educational Deficiencies		
	.1404 - Assignment of Inmates to ABE/HSE		
	.1405 - Inmate Performance		
	.1406 - Disciplinary Action		
<b>SECTION</b>	<b>.1500 - Safety Policy</b>	<b>10/12/07</b>	<b>06/30/10</b>
	.1501 - Purpose		
	.1502 - Supervisory and Employee Responsibility		
	.1503 - Contracting Agency Responsibility		

<b>CHAPTER E - TREATMENT (continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.1700 - Mutual Agreement Parole Program (MAPP)</b>	<b>02/02/18</b>	<b>02/02/18</b>
	.1701 - General		
	.1702 - Procedures		
	.1703 - Implementation and Responsibilities		
	.1704 - Violation of the MAPP Agreement		
	.1705 - Termination of the MAPP Agreement		
<b>SECTION</b>	<b>.1800 - Non-English Speaking Offender Program</b>	<b>02/05/18</b>	<b>02/05/18</b>
	.1801 - Purpose		
	.1802 - Policy		
	.1803 - Definitions		
	.1804 - Non-English Speaking Offender Program		
	.1805 - Procedures		
	.1806 - Other Procedures		
<b>SECTION</b>	<b>.1900 - Recreation</b>	<b>08/28/17</b>	<b>08/28/17</b>
	.1901 - Purpose		
	.1902 - Coordination		
	.1903 - Equipment & Facilities		
	.1904 - Program Requirements		
<b>SECTION</b>	<b>.2000 - Social Service Programs</b>	<b>Rescinded</b>	
	.2001 - General		
	.2002 - Purpose		
	.2003 - Definitions		
	.2004 - Policy		
	.2005 - Procedures		
<b>SECTION</b>	<b>.2100 - Clothing, Bedding &amp; Personal Hygiene</b>	<b>06/30/14</b>	<b>06/30/14</b>
	.2101 - Purpose		
	.2102 - General		
	.2103 - Clothing & Bedding Supplies		
	.2104 - Clothing Issue		
	.2105 - Bedding & Linen Issue		
	.2106 - Bathing and Personal Hygiene		
	.2107 - Hair Care Services		
	.2108 - Medium and Close Custody Facility Shaver Systems & Battery Operated Razors		
<b>SECTION</b>	<b>.2200 - Inmate Construction Program</b>	<b>06/15/17</b>	<b>06/15/17</b>
	.2201 - Purpose		
	.2202 - Program Management		
	.2203 - Inmate Selection and Removal Criteria		
	.2204 - Housing of Inmate Construction Program Inmates		

<b>CHAPTER E - TREATMENT (continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.2300 - Parenting Program</b>	<b>06/15/17</b>	<b>06/15/17</b>
	.2301 - General		
	.2302 - Purpose		
	.2303 - Policy		
<b>SECTION</b>	<b>.2400 - Domestic Violence Education Program</b>	<b>06/15/17</b>	<b>06/15/17</b>
	.2401 - General		
	.2402 - Purpose		
	.2403 - Definitions		
	.2404 - Program Management		
	.2405 - Procedure		
	.2406 - Confidentiality		
<b>SECTION</b>	<b>.2500 - Inmate Death Procedure</b>	<b>05/10/17</b>	<b>05/10/17</b>
	.2501 - Purpose		
	.2502 - Policy		
	.2503 - Resource & Reference		
	.2504 - Procedures		
	.2505 - Facility Responsibilities		
	.2406 - Region Responsibilities		
<b>SECTION</b>	<b>.2600 - Reasonable Accommodation for Inmates with Disabilities</b>	<b>09/05/13</b>	<b>09/05/13</b>
	.2601 - Authority		
	.2602 - Purpose		
	.2603 - Applicability		
	.2604 - Definitions		
	.2605 - Policy		
	.2606 - Equal Access to Jobs, Programs, Activities and Services		
	.2607 - Procedures		
<b>SECTION</b>	<b>.2800 - Use of Naloxone Opioid Antagonist by Non-Medical Staff</b>	<b>04/15/19</b>	<b>NEW</b>
	.2801 - Purpose		
	.2802 - Definitions		
	.2803 - Policy		
	.2804 - Procedures		

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<b>CHAPTER F - CUSTODY AND SECURITY</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.0100 - Operational Searches</b>	<b>07/10/13</b>	<b>07/10/13</b>
	.0101 - Purpose		
	.0102 - Definitions		
	.0103 - Policy		
	.0104 - Searches of Inmates		
	.0105 - Searches of Visitors and Other Persons		
	.0106 - Searches of Employees		
	.0107 - Authority to Detain		
	.0108 - Complete Facility Search		
	.0109 - Disposition of Contraband		
<b>SECTION</b>	<b>.0300 - Inmate Marriage Requests</b>	<b>10/22/01</b>	<b>09/13/07</b>
	.0301 - General		
<b>SECTION</b>	<b>.0400 - Emergency Leave</b>	<b>09/05/14</b>	<b>09/05/14</b>
	.0401 - General		
	.0402 - Approving Authority		
	.0403 - Emergency Leave		
	.0404 - Fiscal Responsibilities		
<b>SECTION</b>	<b>.0500 - Offender Personal Property</b>	<b>02/21/19</b>	<b>02/21/19</b>
	.0501 - General		
	.0502 - Personal Clothing		
	.0503 - Authorized Items		
	.0504 - Disposition of Unauthorized Property		
	.0505 - Reception Inventory		
	.0506 - Return of Personal Property Upon Release		
<b>SECTION</b>	<b>.0600 - Custodial Classification</b>	<b>08/01/17</b>	<b>08/01/17</b>
	<b>.0603 - Home Leaves</b>	<b>05/03/19</b>	<b>05/03/19</b>
	<b>.0604 - Community Volunteer &amp; Community Leave Program</b>	<b>07/01/10</b>	<b>07/01/10</b>
	<b>.0605 - Community Resource Council</b>	<b>11/01/17</b>	<b>11/01/17</b>
	<b>.0606 - Inmate Nonprofit Program</b>	<b>06/15/17</b>	<b>06/15/17</b>
<b>SECTION</b>	<b>.0700 - Transfer Branch</b>	<b>12/12/08</b>	<b>12/12/08</b>
	.0701 - General		
	.0702 - Application		
	.0703 - Precautions		
	.0704 - Transfer Branch Personnel		

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<b>CHAPTER F - CUSTODY AND SECURITY (continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.0800 - Contraband Control</b>	<b>11/6/18</b>	<b>11/06/18</b>
	.0801 - Policy		
	.0802 - General		
	.0803 - Controlled Substance		
	.0804 - Hazardous Chemicals & Materials		
	.0805 - Tools and Hobby Craft Materials		
	.0806 - Disposition of Contraband		
<b>SECTION</b>	<b>.1000 - Control of Offenders</b>	<b>11/13/18</b>	<b>11/13/18</b>
	.1001 - Policy		
	.1002 - Offender Count Control Procedures		
	.1003 - Responsibility		
<b>SECTION</b>	<b>.1100 - Transporting Inmates</b>	<b>09/06/18</b>	<b>09/06/18</b>
	.1101 - General		
	.1102 - Security		
	.1103 - Certified Staff to Offender Ratios		
	.1104 - Special Security Issues		
<b>SECTION</b>	<b>.1200 - Inspections</b>	<b>02/01/18</b>	<b>02/01/18</b>
	.1201 - Purpose		
	.1202 - General		
	.1203 - Inspections		
<b>SECTION</b>	<b>.1400 - Custodial Agents</b>	<b>08/08/18</b>	<b>08/08/18</b>
	.1401 - Purpose		
	.1402 - Custodial Agents for Inmate Labor		
	.1403 - Custodial Agents for Reentry Services		
	.1401 - Application		
<b>SECTION</b>	<b>.1500 - Use of Force</b>	<b>08/30/18</b>	<b>08/30/18</b>
	.1501 - Purpose		
	.1502 - Definitions		
	.1503 - Policy		
	.1504 - Procedures		
	.1505 - Medical Response		
	.1506 - Reporting Procedures		
	.1507 - Video Recording of Use of Force Incidents		



<b>CHAPTER F - CUSTODY AND SECURITY (continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.1600 - Management of Security Posts</b>	<b>10/26/18</b>	<b>10/26/18</b>
	.1601 - General		
	.1602 - Definitions		
	.1603 - Responsibilities		
	.1604 - Security Posts		
	.1605 - Duties of Correctional Officers		
	.1606 - Roster Management		
	.1607 - Post Charts		
	.1608 - Staffing Levels		
	.1609 - Gender Specific Posts		
	.1610 - Training		
	.1611 - Post Reviews		
	.1612 - Security Staffing Planning		
<b>SECTION</b>	<b>.1700 - Double Cell Housing</b>	<b>01/01/14</b>	<b>01/01/14</b>
	.1701 - Purpose		
	.1702 - Definitions		
	.1703 - Policy		
	.1704 - Application		
	.1705 - Procedures		
	.1706 - Others Conditions		
<b>SECTION</b>	<b>.1900 - Highway Work Squads - Medium Custody</b>	<b>Rescinded</b>	
	.1901 - Purpose		
	.1902 - Policy		
	.1903 - Organization		
	.1904 - Classification and Selection of Inmates		
	.1905 - Supervision		
	.1906 - Operations		
	.1907 - Supervision During Work Assignments		
	.1908 - Security Equipment		
	.1909 - Other Equipment		
	.1910 - Weather Conditions		
	.1911 - Safety		
	.1912 - Training		
	.1913 - Other Requirements		
<b>SECTION</b>	<b>.2000 - Early Parole</b>	<b>04/08/19</b>	<b>04/08/19</b>
	.2001 - Prison Population Management		
	.2002 - Supervision		

<b>CHAPTER F - CUSTODY AND SECURITY (continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.2100 - Plumbing Facilities</b>	<b>07/20/10</b>	<b>07/20/10</b>
	.2101 - Inmate Misuse of Plumbing Facilities		
<b>SECTION</b>	<b>.2200 - Jail Housing of Inmates</b>	<b>08/01/17</b>	<b>08/01/17</b>
	.2201 - General Jail Housing of Inmates		
	.2202 - Requirements		
	.2203 - Procedures		
	.2204 - Conditions of Confinement		
	.2205 - Other Requirements		
<b>SECTION</b>	<b>.2300 - Offender Maternity Leave</b>	<b>04/08/19</b>	<b>04/08/19</b>
	.2301 - Purpose Offender Maternity Leave		
	.2302 - Procedure		
	.2303 - Termination of Leave		
	.2304 - Design and Evaluation		
<b>SECTION</b>	<b>.2400 - Key and Lock Control</b>	<b>08/14/18</b>	<b>08/14/18</b>
	.2401 - Purpose		
	.2402 - Responsibility		
	.2403 - Procedures		
	.2404 - Other Requirements		
<b>SECTION</b>	<b>.2500 - Tobacco Policy</b>	<b>07/02/12</b>	<b>07/02/12</b>
	.2501 - Purpose		
	.2502 - Definitions		
	.2503 - Tobacco-Free Facilities		
	.2504 - Notice		
<b>SECTION</b>	<b>.2600 - Inmate Drug/Alcohol Testing</b>	<b>02/01/19</b>	<b>02/01/19</b>
	.2601 - Purpose		
	.2602 - Responsibility		
	.2603 - Urinalysis		
	.2604 - Testing Time Frames		
	.2605 - Staff Training		
	.2606 - Substance Abuse Treatment Programs		
	.2607 - Breath Alcohol Testing		
<b>SECTION</b>	<b>.2700 - Tool Control</b>	<b>08/14/18</b>	<b>08/14/18</b>
	.2701 - General		
	.2702 - Responsibility		
	.2703 - Procedures		
	.2704 - Other Requirements		

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<b>CHAPTER F - CUSTODY AND SECURITY (continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.2800 - Jail Bus Transportation-Standard Operating Procedures</b>	<b>06/30/09</b>	<b>06/30/09</b>
	.2801 - General		
	.2802 - Policy		
	.2803 - Procedures		
	.2804 - Jail Bus Transportation Officers		
	.2805 - Equipment		
	.2806 - Other Requirements		
<b>SECTION</b>	<b>.2900 - Identification Card Procedure</b>	<b>10/01/17</b>	<b>10/01/17</b>
	.2901 - Purpose		
	.2902 - Scope		
	.2903 - General		
	.2904 - Specific		
	.2905 - Responsibility		
	.2906 - Production		
	.2907 - Card Format Description		
	.2908 - Initial Issue and Reissue Procedures and Requirements		
	.2909 - Identification Data Display		
	.2910 - Identification Card Maintenance, Retention, and Distribution		
	.2911 - Authority		
	.2912 - Visitor Pass		
<b>SECTION</b>	<b>.3000 - Firing Ranges</b>		<b>Refer to DPS Safety Manual</b>
<b>SECTION</b>	<b>.3100 - Close Observation Procedures</b>	<b>09/21/12</b>	<b>09/21/12</b>
	.3101 - Purpose		
	.3102 - Approving Authority		
	.3103 - Procedures		
<b>SECTION</b>	<b>.3200 - Special Management Meals</b>	<b>08/01/17</b>	<b>08/01/17</b>
	.3201 - Purpose		
	.3202 - General		
	.3203 - Applicability		
	.3204 - Procedures		

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<b>CHAPTER F - CUSTODY AND SECURITY (continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.3300 - Prison Entrance/Exit Policy</b>	<b>10/29/18</b>	<b>10/29/18</b>
	.3301 - Purpose		
	.3302 - Definitions		
	.3303 - Responsibility		
	.3304 - Applicability		
	.3305 - Procedures at All Facilities		
	.3306 - Personal Property		
	.3307 - Search to Control Contraband		
	.3308 - Authority to Detain		
	.3309 - Designated Entrance/Exit Point At Medium/Close Custody Facilities		
<b>SECTION</b>	<b>.3400 - Inmate Sexual Abuse and Harassment Policy</b>	<b>08/24/15</b>	<b>08/24/15</b>
	.3401 - Authority		
	.3402 - Purpose		
	.3403 - Applicability		
	.3404 - Definitions		
	.3405 - Policy		
	.3406 - Procedures		
<b>SECTION</b>	<b>.3500 - Minimum Custody Highway Work Squads</b>	<b>03/01/10</b>	<b>06/30/10</b>
	.3501 - Purpose		
	.3502 - Policy		
	.3503 - Organization		
	.3504 - Classification and Selection of Inmates		
	.3505 - Supervision		
	.3506 - Operations		
	.3507 - Supervision During Work Assignments		
	.3508 - Equipment		
	.3509 - Weather Conditions		
	.3510 - Safety		
	.3511 - Training		
	.3512 - Other Requirements		

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<b>CHAPTER F - CUSTODY AND SECURITY (continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.3600 - Hazardous Chemical Control &amp; Management</b>	<b>08/17/18</b>	<b>08/17/18</b>
	.3601 - Purpose		
	.3602 - Policy		
	.3603 - Resource & Reference		
	.3604 - Definitions		
	.3605 - Procedural Guidelines		
	.3606 - Chemical Container Labeling		
	.3607 - Chemical Storage		
	.3608 - Chemical Issuance and Use		
	.3609 - Chemical Spill & Exposure Management		
	.3610 - Material Safety Data Sheets		
	.3611 - Annual Review Responsibility		
<b>SECTION</b>	<b>.3700 - Fire Protection</b>	<b>08/17/18</b>	<b>08/17/18</b>
	.3701 - Purpose		
	.3702 - Policy		
	.3703 - Resource & Reference		
	.3704 - Procedures		
	.3705 - Non-Institutional Buildings		
	.3706 - Facility Responsibility		
	.3707 - Inspections		
	.3708 - Facility Furnishings		
	.3709 - Smoking Material Receptacles		
<b>SECTION</b>	<b>.3800 - Water Testing, Recycling and Waste Disposal</b>	<b>11/01/11</b>	<b>11/01/11</b>
	.3801 - Purpose		
	.3802 - General		
	.3803 - Definitions		
	.3804 - Policy		
<b>SECTION</b>	<b>.3900 - Control Center Operations</b>	<b>01/16/19</b>	<b>01/16/19</b>
	.3901 - Purpose		
	.3902 - Responsibility		
	.3903 - General		
	.3904 - Definitions		
	.3905 - Access to Control Areas		
	.3906 - Information Recorded in Control Station		
	.3907 - Cleaning of Control Stations		
	.3908 - Close Custody Control Stations		
	.3909 - Control Center Camera Operations		
	.3910 - Restrictive Housing Control Operations		

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<b>CHAPTER F - CUSTODY AND SECURITY (continued)</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.4000 - Cellular/Wireless Device Management</b>	<b>04/08/19</b>	<b>04/08/19</b>
	.4001 - Purpose		
	.4002 - Responsibility		
	.4003 - General		
	.4004 - Definitions		
	.4005 - Discovery of Cellular/Wireless Devices During Entrance Search		
	.4006 - Discovery of Cellular/ Wireless Devices Under Suspicion		
	.4007 - Discovery of Cellular/Wireless Devices in Possession of Visitor		
	.4008 - Disposition of Cellular/Wireless Devices Confiscated		

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<b>CHAPTER G - COURT RELATED PROCEEDINGS</b>		<b><u>Revised</u></b>	<b><u>Reviewed</u></b>
<b>SECTION</b>	<b>.0100 - Outstanding Charges/Detainers</b>	<b>10/20/14</b>	<b>07/01/17</b>
	.0101 - General		
	.0102 - Definitions		
	.0103 - Processing Requirements		
	.0104 - Reclassification of Inmates with Pending Charges/Detainers		
	.0105 - Release Procedures		
	.0106 - Exceptional Case Considerations		
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**CHAPTER H - RELIGIOUS SERVICES**

**Revised**

**Reviewed**

<b>SECTION</b>	<b>.0100 - Religious Services</b>	<b>02/01/18</b>	<b>02/01/18</b>
	.0101 - Scope		
	.0102 - Community-Funded and Volunteer Chaplains		
	.0103 - Procedures		
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*State of North Carolina  
Department of Public Safety  
Prisons*

Chapter: A  
Section: .0900  
Title: **Employee Training**  
Issue Date: 05/22/18  
Supersedes: 02/12/18

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**POLICY & PROCEDURES**

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**.0901 GENERAL**

It is the policy of Prisons to provide opportunity for training for its employees. Training is designed to help employees develop their knowledge, skills and abilities so they might become more proficient in the performance of the duties of their current jobs and prepare for advancement within Prisons.

**.0902 REFERENCES**

North Carolina Administrative Code Title 12 09 G; North Carolina Office of State Personnel Policy Manual; North Carolina Department of Public Safety Personnel Policy Manual, North Carolina Department of Public Safety Office of Staff Development and Training Policy Manual; Office of Staff Development and Training Field Training Coordinator Manual, North Carolina Department of Public Safety Fiscal Policy Manual, American Correctional Association Manual of Standards – Central Office; American Correctional Association Manual of Standards – Adult Correctional Institutions, Fourth Edition.

**.0903 RESPONSIBILITIES**

Providing adequate training of Prison employees can best be accomplished through the combined efforts of employees, supervisors, Division Management, the Office of Staff Development and Training and other sections of the Department of Public Safety. The following responsibilities should be recognized regarding employee training:

- (a) Employees – Prisons' employees at all levels retain an obligation for their own development and education and it is expected that employees will advance their careers through appropriate self-education and self-improvement.
- (b) Managers and Supervisors – Managers and supervisors have the initial responsibility for ensuring that employees are properly trained to perform assigned job functions. In fulfilling this responsibility, managers and supervisors should identify the individual training needs of their employees and work with the employees to plan and implement needed training. Such plans may make use of on-the-job training, individual and group instruction by supervisors, formal training activities and rotational assignments to provide greater depth and a wider base of experience.
- (c) Prisons – Prisons has a responsibility to ensure that employees are trained to perform assigned job functions. It is responsible for assuring that training programs geared to

specific division needs are planned, budgeted and provided and that its employees participate in these programs. Prisons works closely with the Office of Staff Development and Training, other sections of the Department of Public Safety and the Office of State Human Resources and utilizes to the fullest degree possible State universities, community colleges and the Department of Public Instruction in securing professional, management and vocational training to meet the training needs of its employees.

#### **.0904 COORDINATION AND SUPERVISION OF TRAINING**

- (a) The overall coordination and supervision of training for the employees of Prisons shall be the responsibility of the Prisons Operations Manager for Training.
- (b) The Prisons Operations Manager for Training shall be assisted in the coordination of the training by Central Office Section Managers, Regional Staff and the institution Correctional Training Specialists, staff of the North Carolina Department of Public Safety's Office of Staff Development and Training, staff of the North Carolina Justice Academy and staff of the various member institution of the North Carolina Community College System.
- (c) At a minimum, the Prisons Operations Manager for Training and Institution Training Specialists shall have completed the North Carolina Criminal Justice Education and Training Standards Commission's General Instructor Training course or have equivalent education and training experience.
  - (1) **TRAINING PLAN** - A comprehensive staff development and training plan will be developed, evaluated and updated annually based on current job-related training needs. The training plan is to be developed by the In-Service Training Committee which is led by the Prisons Operations Manager for Training. Members of this committee will consist of Regional Staff, Institution Correctional Training Specialists, representatives of each major section of the Prisons Central Office, and staff of the North Carolina Department of Public Safety's Office of Staff Development and Training. Consideration should be given to position requirements, professional development needs, current correctional issues, and new techniques and technology. The Division Training Committee shall meet at least annually and written records of these meetings shall be forwarded to the Director of Prisons with a recommendation for appropriate action or remedy.
  - (2) Each facility should develop an internal advisory training committee composed of the facility training coordinator and a representative from each of the facility's operational areas. The facility advisory training committee should meet quarterly to review the progress and discuss problems with the current training plan. A written report of this meeting will be forwarded to the Facility Head, whom will share any recommendations or concerns with the Region Office and the Prisons Operations Manager for Training.

## (3) TRAINING

(A) Orientation - all new employees of the Division of Prisons shall receive formalized orientation prior to receiving a job assignment. This training will be a combination of instructor led training as well as training through the Learning Management System (LMS). The sophistication level and amount of training should be based on the employee's need to know and their job assignment. At a minimum this training should include information on:

- DPS New Employee Orientation to include responsibilities and rights of employees
- Purpose, goals, policies & procedures of Prisons and each individual facility
- A general overview of the field of corrections
- Universal precautions and hazardous materials communication
- Occupational Exposure to Infectious Disease
- Lock-out, tag-out
- Fire safety
- Self injurious behavior prevention
- Staff-offender relations – professional boundaries (Non-certified)
- Unlawful workplace harassment (Non-certified)
- Prison Rape Elimination Act orientation
- Security and Contraband control regulations and practices
- Hostage situations
- Emergency procedures
- Tool and key control
- Ethics and Professional Conduct
- Orientation to Individualized Job Responsibilities\*
- Gift Ban
- Security Awareness (as applicable to position)
- E-mail Tutorial (as applicable to position)

In addition to this class, all new employees in job classes certified as State Correctional Officers by the North Carolina Criminal Justice Education and Training Standards Commission shall receive the initial pepper spray (OC) training.

Upon promotion to a position that has access to E-Mail; the employee shall complete E-Mail Tutorial training.

(B) Correctional Officer Basic Training– each newly hired State Correctional Officer (see Attachment A) is required by the North Carolina Criminal Justice Education and Training Standards Commission to complete the

160 hour Correctional Officer Basic Training course within twelve (12) months of employment. This course of instruction is developed by the Office of Staff Development and Training and approved by the North Carolina Criminal Justice Education and Training Standards Commission. At a minimum, this training covers the following areas:

- Security procedures
- Supervision of offenders; offender rules and regulations
- Suicide intervention/prevention
- Use of force
- Safety procedures
- Key control
- Interpersonal relations
- Communication skills
- Cultural awareness
- Control, Restraints, Defensive Techniques Fire safety
- CPR/First Aid
- Straight/Expandable baton
- Report writing
- Security Risk Groups
- Contraband control
- Tool control
- Emergency plans/procedures
- Firearms training and qualification
- Staff-offender relations-professional boundaries
- Unlawful workplace harassment

Institutions should refer to the Office of Staff Development and Training's Field Training Coordinators' Manual for procedures relating to the Correctional Officer Basic Training.

As per Criminal Justice Standards, the Basic Correctional Officer training must be successfully completed within 12 months from the date of hire. Successful completion of Basic Correctional Officer training includes the passing of all BCO courses with a passing score of 70 or higher. An employee's failure at any level on any course is consider an "attempt". An employee will have a total of three (3) attempts to successfully complete Basic Correctional Officer training. Failure to successfully complete Basic Correctional Officer training on the third attempt will result in termination of employment.

An employee who fails to demonstrate competency in any of the psychomotor skills courses (firearms qualification scores, proficiency

testing for CRDT and CPR) during the Correctional Officer Basic Training shall return to the assigned facility for remedial training or may receive remedial training by OSDT. An employee who fails to demonstrate competency in any of the psychomotor skills courses (firearms qualification scores, proficiency testing for CRDT and CPR) during the Correctional Officer Basic Training shall return to the assigned facility for remedial training. The employee who fails to demonstrate competency in any of the psychomotor skills will not be permitted to sit for the Correctional Officer Basic Training Examination. After the employee has demonstrated competency during remediation, he/she shall be scheduled to attend that portion of the Correctional Officer Basic Training. If the employee demonstrates competency in the psychomotor skills at this time, he/she shall be permitted to sit for the Correctional Officer Basic Training Examination. If at this time the employee fails to demonstrate competency in the required psychomotor skills, he/she shall be scheduled to complete the Correctional Officer Basic Training in its entirety. If the employee fails to demonstrate competency during the second session of the Correctional Officer Basic Training, his/her employment shall be terminated.

An employee who fails to attain a passing score on the Correctional Officer Basic Training Examination shall return to the assigned facility for remedial training in the subject matter of the basic training course. While the employee is working at the facility prior to successful completion of Correctional Officer Basic Training, he/she is to have no direct contact with the inmate population. After the remediation, the employee shall be scheduled to sit for the Correctional Officer Basic Training Examination for the second time. If the employee fails to attain a passing score on this examination, he/she shall be schedule to complete the Correctional Officer Basic Training in its entirety. If the employee fails to attain a passing score on the Correctional Officer Basic Training at the conclusion of this session of the Correctional Officer Basic Training, his/her employment shall be terminated.

(C) Annual In-Service Training for Certified Correctional Officers

After the first year of employment, Certified State Correctional Officers shall receive in-service training **each year**. This training shall include but not be limited to information on the following:

- Firearms (including law & policy, safety, and qualification)
- Security/safety/fire/medical emergency procedures

- Supervision of offenders including training on sexual abuse and assault
  - Control, Restraints, Defensive Techniques (4-4090)
  - Fire safety
  - Occupational Exposure to Infectious Disease
  - Self-injurious behavior prevention
  - OC (pepper spray refresher) (4-4092)
  - CPR (bi-annual)
  - Expandable/Straight baton
  - Safe search practices
  - Staff Offender Relations – Undue Familiarity
  - Unlawful Workplace Harassment
  - Ethics and Professional Conduct
  - Security Awareness Training
- (i) Firearms training and re-qualification – Employees who have not qualified with the firearms within the past 12 months shall not be issued a firearm except for the purpose of training and re-qualification. Every employee in a certified position within Prisons is required to successfully re-qualify annually with the Division’s designated weapons (handgun and shotgun). Designated employees shall also re-qualify annually with the rifle.
- (ii) A certified employee may attempt up to three (3) re-qualification courses of fire on any given day for each weapon (maximum of 150 rounds for handgun, 21 rounds for shotgun, 30 rounds for rifle (designated staff only). Three (3) re-qualification attempts in one day constitute a session.
- (iii) Employees will be provided three (3) opportunities to successfully complete firearms training following the first training event.

**First failure to complete Annual In-Service Firearms training**

- Employee is directed to return to his/her facility
- Employee’s supervisor, manager, or facility head inquires with the employee as to what the facility can do to assist him/her in being successful with the functionality portion of the Firearms training
- Facility management should take reasonable steps to assist the employee
- Employee’s supervisor must document this conversation and any assistance provided as a coaching session in the NCVIP system
- Employee’s supervisor should explain to the employee the complete disciplinary process for failure to successfully complete the Firearms training

- Employee will be scheduled for next available Firearms class

**Second failure to complete Annual In-Service Firearms training**

- Employee is directed to return to his/her facility
- Employee's supervisor, manager, or facility head inquires with the employee as to what the facility can do to assist him/her in being successful with the functionality portion of the Firearms training
- Facility management should take reasonable steps to assist the employee
- A written warning will be issued to the employee for unsatisfactory job performance – written warning will document the steps taken to assist the employee in successful completion of the training
- Employee will be scheduled for next available Firearms class

**Third failure to complete Annual In-Service Firearms training**

- Employee is directed to return to his/her facility
- Employee's supervisor, manager, or facility head inquires with the employee as to what the facility can do to assist him/her in being successful with the functionality portion of the Firearms training
- Facility management should take reasonable steps to assist the employee
- A second written warning will be issued to the employee for unsatisfactory job performance - written warning will document the steps taken to assist the employee in successful completion of the training
- Employee will be scheduled for next available Firearms class

**Fourth failure to complete Annual In-Service Firearms training**

- Employee is directed to return to his/her facility
- The facility will begin the steps to initiate a dismissal for unsatisfactory job performance given that the employee has failed to maintain or obtain an essential credential.

(iv) All attempts to re-qualify should be completed within four (4) months of the initial re-qualification failure.

(D) Annual In-Service Training for Managerial, Administrative, Support, and Professional Specialist Employees

In addition to the formalized orientation all managerial, administrative, support and professional specialist employees shall receive additional training during the first year of employment and in-service training each year thereafter, in areas relevant to their position. This training should include but not be limited to:

- Fire safety
- Unlawful Workplace Harassment
- Contraband Control
- Staff Offender Relations – Undue Familiarity
- Ethics and Professional Conduct
- Emergency procedures
- Occupational Exposure to Infectious Disease
- Self-injurious behavior prevention
- Security Awareness (as applicable)

In addition to training conducted by Prisons, training that is related to the job responsibilities may be received from other sources such as the Office of State Human Resources, the member institutions of the Division of Community Colleges, the North Carolina Board of Nursing, the local Area Health Education Centers and professional associations/organizations.

- (E) Annual In-Service Training for Clerical/Support Employees Who Have Minimal Offender Contact - Employees whose job responsibilities require only minimal offender contact shall receive training during the first year of employment over and above the formalized orientation and in-service training each year thereafter. This training should include but not be limited to:

- Fire safety
- Contraband control
- Emergency procedures
- Unlawful Workplace Harassment
- Staff Offender Relations – Undue Familiarity
- Ethics and Professional Conduct
- Blood borne Pathogens
- Security Awareness (as applicable)

In addition to training conducted by the Department, training related to the job responsibilities may be received from other sources such as the North Carolina Justice Academy, the Office of State Human Resources, the member institutions of the Division of Community Colleges, professional associations/organizations.



- (F) Part-time and contractual employees shall receive formal orientation appropriate to their assignments and will receive additional training as needed. This training should include but not be limited to:
- Fire safety
  - Contraband control
  - Emergency procedures
  - Staff –offender relations – professional boundaries
  - Prison Rape Elimination Act Orientation
  - Security Awareness (as applicable)
- (G) Evaluation of Training - The Quality Assurance Manager of the Office of Staff Development and Training is responsible for the evaluation of all orientation, basic, and in-service training conducted by divisions of the North Carolina Department of Public Safety and is responsible for the preparation of written reports annually to be submitted to the Director of Prisons.
- (H) Instructors - Employees who instruct in accredited training classes shall have completed, at a minimum, the (80) hour General Instructor Training course as approved by the North Carolina Criminal Justice Education and Training Standards Commission.

In addition, employees who instruct in the Correctional Firearms; Control, Restraints, Defensive Techniques; Straight/Expandable Baton, OC Spray; Chemical Munitions; Unlawful Workplace Harassment; Occupation Exposure to Infectious Diseases; Staff-Offender Relations, CPR shall have completed specialized instructor training prior to instructing in these courses.

- (I) Training Conducted by Agencies External to the Department of Public Safety

Employees are encouraged to utilize the resources of agencies external to the Department of Public Safety to attend approved professional meetings, seminars, training, and similar work-related activities. Agencies such as the National Institute of Corrections, the American Correctional Association, the U. S. Department of Justice, the North Carolina Office of State Human Resources, the North Carolina Justice Academy, the North Carolina Board of Nursing, the Area Health Education Centers, the member institutions of the North Carolina Division of Community Colleges and various other professional organizations and associations offer training that is appropriate for Prisons employees.

Prior to seeking approval for participation in seminars, workshops, etc. conducted or sponsored by agencies external to state governmental agencies, employees are responsible for exhausting the resources of Prisons, the Office of Staff Development and Training, other sections of the Department of Public Safety, the Office of State Human Resources, the Department of Public Instruction, the North Carolina Justice Academy, member institutions of the Department of Community Colleges and the state university system. Prior approval must be obtained before employees attend any training seminars, workshops or conferences conducted by agencies external to the Department of Public Safety.

Employees in job classifications that require licensure or certification are responsible to ensure that such licensure or certification is kept current. Employees attending workshops, seminars, etc. for the sole purpose of obtaining Continuing Education Units (CEU's) to maintain licensure or certification are responsible for the expenses of such workshops, seminars, etc. Prisons may grant training leave to attend these activities. Employees attending workshops, seminars, etc. which award CEU's and the content of which is directly related to maintaining or improving knowledge, skills and/or abilities of the current job may be reimbursed for expenses incurred for the training.

Prisons will reimburse expenses consistent with current fiscal policy for employees to attend workshops, seminars, etc. which are conducted by organizations external to state agencies to correct documented performance deficiencies (rating of Does not Meet Expectations on the most recent work performance appraisal) when it is determined that (1) the deficiency can be corrected by training and (2) there are no essentially similar training programs offered by state agencies, including member institution of the community college system.

Prisons may reimburse expenses consistent with current fiscal policy for employees to attend job-related workshops, seminars, etc. designed to maintain or improve the knowledge, skill and ability of the current job that are conducted by organizations external to state agencies when deemed appropriate by the supervisor(s); however, there is no stated or implied obligation to do so.

The procedures for requesting approval for training conducted by agencies external to the Department of Public Safety are in Attachment B.

- (J) Prisons encourage membership and participation in criminal justice and allied professional associations and activities.

Providing an opportunity for the exchange of information and networking with other professionals in the correctional arena can best be accomplished by participation in job-related professional associations and organizations.

The following responsibilities should be recognized regarding employee membership and participation in professional associations and organizations:

- (i) Employees – Prisons employees are responsible for any and all expenses associated with membership in any professional association or organization.

Employees may be approved to participate in leadership roles of professional organizations associated with the Department. Total participation in all organizations for all purposes (boards, committees, training conferences, etc.) is limited to a cumulative maximum of 10% (208 hours) of the employees work time, unless vacation or other appropriate leave is used. Leave request will be considered/approved by the employees' Section Manager/Facility Head in advance of the event. Employees must understand that their leave cannot be approved if their absence impedes the progress of the work unit.

Any request for participation in activities associated with professional organizations in excess of the 10% limit must be referred to the Director of Prisons or designee for review and final decision.

Employees must not commit to serve on boards or committees or to hold office in professional associations or organizations that will require the expenditure of state funds without the express written approval of the Director of Prisons or his/her designee.

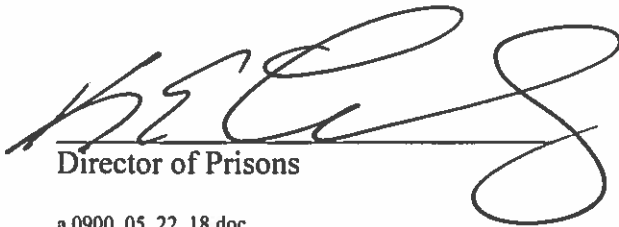
Employee participation in committee meetings, planning meetings, work groups, etc. for a professional association or organization is not training and should not be documented as such in the employee time records.

- (ii) Managers and Supervisors – Managers and supervisors should encourage and support employee membership and participation in job-related professional associations and organizations.
- (iii) Prisons – Prisons encourage and supports employee membership and participation in job-related professional associations and organizations. Prisons have no obligation to provide financial support to any professional association or organization or to any member thereof.

Prisons may approve reimbursement of expenses consistent with current fiscal policy for employee members to attend conferences, seminars or workshops sponsored by job-related professional

associations and organizations at the regional, state or national level; however, there is no stated or implied obligation to do so.

- (K) Employees are encouraged to take advantage of available library and reference services to complement the training and staff development program. Agencies such as the National Institute of Corrections, the American Correctional Association, the U. S. Department of Justice, the North Carolina Office of State Human Resources, the North Carolina Justice Academy, the North Carolina Board of Nursing, the Area Health Education Centers, the member institutions of the North Carolina Division of Community Colleges, the State University System, and various other professional organizations and associations offer library and reference material that is appropriate for Adult Facilities employees.



Director of Prisons

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5/22/18  
Date



*State of North Carolina  
Department of Public Safety  
Prisons*

Chapter: F  
Section: .1600  
Title: Management of Security Posts  
Issue Date: 08/12/19  
Supersedes: 10/26/18

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## **POLICY AND PROCEDURE**

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### **.1601 GENERAL**

- (a) NCDPS-Prisons is committed to managing safe and secure prison facilities with the understanding that the primary goal is to protect the citizens of North Carolina and provide a safe and humane environment for staff and offenders. Appropriate staffing levels, supervisory organizational structure, Correctional Officer duties, and effective management of security posts are all key factors in the success of any prison system.
- (b) Determining facility staffing requirements is not an exact science as it is not adaptable to the use of set formulas, but rather it is a subjective process that requires input from numerous stakeholders who have relevant expertise and experience in prison management. Safe staffing levels are a key component in properly managing correctional facilities. Inadequate staffing is a threat to public safety and places the general public, correctional employees and offenders at risk. Proper management of security posts is designed to determine how to deploy Correctional Officers to provide a safe and secure correctional environment.
- (c) G.S. 143B-709 Security Staffing
  - (1) NCDPS-Prisons shall conduct:
    - (A) On-site post audits of every prison at least every three years;
    - (B) Regular audits of post-audit charts through the automated post-audit system; and
    - (C) Other staffing audits as necessary.
  - (2) NCDPS-Prisons shall update the security staffing relief formula at least every three years. Each update shall include a review of all annual training requirements for security staff to determine which of these requirements should be mandatory and the appropriate frequency of the training. Prisons shall survey other states to determine which states use a vacancy factor in their staffing formula. (2002-126, s. 17.5(a); (b); 2005-276, s. 17.4(a); 2011-145, s. 19.1(H), (S).)

**.1604 SECURITY POSTS**

- (a) Medium and Close custody offenders will be under the control of unarmed Correctional Officers while inside the secure perimeter of the facility. The use of such Officers may vary consistent with custodial requirements. Offenders in medium and close custody will be under armed perimeter security provided through the use of an electronic intrusion perimeter patrol system or towers. Medium and close custody offenders will be under the control of armed Correctional Officers while outside the secure perimeter of the facility. The use of such Officers may vary consistent with custodial requirements.
- (b) Minimum custody offenders will be under the immediate supervision of unarmed Correctional Officers and/or agents of the Secretary of Public Safety. The number of such Officers may vary consistent with custodial requirements to insure an appropriate level of control. Visual checks and counts will be routinely made to ensure that all offenders are accounted for.
- (c) All medium and close custody offender housing areas will be staffed for direct supervision of offenders. Minimum custody offender housing areas will be staffed for direct supervision of offenders during second shift duty hours. Correctional Officer posts will be located in or immediately adjacent to offender living areas to permit Officer to hear and respond promptly to emergency situations. Correctional Officers assigned to any security post will maintain constant surveillance of the designated post area and offenders that may be in the area. Correctional Officers will position themselves so that they can maintain direct and constant observation of offenders. Unless assigned to a secured control room or other posts in areas that are off limits to offenders, all posts should be established in locations that facilitate personal contact and interaction between staff and offenders. No material or device which could distract the attention of the Officer will be allowed on the post. Unauthorized items include newspapers, magazines, books, non-state issued cell phones, I-Pods, electronic devices and non-division issued radios.
- (d) The operation and maintenance of the security post and other security components are considered confidential information and shall not be discussed, reviewed, or talked about in the presence of offenders or the general public or in any way made known to offenders or the general public. Offenders are absolutely prohibited from working on or in any way assisting with the repair of any and all security equipment without authorization of the facility head of designee.
- (e) Each facility will maintain a control or operations center to provide order and security. The control/operations center should be staffed 24 hours a day and should be the center of communication and security for the facility to include monitoring or alarm systems. Each facility should establish standard operating procedures describing action to be taken when an alarm or alert occurs. All alarms and alerts are to be investigated immediately by a Correctional Officer or other staff as available and designated. Standard procedures should be developed to require the mobilization of staff as appropriate to respond to an alarm.

- (f) Each shift will be staffed with sufficient trained personnel to fill critical security posts and to act as back-up and relief Officers for these posts. Security staff will be provided sufficient training concerning security systems and post assignment responsibilities prior to assuming responsibility for any post assignment alone. Each Assistant Superintendent or designee is responsible for ensuring that all new Officers have received sufficient orientation prior to placement on any post. This orientation should include a thorough briefing on all-basic security functions, departmental rules, procedures and post orders. All training related to security and specific post assignment will be documented in facility records. All Officers will have secured backup staff to observe staff activity in the Restrictive Housing Unit or Security Room (time limited cell). Control room or secured backup Officer must have communication capability with another location from which support staff can be dispatched. All Officers will secure backup staff prior to unlocking the door to the Restrictive Housing Cell or Security Room. Officers will never unlock the cell door without at least one other custody staff as backup.
- (g) Each Officer, inclusive of probationary Officer, must fully read the applicable post order(s) for the post(s) that he/she will be assigned. Officers will acknowledge such by signing the designated acknowledgement form. (In light of the many post areas where the same post order will be maintained, the Assistant Superintendent or designee may maintain a “master” binder where he/she can track and maintain the signed [original] forms for each Officer.)
- (h) When revisions to post order(s) occur, Officers will sign and date the section of the designated form acknowledging he/she reviewed the revision(s).
- (i) Each facility will establish procedures to document security operations to include specific activities and unusual occurrences related to security. Standards require documentation of system tests, failures, all alarms, and other security emergencies. Each facility will also be responsible for maintaining documentation of system tests, failures, all alarms, and other security emergencies for a period of 36 months.
- (j) A system for checks and reporting on all posts should occur at regular intervals to determine that the post remains secure. Correction Officers are required to maintain a permanent log and prepare shift reports that record routine information, emergency situations, and unusual incidents. Correctional Officers assigned to perimeter security posts, yard posts and posts designated by the facility head will report routine information, emergency situations, and unusual incidents to the control/operations center.
- (k) Checks of windows and bars in offender housing units for broken glass, damaged screens, and weakened security locks should occur daily on each shift.
- (l) Supervisory staff are to conduct a daily patrol, including holidays and weekends, of all areas occupied by offenders and submit a daily written report to their supervisor. Unoccupied areas are to be inspected weekly.

- (m) The Facility Head or designee, and designated department heads are to visit the institution's living and activity areas at least weekly to encourage informal contact with staff and offenders and to informally observe living and working conditions.
- (n) The Officer in Charge of each institution/facility or qualified designee conduct at least weekly inspections of all security devices needing repair or maintenance and report the results of the inspections in writing. The purpose of this inspection is to ensure that all bars, locks, windows, doors, and other security devices are fully operational. The results of this inspection should be submitted in writing to the associate warden for custody/assistant superintendent for operations.
- (o) Shift briefings will be held fifteen (15) minutes prior to the time security posts are to be relieved. The Officer-in-Charge (OIC) of the incoming shift will inspect all Officers to determine that they are appropriately attired and prepared for duty.
- (p) Work areas, including housing units, offices, control rooms, etc., are inspected for order and cleanliness on a daily basis by supervisory staff and/or the OIC. These inspections will be documented on the daily activity log.

#### **.1605 DUTIES OF CORRECTIONAL OFFICER**

- (a) Correctional Officers are responsible for the control, custody, and welfare of offenders within their assigned areas. Duties are to be performed adequately. Discipline and security are to be maintained, and policies relating to the welfare of offenders implemented daily.
- (b) Key Performance Indicators. Each assigned post within all facilities of Prisons will have written, posted, detailed orders designating the control and safety rules at that station. Every Correctional Officer shall know the proper procedures and techniques for searching individuals, buildings, and vehicles for contraband and for making thorough security inspections and conducting counts. Correctional Officers must be able to remember names and faces and to understand and react in accordance with policies developed to ensure discipline and care of offenders. They must be able to write accurate and concise reports. They shall have a thorough knowledge of policy to provide effective supervision of offenders. Correctional Officers must be capable of acting reasonably and efficiently in emergencies in accordance with established policies and procedures. All correctional Officers shall be thoroughly familiar with emergency operating procedures and the operation of standard firearms. Each correctional Officer shall have a working knowledge of the proper care and use of standard weapons in the facility arsenal. Standard weapons shall be fired for qualification on an approved firing range annually. Training in CPR and CRDT shall be satisfactorily completed.
- (c) Correctional Officers shall follow supervisor's instructions regarding security precautions necessary for control of an offender or offenders. Accountability for each assigned



- offender is the responsibility of the supervising Officer. The Officer shall keep each assigned offender under visual observation at all times. When conditions make this impossible, periodic checks, as defined by facility Standard Operating Procedures, shall be made to insure the presence of all offenders. When outside the confines of a prison unit, offenders other than those classified in minimum custody shall be kept under appropriate restraint and under armed supervision at all times.
- (d) Protection of the offenders under the supervision of a Correctional Officer is the responsibility of that Officer. Accident hazards that are observed must be corrected. If they cannot be corrected immediately, they shall be reported in accordance with facility Standard Operating Procedures to the supervisor. When the Officer observes conflict between offenders an immediate effort will be made to control the situation and a report shall be made immediately to the Officer-in-Charge.
  - (e) The health of each offender shall be safeguarded. The cleanliness and sanitation of each post is the responsibility of the Officer assigned to the post, no offender shall be unnecessarily exposed to conditions which will endanger the health of the offender. No offender shall be permitted or forced to attempt to perform work that the offender is physically or mentally incapable of performing. The superintendent/warden of each facility shall insure that subordinate staff are informed of the physical or mental limitations of offenders under their supervision. Whenever an offender becomes ill or is injured, the correctional Officer In Charge shall take necessary steps to provide access to medical attention. A prompt and accurate incident report, in accordance with facility Standard Operating Procedures, shall be submitted by the Correctional Officer whenever an offender is injured.
  - (f) Offenders shall be clothed in clothing that affords adequate protection against the elements and is suitable for work. Where clothing is inadequate, the Correctional Officer shall take necessary steps to obtain adequate clothing.
  - (g) Observed violations of order and discipline, and other disciplinary difficulties shall be reported to supervisors as specified in disciplinary procedures. When an observer of apparent misconduct by an offender concludes that counseling will not be sufficient action because the suspected offender does not appear responsive or because of the seriousness of the suspected offense, the Officer shall report the matter to his supervisor.
  - (h) The Correctional Officer should communicate prison rules and regulations to offenders. Advice and counsel on problems not within the Officer's sphere of responsibility should be referred to the Officer-In-Charge or other appropriate staff of the facility.
  - (i) Correctional Officers shall maintain a professional objective relationship in their dealings with employees, offenders, individuals under the supervision of the Department of Public Safety (i.e., probationers/parolees), visitors, and members of the general public. Situations where correctional staff are unable to strictly comply with this requirement, staff will immediately report the matter to supervisory staff in writing within forty-eight

- (48) hours.
- (j) Correctional Officers shall maintain appropriate logs and complete written reports in a timely and proper manner.
  - (k) Performance of Duties. Correctional Officers shall be guided in the performance of their duties by applicable law, prison policy, standard operating procedures, post orders, and daily orders issued by the Officer-In-Charge of the facility. Correctional Officers shall be issued instructions for the performance of their duties by supervising Officers who are responsible for the maintenance of established standards.
  - (l) Receiving Custody. The Officer-In-Charge of each facility shall make adequate provision for receiving and keeping in custody, all offenders properly committed or assigned until discharged by law. Before any Officer of Prisons accepts custody of a committed offender, the receiving Officer shall carefully check the commitment papers. When a Correctional Officer is in doubt about the correctness of commitment papers, the immediate supervising Officer shall be consulted before accepting custody of the offender. Each correctional Officer with responsibility for receiving new offenders shall ascertain that the person being delivered is the person described in the commitment papers.
  - (m) Surrender of Custody. No Correctional Officer having custody of offenders shall surrender custody under any circumstances except to another duly authorized representative of Prisons or in accordance with an order of a court of competent jurisdiction or by other due process of law. No Correctional Officer shall allow any offender to leave the facility or be given an assignment outside the facility except in accordance with established written policy.
  - (n) Judgment. The importance of daily decisions made in reacting to prison situations should be emphasized by the Officer-in-Charge of each facility. Emergency procedures and alternative methods of handling critical situations under varying circumstances shall be reviewed by Correctional Officers as required. Instances of faulty judgment, overreaction, inappropriate use of force, inappropriate use of weapons, and negligent failure to protect or control offenders shall subject responsible Correctional Officers to appropriate disciplinary action.
  - (o) It is the responsibility of each Correctional Officer to be thoroughly familiar with each relevant Post Order, Standard Operating Procedures, Emergency Plans, and applicable policies. Officers shall read relevant documents as often as necessary to be current and knowledgeable.
  - (p) Correctional Officers shall remain alert and in full possession of their faculties at all times while on duty. Failure to remain alert is unacceptable personal conduct and shall be cause for discipline consistent with the NCDPS-Prisons Disciplinary Policy and Procedures. Post orders shall specify activities that may occur on that specific post, i.e., review of

Prisons' Policies and Procedures. If an activity is not specified it shall not occur (i.e., reading, meditating, listening to radio, etc.) A Correctional Officer shall not leave an assigned post until properly relieved.

## **.1606 ROSTER MANAGEMENT**

### **(a) DAILY SECURITY ROSTERS:**

- (1) Security rosters will be used to list all security personnel and where they were actually working on a given day. Each daily security roster will also contain identification of A and B response teams, cell extraction team designations, and **Self Contained Breathing Apparatus** (SCBA) approved staff.
- (2) All staff working on a scheduled off-duty day will be identified on the daily security roster.
- (3) All staff on leave will be listed in the "Leave" section with the indication of the type of leave used.
- (4) All staff attending training will be listed in the "Training" section of the daily security roster with an indication of the type of training and the amount of time spent away from her/his post.
- (5) All staff working but assigned to a post away from the facility identified on the daily security roster.

### **(b) STAFF POSTING/ASSIGNMENTS**

- (1) Each shift supervisor will maintain a list of security staff assigned to her/his shift. This list will be used to assign security staff to posts as they report for duty to ensure that all Pull Post Level II and III posts are staffed.
- (2) The Assistant Superintendent or designee and the shift supervisor should make every effort when possible to familiarize each Officer with as many security posts as possible to allow greater flexibility in post assignments.
- (3) Shift supervisors will ensure that days off are evenly distributed among staff. Particular attention should be afforded the weekends, ensuring that they are sufficiently staffed. Any manpower variations will be reported to the Assistant Superintendent or designee by the next business day so that proper revision may be made to the master security roster.
- (4) The Assistant Superintendent or designee will make every effort to maintain a balance of experience between shifts at the institution and between operations and housing teams.

- (5) Shift supervisors will ensure that each daily security roster is completed, reviewed, and updated prior to the end of their shift. The daily security roster will be reviewed by the Assistant Superintendent or designee the next business day.
- (6) Daily security rosters (hardcopy or electronic filing) will be maintained for a three (3)-year period and then may be purged accordingly.

(c) **ANNUAL LEAVE (Refer to DPS-HR-300-01 Approved Leave policy for additional information regarding annual leave.)**

- (1) Each facility will establish a method whereby Officers may request leave based on an established process. In scheduling annual leave, each shift supervisor must be mindful of the amount of relief available so as not to be forced into overtime situations. The shift supervisor must consider Officers' training needs and/or military commitments when approving annual leave.
- (2) Officers will submit their leave requests by utilizing a "Request for Leave" form.
  - (A) The request must be submitted to the shift supervisor.
  - (B) Approval/denial of these requests will be based upon date availability, other needs of the institution, and a system to ensure fairness to all employees.
  - (C) Shift supervisors should review these requests as soon as possible and provide the employee with a written decision within five (5) working days from the date of receipt.
  - (D) In the absence of the assigned shift supervisor, the relief shift supervisor or higher authority will assume this responsibility.

(d) **REQUESTS FOR SHIFT OR POST ASSIGNMENT CHANGE**

Each facility will develop a formal process for allowing employees to request shift changes or post assignment changes. The request must be submitted in writing to the Facility Head or designee. Approval/denial of these requests will be based upon needs of the institution, and a system to ensure fairness to all employees. The Facility Head or designee should review these requests as soon as possible and provide the employee with a written decision.

**.1607 POST CHARTS**

- (a) **Post Charts:** A central automated post chart on each facility detailing identified posts by name, number of hours of operation, and applied relief factor for each post will be maintained at the division level on a Web-based computer program. Access to viewing

the current approved post chart for each facility will be available to all Region Directors and Facility Heads. Annual reviews (Post Chart Summary Review Form) of the post charts will be conducted by the Facility Head and submitted to the Prisons Operations Manager via their Region Director. Recommended Post Changes will be documented on the Recommend Post Modification Form. The annual review of all post charts and a report of changes to security staffing will be conducted by the Division Operations Manager.

Current post charts will be based approximately on the total number of authorized and funded security positions, ensuring that the number of assigned security staffing positions assigned to a prison is consistent with the number of positions identified in BEACON. Copies of previous post charts will also be maintained on the computer program for historical purposes. Minor variances may be authorized by the Deputy Director with proper justification.

- (b) **Post Hours:** All post charts will clearly state the hours of duty for each specific post. The standard scheduled hours for any specific post will normally be either 8, or 12 hours for one shift. Facilities may request by memorandum and be granted exceptions to the 8 or 12-hour schedule by the Deputy Director, (e.g., 10-hour / 4-day workweeks).
- (c) **Post Days:** All post charts will clearly state the number of days each post is designated to be manned. The standard number of days for any specific post will normally be either 5 or 7 days. Duties requiring less than 5 days are normally considered to be tasks, not posts, and will be considered when assessing the overall posting needs of the facility. Facilities may request by memorandum and be granted exceptions to the 5 or 7-day schedule by the Deputy Director.
- (d) **Pull Posts:**
  - (1) Pull Post Level I: The first posts pulled in order to provide coverage elsewhere in the facility, reduce overtime, or designated as a first responder. Pulling a Level I post should still allow for full delivery of services, programs, and facility operations. Overtime is normally never authorized to fill these posts.
  - (2) Pull Post Level II: The second priority post to be pulled if coverage is needed in another area. The facility should be able to maintain minimal normal operations. Programs, education, and work activities may be scaled back as necessary. Post assignments should be prioritized with overtime authorized based on population requirements and duration of reduced staff availability. Pull Post Level II are essential posts that should be filled to meet the facility's Standard Operating Procedure. The post should only be pulled in emergency situations.
  - (3) Pull Post Level III: Level III posts are considered critical posts and are almost never pulled unless there is a riot or emergency. Pulling a Level III post would normally require minimal or no program and restrictive/lockdown operational

characteristics necessary to meet custody and control, staff and offender safety, and public protection requirements. Overtime for Level III posts will normally be authorized. These posts are considered critical to the safety and welfare of the general public, staff and offenders.

- (e) Post Relief Factor: A standard division wide security staffing relief factor formula is the calculated numerical multiplier applied to the number of posts identified to produce the numbers of staff needed to ensure coverage. The relief factor is a formula based on staff absences for vacations, holidays, personal days, sick leave, workers' compensation leave, training days, military leave, and other factors. The relief factor formula shall be updated at least every three years. All post charts will clearly state the relief factor for each designated post, determined by the number of hours per day, the number of days per week, and the actual need to replace the post when the assigned Officer is unavailable. Current security staffing relief factors are as follows:

POST HOURS	NO RELIEF	5 DAY POST	7 DAY POST
8 HOUR	1.00	1.24	1.73
12 HOUR	1.00	N/A	2.60

- (f) Permanent changes to facility post charts must be approved by the Deputy Director. The Deputy Director or designee will ensure approved post chart changes are entered in the automated post chart system and that the Facility Head and the Region Director are notified of any changes. A record of all post chart changes, identified position needs, and unallocated positions will be maintained by the Division Operations Manager and must not exceed the number of funded security positions.
- (g) Temporary changes to the facility post chart staffing pattern or creation of additional posts to meet short term operational needs may be approved by the Facility Head or Region Director as follows. Facility Heads may approve short term post chart changes for a period not to exceed 30 days. Region Directors may approve short term changes that exceed 30 days but not to exceed 90 days. All short term changes exceeding 90 days must be approved by the Deputy Director, and should not exceed a total of 12 months from the original date the change was initially identified. Written justification detailing the need, post hours, and expected duration of the temporary post should be submitted through the chain-of-command to the appropriate approving authority and maintained on file for a period of three years.
- (h) Proposed post charts are prepared by the Division Operation Manager at the request of the Director of Prisons, Region Director, or Facility Head and reviewed by the Deputy Director. Proposed post charts will be submitted to the Facility Head for review and then through the Region Director for concurrence prior to submission to the Deputy Director for final approval. Rosters will not be changed to reflect these modifications until the post chart has been approved.

#### **.1608 STAFFING LEVELS**

- (a) The Division Operations Manager will be responsible for maintaining a current division-wide “staffing level” chart designating all levels of security staffing. Review and revision to this chart will be made on an as needed basis each time a revised or new post chart is generated.
- (b) The Division Operation Manager will also be responsible for tracking identified staffing deficits, surpluses, and all changes to the initial post audit.
- (c) After review and recommendation by the Division Operations Manager, the Deputy Director, will approve all revisions to security staffing levels.

### **.1609 GENDER SPECIFIC POSTS**

The Department of Public Safety is committed to ensuring that each employee has equal opportunity in agency employment practices. In doing so, adequate provisions will be incorporated into the designation of security posts and assignments to provide for the offenders’ right to privacy to the extent that such privacy safeguards do not impede the department’s ability to insure the operation of safe and secure correctional facilities.

Internal guidelines have been established by which gender specific security posts and assignments are designated and utilized based on balancing the security and privacy interests of staff, offenders and the general public. Gender specific posts and assignments apply only to security staff at the Correctional Officer level. No supervisory post will be designated as gender specific. These standards apply to male facilities. Female facilities may use these standards as a general guide but may have to specify more gender specific posts based on operational needs.

- (a) Housing:
  - (1) Small minimum security facilities with a capacity generally less than 150 offenders, may utilize one gender specific post per shift.
  - (2) Larger minimum security facilities are typically staffed with one Officer for two dormitories on first shift and one Correctional Officer per dormitory on second shift. One gender specific post for every two dorms may be designated.
  - (3) Medium security dormitories may post one gender specific post in the housing area of each dormitory for conducting complete searches, leaving one or two post non-gender specific.
  - (4) Close security single cell housing facilities for regular population offenders may post one gender specific post in the housing area of each unit for conducting complete searches, leaving two or more post non-gender specific.
  - (5) Offenders will not be supervised by Officers of the opposite gender while

offenders are showering or in the toilet area unless appropriate privacy screening is provided to obscure the view of breasts, genitalia and buttocks.

- (6) Staff of the opposite gender shall be required to announce their presence when entering a housing area. Such announcement shall be made at a minimum of once upon the shift change by an “opposite gender” employee assigned to the housing area. This announcement shall be documented in the shift log. Any other opposite gender employee must announce when entering a housing area and document in the shift log.
  - (7) Offenders will be required to cover themselves appropriately in accordance with local rules and requirements when not in the shower or not utilizing toilets and while in route to and from these areas.
- (b) Control Housing: Posts involving the direct supervision of offenders in restrictive housing for administrative purposes (RHAP), restrictive housing for disciplinary purposes (RHDP), or any control status to include protective control (PCon) will be gender specific to the offenders being supervised.
- (1) Direct supervision in these areas refers specifically to the duties of supervising offenders while showering and/or the performance of strip searches.
  - (2) Strip searches associated with escorted movement may be performed by the staff providing direct supervision, i.e. assigned housing unit Officers and not necessarily by escort staff unless the escort staff is of the same gender as the offender.
  - (3) Control room assignments, offender escort Officers and other posts not requiring the performance of the specific tasks referred to above are not to be designated as gender specific to the offender being supervised.
- (c) Special-use housing areas including mental health units, transitional care units, and medical infirmaries require additional gender specific assignment consideration in keeping with any specific conditional requirements for such housing that may conflict with staff’s ability to effectively address privacy concerns for offenders housed there. Such requirements include the following:
- (1) Offenders are frequently on some type of enhanced supervision ranging from every fifteen (15) minutes to constant one-on-one observation. Such observation is required by medical/mental health staff. and many times involves offenders who either refuse or are incapable of keeping their genitalia, buttocks and breasts covered appropriately.
  - (2) Offenders on one-on-one constant “watch” status must be observed at all times including when they are utilizing the toilet and bathing or showering.



- (3) Cell extraction teams should be gender specific in such settings when time and circumstances allow. This would also apply to teams responsible for applying medical restraints in those cases where resistance by the offender is anticipated.
  - (4) Assignments/posts within these special units that do not require participation in any of the required activities listed above are not to be gender specific.
- (d) Transportation of Offenders:
- (1) When two or more Officer are utilized during transportation of medium and close custody offenders, there should be at least one (1) Officer of the same gender as the offender(s). When transporting medium custody offenders between facilities and only one Officer is present, there is no gender restriction required unless there is reason to believe that the transporting Officer may have to conduct a complete search of the offender.
  - (2) There will be no gender restrictions regarding the transport of minimum custody offenders.
- (e) Outside Work Squads:
- Outside Work Details on Facility Property: Outside work detail Officers, the department non-security supervisors, and non-department supervisors may be the opposite gender as the offender(s) being supervised.
- (f) Vocational and Enterprise Buildings:
- If the program involves tools or materials with the potential to make a weapon and offenders are stripped searched at the conclusion of the class / shift, one gender specific post per shift may be authorized.
- (g) Receiving:
- If one position is assigned to receiving of new or transferred offenders, the post may be gender specific. If multiple positions are assigned to receiving, and post involved in conducting complete searches of offenders will be gender specific. Offenders received at male facilities will be strip searched by male Officers and female offenders received at female facilities will be strip searched by female Officers.
- (h) Gatehouse:
- A gender specific post may be established at the gatehouse of minimum security facilities where complete searches of large numbers of offenders are conducted.

(i) Visiting:

One or more gender specific post may be established at higher security facilities which conduct complete searches for visiting in a holding area and other security staff cannot be readily pulled for this activity.

(j) Search of Offenders:

(1) Routine, **clothed (pat/frisk)** searches of male offenders may be conducted by Correctional Officers of either **gender**.

(2) Routine, **clothed (pat/frisk)** searches of **offenders housed in female facilities will be conducted by female Correctional Officers. Routine, clothed (pat/frisk) searches of offenders housed in female facilities will only be conducted by male staff during an exigent circumstances as determined by the shift supervisor. In such cases, the staff conducting the search will thereafter submit a statement by witness form explaining the exigent circumstances that justified the search exception. A supervisor will be responsible for completing an Incident Report.**

(3) **Absent exigent circumstances, complete (strip) searches of offenders housed in a female facility will be conducted by female Correctional Officers and complete (strip) searches of offenders housed in a male facility will be conducted by male Correctional Officers. Complete (strip) searches may be conducted by Correctional Officers of a different gender from the offender only under exigent circumstances as determined by the shift supervisor. In such cases, the staff conducting the search will thereafter submit a statement by witness form explaining the exigent circumstances that justified the search exception. A supervisor will be responsible for completing an Incident Report.**

(4) Searches of offenders shall not be conducted for the purpose of determining the person's genital status as if relates to transgender or intersex.

(5) All searches of offenders will be in accordance with Division of Prison Policy F .0100 Operational Searches.

(6) All positions, posts, shifts and assignments not specifically addressed herein and/or for which a specific exception has not been obtained from the Secretary will be equally available to all security staff without regard to gender.

**.1610 TRAINING**

The Division Operations Manager will provide training for all Facility Heads, and Assistant Superintendents, to include the purpose of post charts, how post charts are formatted, how the relief factor is calculated, how pull posts are designated and utilized,

the use of activity charting, and how the determinations are made to deploy the right number of Officers, on the right shifts, at the right place and at the right time to maximize strength.

#### **.1611 POST REVIEWS**

- (a) Each Facility Head should conduct an annual review of the facility post chart to ensure all post are necessary and are being utilized as authorized. The number of security staff required on the post chart should be compared with BEACON records to assure the appropriate number of security staff positions are assigned to the facility. Annual facility reviews should include a record of the following information.
- (1) In the event that a position has been approved to be “loaned” (to or from) as a work against position, the position number and the location the position has been loaned to or from will be forwarded to the Division Operations Manager.
  - (2) Positions on “special assignment” will be denoted with the position number identified and the reason for the special assignment.
  - (3) The Facility Head will approve the annual review and forward the (Post Chart Summary Review Form) to the Region Director who will review and approve the document before forwarding to the Division Operations Manager detailing the accuracy of the existing post chart, changes that are requested (Recommended Post Modification Form), and any information detailed in numbers 1 and 2 above.
- (b) The Division Operations Manager will be responsible for conducting on site post-reviews of every prison at least once every three years; conduct annual reviews of post-review charts through the automated post-audit system; and conduct other staffing reviews as necessary.

#### **.1612 SECURITY STAFFING PLANNING**

- (c) Prior to the opening of a new facility, the Department of Public Safety, Prisons, will establish a Security Staffing Plan for the new facility in accordance with the standards of the Federal Prison Rape Elimination Act, NC General Statutes and guidelines provided by the National Institute of Justice, Security Staffing Training, as well as, NC Department of Public Safety, Division of Adult Correction and Juvenile Justice and Prisons policy and standard operating procedures.
- (d) If the new facility is a prototype design of another Prison’s facility with the same mission, custody, and security, then the agency may apply the same staffing plan from the prototype facility to the new construction facility.



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Director of Prisons  
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08/12/2019

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Date

Facility Name \_\_\_\_\_

Post Chart Summary Review  
Recommended Post Plan

Effective 7/10/2013

Post	Function	Priority	Attributes	Pull Post Level	Officers Per Shift						Day 12hour	Night 12hour	Shift Relief Required	Computation		Total Positions	
					8hr 5day	8hr 7day	1 <sup>st</sup> 8hour	2 <sup>nd</sup> 8hour	3 <sup>rd</sup> 8hour	Total Staff per 24 hours				Relief Factor			
<b>Supervisory/Management</b>																	
Admin Captain														NO		1.00	
Shift Captain														NO		1.00	
Total Captains														NO		1.00	
Unit Manager														NO		1.00	
Total Unit Managers														NO		1.00	
Admin. Lieutenant														NO		1.00	
Operations Lieutenant														NO		1.00	
Unit Lieutenant														NO		1.00	
Total Lieutenants														NO		1.00	
Asst. Unit Manager														NO		1.00	
Total Asst. Unit Managers														NO		1.00	
Admin/Fiscal Sergeant														NO		1.00	
Operations Sergeant														NO		1.00	
Unit Sergeant														NO		1.00	
Total Sergeants														NO		1.00	
<b>Lead Correctional Officer Posts</b>																	
Transfer Bus LCO																	
Road Squad LCO																	
Support Lead Officer																	
<b>Total Lead Correctional Officers</b>																	
<b>Correctional Officer Posts (Facility)</b>																	
Master Control																	
Central Control																	
Control Station Housing Area																	
Dorm Control																	
Floor Officer																	
Corridor Officer																	
Yard Officer																	
Hospital Officer																	
Segregation Control																	
Dorm Officer ( )																	
Dorm Officer ( )																	
Dorm Officer ( )																	
Dorm Officer ( )																	
Dorm Officer ( )																	
Dorm Officer ( )																	
Gate Officer																	
Galehouse																	
Galehouse Search																	
Galehouse & EIS																	

*Management of Security Posts*

Monitoring Post	Attributes				Officers Per Shift						Computation			
	Function	Priority	Pull Post	8hr Sday	8hr 7day	1 <sup>st</sup> 8hour	2 <sup>nd</sup> 8hour	3 <sup>rd</sup> 8hour	Day 12hour	Night 12hour	Shift Relief Required	Total Staff per 24 hours	Relief Factor	Total Positions
<b>Correctional Officer Posts (Facility) CONTINUED</b>														
Block/Pod Officer ( )														
Block/Pod Officer ( )														
Block/Pod Officer ( )														
Block/Pod Officer ( )														
Block/Pod Officer ( )														
Block/Pod Officer ( )														
Kitchen														
Operations														
Vocational Area														
Educational Area														
Tower														
Perimeter Patrol														
Control Station - OTHER														
<b>Correctional Officer Posts (NON-Facility)</b>														
Inmate Receiving														
Support Officer														
Support Officer														
Housing Control														
Litter Crew														
Road Squad														
Enterprise														
Enterprise Tower														
Enterprise Perimeter Patrol														
Mallroom														
Canteen														
Clotheshouse														
Transportation														
Transfer Bus Officer														
Warehouse														
STG Officer														
Visitation														
Arsenal/Armory														
Outside Hospital Supervision														
Loading Dock Officer														
Diagnostic Center														
<b>Total Correctional Officers</b>														

## Management of Security Posts

Post Functions Column	
MGT	Management (Capt. and Unit Mgrs.)
SUP	Supervisory (Asst. Unit Mgr., Sergeants and Lead Correctional Officers)
IS	Internal Support for areas other than Housing Areas inside Complex (Kitchen, Vocational, Education, Programs, Hospital, etc.)
ES	External Support for areas outside Housing Areas or Complex (Mailroom, Arsenal, Galben, Clotheshouse, Warehouse, PPV, Towers, etc.)
SP	External Operations (Visitation, Road Squads, Litter Crews, Transportation, Transfer Bus, etc.)
ADM	Administrative and Fiscal Support (Policy, Standard Operating Procedures, Post Orders, Investigation, Cycle Counts and etc.)
RP	Standard Duty Post (Dorm Officer, Floor Officer, Control Center Officer) Standard Duty Post
<b>Priorities Column</b>	
CRI	Critical post to the safety and security of facility (Mandatory filled)
ESS	Essential post for normal operations to be maintained at the facility without significant impact.
IMP	Important (Post part of normal operations but periodic pulling of post does not pose immediate threat to safety and security of facility)
<b>Pull Posts Column - Should be same as Priorities or Post Should be assessed</b>	
Level 1	IMP - Important Posts that can be routinely be pulled without immediate threat of safety and security of facility.
Level 2	ESS- Essential Post that when pulled effects the normal operation of the facility.
Level 3	CRI - Critical Post that when pulled may cause an immediate threat to the safety and security of the facility
<b>Officers Per Shift - Total number of posts assigned to that job assignment per shift</b>	
<b>Relief Required - Yes or No Answer. 1.00 Relief Factor = No Everything else = Yes</b>	
<b>Relief Factor - As listed on your post chart</b>	
<b>Total Positions - Total positions per 24 hour total multiplied by Relief factor.</b>	
<b>Post Description Key</b>	
Control Station Housing Area	Post within a housing area where the officer must be stationed. Locked physical station with electronic door controls.
Dorm Officer	Post observing dormitory area. (For example: 104 or 208 dorms)
Block/Pod Officer	Post assigned to work inside cell block or pod area. (For example: Single cell housing at Medium/Close)
Gate Officer	Post assigned to search vehicles making deliveries or pickups to/from certain prisons. (i.e. dining hall, enterprise)
Gatehouse Search Officer	Post created by new Entrance/Exit Policy
Corridor Officer	Post assigned to certain large facilities for hallway control.
Hospital Officer	Post assigned to work Medical Clinic or one of prisons medical facilities.
Kitchen	Post assigned to correctional officer supervision over the food preparation area.
Mailroom	Post assigned to correctional officers picking up, sorting and distributing mail.
Support Officer	Special full time assignment post for correctional officer for specified duty required for facility. (i.e. landscaping inmate supervision, Shore Building assignment, Western Governor Residence, and etc.)

Superintendent/Administrator

Date

Region Director

Date

*Management of Security Posts*

DPS-101

Recommended Post Modification

Effective 2012

DOP Region:		Facility Name:										Facility Number:		
Date:		Superintendent Signature:										Region Director Signature:		
Post	Attributes			Officers Per Shift							Computation			
	Function	Priority	Pull Post Level	8hr 5day	8hr 7day	1 <sup>st</sup> 8hour	2 <sup>nd</sup> 8hour	3 <sup>rd</sup> 8hour	Day 12hour	Night 12hour	Shift Relief Required	Total Staff per 24 hours	Relief Factor	Total Position(s) Proposed
From:														
To:														
Comments:														





*State of North Carolina  
Department of Public Safety  
Prisons*

Chapter: F  
Section: .2400  
Title: **Key and Lock Control**  
Issue Date: 08/14/18  
Supersedes: 10/12/07

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## **POLICY & PROCEDURES**

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### **.2401 PURPOSE**

The purpose of this policy is to promote public safety through the safe and secure operation of facilities in Prisons by ensuring that all facilities adopt regulations for the control of keys and locks. These regulations will enable correctional staff to maintain effective security through control of all doors, gates, grills and other locking devices that comprise physical plant security both inside and outside of the perimeter. This policy will ensure that correctional staff will have total command of all keys and locking devices supplies, equipment and storage areas that support the key control program. In addition, this policy will promote safety by ensuring that in case of fire or other emergency, exit keys will be readily accessible to designated correctional staff.

### **.2402 RESPONSIBILITY**

- (a) The facility head is responsible for developing key and lock control procedures for the correctional facility. Facility procedures regarding key control must be clearly written and available for staff to reference. Offenders must not have access to these procedures or to record keeping systems that support the operation.
- (b) The facility head is responsible for ensuring key control procedures are consistently enforced and audited to assure safe operation of the correctional facility.
- (c) The facility head is responsible for developing and maintaining processes related to; key and lock control inventory, record keeping, making of keys, ordering of keys, issuance of keys, storage of keys, numbering of keys, and any other tasks that are related to key and lock control.
- (d) All correctional employees are responsible for safe, secure, and effective key and lock control management practices. Good key control is a system that every staff member must learn and practice. Its fundamentals must be incorporated into every facility's operations and every staff member's work habits.

### **.2403 PROCEDURES**

Facility key control procedures are confidential documents and subject to an annual review to ensure that procedures remain consistent with day to day operation requirements. Offenders

should not be permitted to establish any base of information about the facility's key control system or locking devices. Facility key control procedures must contain the following elements:

- (a) Descriptions and Categories of Keys - Procedures must clearly define various categories of keys used in the facility so that staff is aware of different accountability requirements for each category. Key categories generally include the following:
- (1) **Master Keys:** Cut so that one key may actuate more than one locking device in a series of locks from a single manufacturer.
  - (2) **Security Keys:** In the possession of unauthorized persons, these could facilitate an escape or jeopardize the security of the institution, or the safety of employees, visitors, or **offenders**. Immediate remedial action is necessary if a security key is lost, compromised, or missing. **Only certified staff shall be issued and use security keys.**
  - (3) **Emergency Keys.** Keys maintained on key rings and kept separate from all regular-issue keys. They provide prompt access to all parts of the institution during fires, disturbances, evacuation, or other urgent situations. **Only certified staff shall be issued and use emergency keys.**
  - (4) **Restricted Keys:** Allow access to sensitive areas of the institution. Special authorization must be obtained before they are issued to anyone other than the employee designated to draw them on a regular basis. **Except as defined in .2403 (d) (7) of this policy. Only certified staff shall be issued and use restricted keys.**
  - (5) **Non-security Keys:** Do not require immediate security response if lost or stolen.
  - (6) **Vehicle Keys:** Typically operates state owned vehicles including tractors and other specialized machines located inside or outside the perimeter of the facility.
  - (7) **Inactive Keys:** Keys no longer used but which are retained as spares and backups for active locks or spare locks. These are also keys maintained separately for other purposes, including storage for other institutions within the system.
  - (8) **Pattern Keys:** Keys from which all other keys for a particular lock or series of locks are cut. They are maintained separately from all other spare or blank keys.
- (b) Key Issue System - Facility key control procedures must include a description of the key issue system. The key issue system should describe centralized points from which keys are issued with the centralized location being secure and not accessible to **offenders**. The system must require employee accountability as keys are issued from a central location or exchanged between employees as post assignments are changed. The key issue system should accommodate at least the following:

- (1) Key Boards as required;
  - (2) Separate handling of state vehicle keys;
  - (3) Provisions for the permanent issue to an individual or to a post of selected keys;
  - (4) Actions required by employees who lose or break keys;
  - (5) Compatibility of key issue procedures with respective post orders, and
  - (6) A Key Issue Log.
- (c) Key Handling - Procedures should specify appropriate methods of handling of keys by correctional staff. Key handling procedures should include at least the following:
- (1) Keys should be carried and used as inconspicuously as possible, concealed in a pocket or discreetly secured to a belt. Keys should be kept out of the view of offenders.
  - (2) Keys must be securely carried at all times.
  - (3) For accountability purposes all keys shall be checked and logged when keys are issued or passed from one employee to another, to include keys passed temporarily;
  - (4) Staff must avoid any reference to key numbers and other identifying information in the presence of offenders;
  - (5) Keys must never be thrown or slid from one point to another across a desk or floor. Staff shall physically pass keys from one employee to another;
  - (6) Keys should never be left in locks or used to lift or pull open a lockable door;
  - (7) Force should not be used to operate locks, If the lock does not function easily, it should be reported and repaired, and
  - (8) Offenders shall never be allowed to handle security keys. Offender management of handling any other keys should be minimized to the greatest extent possible.
- (d) Restricted Keys Use - Restricted key use procedures shall be established. Restricted keys shall be issued as needed only, rather than on a permanent basis. Restricted key use procedures should apply to the following sections of the facility:
- (1) Armory and/or gun locker;

- (2) **Offender** Records Office;
- (3) Property storage rooms;
- (4) Personnel records storage areas;
- (5) Lock shop or other key or lock storage areas;
- (6) Other areas designated by the facility head as having special security requirements;
- (7) Drug Storage:
  - (A) Licensed Pharmacy - G.S. 9 - 85.6 (ACCESS TO DRUG INVENTORY) requires that a licensed pharmacy manager shall have complete authority and control of all keys to locked drug cabinets in the pharmacy. The pharmacy manager is accountable to provide security and placing reasonable restrictions on access to the pharmacy area.
  - (B) Drug Cabinets - Correctional health care professionals are authorized for the permanent issue of keys to locked drug cabinets and locked drug storage boxes.

Keys to the above areas should be issued only to authorized staff and only after supervisory approval. A specific record shall be required to document the issue of restricted keys.

- (e) Emergency Key System - Key control procedures shall provide for clear instructions pertaining to the handling of emergency keys. Emergency key procedures should include at least the following:
  - (1) Maintenance of emergency keys in a separate section or separate key board than other keys;
  - (2) A duplicate set of emergency keys to be kept in an outside armory or tower;
  - (3) The rotation of emergency keys to ensure that they are serviceable at all times;
  - (4) Regular use of emergency keys in emergency locking devices to ensure serviceability of locking devices at all times;
  - (5) Assignment of emergency keys to staff necessary to affect timely evacuation of dormitory housing areas, and

- (6) A method of coding or identifying emergency keys, such as notching, should be implemented for quick identification by sight or touch during emergency or low light situations.
- (f) Key Inventory - Key control procedures must provide for a current inventory of all keys and key blanks. The maintenance of this inventory will be the responsibility of the key and lock control officer. The key and lock control officer will document the inventory on a monthly basis. Any and all changes affecting the inventory in any manner must be authorized by the facility head or designee. Changes in inventory, lock deployment, or key utilization must be immediately documented in the related records. Keys, key blanks, and locks will be inventoried as to number, date issued out, ring location, etc. Keys or locks that are damaged or no longer in use must be removed from the key and lock inventory and properly disposed. All key rings must have an identifying tag indicating both the key ring inventory number and the number of keys on the ring. The facility head must ensure a procedure is in place that identifies and inventories, on an annual basis any keys that are permanently assigned to any staff member. Staff members who are issued keys must have an operational need, based on work or post assignment. Perpetual inventories of key blanks and other critical items will be maintained, and documentation completed as items are added or removed from the inventory.
- (g) Record Keeping - Key control procedures require accurate records of key and locking devices. A key control record system should include at least the following:
- (1) Inventory of all keys and key blanks;
  - (2) Appropriate key issuance logs;
  - (3) Records of lost, damaged or replaced locks and keys;
  - (4) Continuous records of facility keying systems so that rationale for keying schemes and modification to keying schemes is available for review;
- (h) Auditing - Facility key control procedures must require that a yearly audit be performed by the facility head. Annual audits must be reviewed and approved by Region Directors or their designee. A comprehensive audit of the key control program will be conducted annually by a central audit unit.
- (i) Training - Key control procedures require thorough staff training. The facility head or designee shall ensure that correctional staff receives the required initial training and annual refresher training. Training priorities should be provided to supervisory personnel and control center officers and other staff who are regularly involved in the issuance and management of keys. Monthly, emergency drills shall be conducted in which a designated emergency exit key is called for and staff are required to produce the key and open the emergency exit within a reasonable and timely manner. This drill must be documented in the Incident Management System.

**.2404 OTHER REQUIREMENTS**

- (a) Each facilities key control procedures must include operational procedures to be followed in the event of a:
  - (1) Lost key ring.
  - (2) Lost individual key.
  - (3) Broken key.
  - (4) Broken lock.
  - (5) Lock changes.
- (b) All facilities will establish procedures that require employee responsibility and accountability for the management and control of their personal keys.
- (c) An employee taking a key away from the facility inadvertently shall be contacted and required to return the key to the facility promptly. Any employee who discovers that he or she has taken a key from the facility shall immediately notify the facility and return the key.
- (d) Security locks and doors when not in use will be locked at all times. Security padlocks shall never be left hanging without being locked closed in a manner that it cannot be removed.
- (e) Any lock shops that are developed as a result of key control procedures should be located outside the secure perimeter so that offenders have no access to them.
- (f) When security keys are lost or misplaced, proper security precautions must be taken to preclude use of the keys for unauthorized access or escape from the facility by offenders.
- (g) The facility head is responsible for the security of the facility's safe combination(s).
- (h) Key control procedures must be compatible with facility emergency plans in order to expedite staff response to emergency circumstances.
- (i) Offenders' visitors should be discouraged from bringing personal keys into the facility.
- (j) All key rings must be soldered or otherwise properly secured to prevent removal or loss of keys or identifying information. The use of key fobs is prohibited.



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Director of Prisons

08/14/18

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Date

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*State of North Carolina*  
*Department of Public Safety*  
*Prisons*

Chapter: F  
Section: .3300  
Title: **Prison Entrance/Exit Policy**  
Issue Date: 10/29/18  
Supersedes: 10/16/17

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**POLICY & PROCEDURES**

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**.3301 PURPOSE**

To establish procedures to identify all persons, to search for contraband and to maintain safety and security at all facilities by utilizing metal detection, routine searches (pat/frisk) and special procedures for employee searches. The facility head will be responsible for developing and implementing a facility prison entry procedure consistent with this policy.

**.3302 DEFINITIONS**

- (a) Employees - All employees on the payroll of the facility including individuals contracted to provide services for that facility.
- (b) Offender Visitors - any person who is approved to visit an offender and whose approval is documented in the OPUS/visitation tracking system (VTS).
- (c) Visitation Tracking System - a computer subsystem of the Offender Population Unified System (OPUS) that automates the records relating to visitor facility entry and exit.
- (d) Contractor - a business entity that agrees to perform work on a large scale that requires workers to enter and exit a facility on a daily basis.
- (e) Departmental Official Visitors - any staff members not assigned to the facility that are on official department business and are attempting to enter the secure perimeter of any facility.
- (f) Official Visitor - refers to the Governor, Lieutenant Governor, all Cabinet members, members of the Legislature, judges of state courts, state attorneys, federal and state law enforcement officers, and non-Department of Public Safety state employees on official business.
- (g) Vendor - a business entity engaged as a merchant of products on a regular delivery basis or a service on an irregular or on-call basis. An example of the former would be the entity that supplies the vending machines. An example of the latter would be a refrigeration repair service.
- (h) Volunteer – refers to any person authorized to enter the facility in order to conduct approved programs which utilize citizen volunteers.



- (i) Routine Search - Pat and frisk searches with the person clothed. Can include the removal and search of outer garments, hat, gloves, shoes, and socks.
- (j) Complete Search – A strip-search (removal of all person’s clothing) and a search of the person’s effects.
- (k) Authorized Items – Any approved item authorized for entry into a prison facility but which is not authorized as accessible to the offender population.
- (l) Unauthorized Items – Any item that is NOT authorized or approved for entry into a prison facility.

### **.3303 RESPONSIBILITY**

The Warden, Administrator, Superintendent, Deputy Warden, Associate Warden, Assistant Superintendents, Shift Captains, Unit Managers, Lieutenants, Assistant Unit Managers, Sergeants as well as the Entrance/Exit staff, will be responsible for ensuring compliance with this procedure.

The facility head is responsible for developing an SOP that includes specific procedures to address the entrance and exit of all persons, vehicles (including emergency response vehicles), and supplies for the facility. The Warden, Administrator, Superintendent, Deputy Warden, Associate Warden, Assistant Superintendents, Shift Captains, Unit Managers, Lieutenants, Assistant Unit Managers, Sergeants as well as the Entrance/Exit staff, will be responsible for ensuring compliance with this procedure.

### **.3304 APPLICABILITY**

These procedures shall apply to all persons entering or exiting the primary entrance/exit of the facility. This does not include building or structures that are not in the confines of the facility or as otherwise indicated in this policy. Employees with inner-institution assignments and all visitors are processed through the main entrance of the institution. At close and medium custody facilities, staff/visitor entrance and exit points into the facility are restricted to one location. At minimum custody facilities, the entrance and exit points are determined by the superintendent.

### **.3305 PROCEDURES AT ALL FACILITIES**

- (a) Identification
  - (1) The officer/staff member(s) assigned to any entrance/exit point will be responsible for proper identification of all persons, including offenders, employees, and visitors entering and leaving the facility. All persons sixteen (16) years of age or older will be identified by utilizing a valid and current picture

identification card. Visitors under sixteen (16) must be identified by the supervising adult visitor who seeks to bring them into the facility.

- (2) Anyone authorized to enter who is not in possession of a valid NC Division of Prisons identification card will be positively identified and issued a temporary "Visitor" identification card by facility staff prior to being allowed entrance to the facility. Prior to departure, these temporary "Visitor" identification cards will be returned and the individual positively identified. Signs with instructions for visitors will be posted in English and Spanish.
  - (3) Before entrance or exit is allowed, if there is any doubt about the identity of any person attempting to pass through an entrance/exit point, the officer will not permit the person to pass through until positive identification can be made. At no time should an outer gate or door be opened before everyone in the immediate vicinity has been appropriately identified.
- (b) General
- (1) This procedure identifies authorized items that may be allowed into a facility. Any item not authorized is deemed unauthorized; the list of unauthorized items is not exhaustive. Unauthorized items may be reviewed by the facility head or designee for admittance into a facility.
  - (2) It is the responsibility of all staff and contractors to prevent the introduction of unauthorized items into the facilities, both refraining from bringing in such items themselves and by reporting any knowledge of the introduction of unauthorized items by others. Staff and contractors are expected to know at all times what items are authorized. Introduction of unauthorized items will not be excused by ignorance of this policy. Any staff member found to have violated this policy may be subject to disciplinary action up to and including dismissal.
  - (3) Staff members are responsible for ensuring that all items brought into the facility are authorized prior to entry.
  - (4) Unauthorized items will not be introduced into the facility by any staff member, vendor, visitor, volunteer, or other individual or group.
  - (5) Employees are required to provide information concerning other staff members, visitors, vendors, volunteers, or other individuals or groups who may be in possession of unauthorized items while within the confines of the facility. This information shall be passed on to the OIC and the respective section head for possible investigation. Employees who are found to have been aware of unauthorized items being brought in by others and who failed to report the same, shall be subject to disciplinary action up to and including dismissal.

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- (6) Neither the Department of Public Safety, Prisons, nor any of its facilities assumes responsibility or liability for any item(s) or personal property that become lost or damaged. The loss or theft of any item while in the confines of the facility will be immediately reported to the OIC.
  - (7) Unauthorized items may be returned to the employee/visitor's vehicles unless the item(s) violates federal law, state law, and/or departmental policies and is necessary evidence in an investigation at which time local law enforcement will be contacted.
- (c) Processing Employees, Official/Departmental Visitors, Vendors, and Volunteers
- (1) A record of all visitors will be maintained. All official visitors, vendors, and volunteers who enter and exit the facility will sign in/out in the appropriate log book.
  - (2) Standards of dress for employees entering the facility are listed in the Division of Prisons Appearance & Grooming Regulation policy, A.0300.
  - (3) Departmental official visitors and employees will be processed through the Gatelog system, having their card swiped. The officer operating the Gatelog system computer will positively identify the employee by photo identification after their card has been swiped. If a facility does not have the Gatelog system, departmental official visitors will sign in/out in an appropriate log book. The staff member will present his/her departmental identification card to entrance/exit point staff prior to entering or exiting the facility.
- (d) Processing Offender Visitors
- (1) Approved visitors sixteen (16) years of age or older, will be processed by requiring the presentation of acceptable forms of identification with a photograph during offender visitation hours. Visitors under sixteen (16) years of age must be identified by the adult visitor who will be responsible for them while inside the facility.
  - (2) Standards of dress for visitors entering the facility are listed in the Division of Prisons Visitation Policy/Procedures, B.0215 Appropriate Standard of Dress of Visitors section.
  - (3) Offender visitors will be registered utilizing the Visitation Tracking System (VTS) in OPUS.
  - (4) To avoid confusion, the number of visitors allowed in the registration area at any time will be stipulated by facility SOP's.
  - (5) In facilities housing medium and close custody offenders, upon completion of the

visit, the visitor(s) will not be cleared to leave the visiting area until the offender with whom s/he was visiting is positively identified and secured in a strip search area or is under direct visual observation of an officer in an offender registration area.

- (6) Prior to departure each visitor will be positively identified. Facilities are authorized to search any person exiting a facility.
  - (7) In the event that the automated system fails prior to or during visitation hours, a back-up batch job listing of approved visitors will be printed by designated facility staff and provided to the officer-in-charge. This list will be utilized to process visitors until such time as the automated system is operational.
  - (8) All other aspects of the visitation including acceptable form of identification and visitor registration are addressed in the DOP Inmate Visitation policy, D.0200.
- (e) Processing of Contractors at all Facilities
- (1) Each contractor and subcontractor (section .3302(c)) will provide the following information on each of their employees prior to entrance into a correctional facility. This process will include each individual associated with the project during each phase through completion:
    - full name;
    - gender;
    - race;
    - physical address;
    - telephone number;
    - date of birth;
    - drivers license number;
  - (2) With the intent of maintaining security upon the facility grounds, a background check will be made upon all persons employed by the contractor who will work on the project.
  - (3) These background checks will be submitted to the facility head, or designee, for review. Prisons, represented by the facility head or designee, reserve the right to reject any person whom it determines may be a threat to the security of the facility.
  - (4) Any individual with an arrest or conviction history will be evaluated on a case-by case basis to determine whether entry will be approved.
  - (5) No ex-offender will be considered for entrance into a facility until at least one (1) year has elapsed since release from custody of Prisons or other county/state/federal correctional agency. An ex-offender who has been found

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guilty of assaulting correctional staff or law enforcement or of escaping from a correctional facility will not be permitted entry.

- (6) No individual under supervised probation will be allowed entrance into a facility unless approved by the facility head or his/her designee.
- (7) An ex-offender's record of facility adjustment and/or adjustment to supervision will be evaluated and considered prior to approval.
- (8) No former employee who was terminated or resigned under investigation will be permitted entry.
- (9) Tool control for contractors will be in compliance with the requirements specified in the DOP Tool Control policy, F .2700.
- (10) Contractors and their employees will maintain picture identification upon their person at all times.
- (11) Volunteers and contract service providers may be allowed to bring in items approved by this policy with the exception of personal radios, which are not permitted by these visitors.

### **.3306 PERSONAL PROPERTY**

- (a) **AUTHORIZED ITEMS FOR STAFF:** Approved items must not be accessible to the inmate population. These items must remain under close control by the employee or secured in the immediate work area at all times.
  - (1) **Personal Clothing** – Personal coats, sweaters, or rain gear are permissible provided they are secured in a locker with no offender access and/or maintained in the employee's immediate work area. No excess clothing will be allowed past Master Control. All personal clothing items are subject to review by the facility head or designee.
  - (2) **Personal Photographs** – Staff may bring personal photographs into the facility once authorized by the facility head or designee. However, at no point should these items be displayed in a manner that would permit unauthorized viewing by offenders.
  - (3) **Umbrellas** – Under no circumstances will umbrellas be allowed past Master Control or in any area where inmates may gain access. Custody staff are not permitted to carry umbrellas in the performance of their duties as they will be issued appropriate Division-approved rain gear. Umbrellas will be stored in the entrance breezeway in the designated storage area. Exceptions will be approved by the facility head when employee work locations are significantly separated in distance from the primary umbrella storage area and these work location paths are

not protected by covered shelter. In such circumstances, umbrellas will be secured under lock and inaccessible to inmates when not in use. Under no circumstances will umbrellas be left at the facility upon completion of the shift.

- (4) Needle Stick Gloves- Staff may obtain their own personal pair of search gloves at their own expense from a law enforcement vendor or use those made available by the department.
- (5) Personal Radios- Employees assigned to an office setting may be authorized, by the facility head or designee, to bring a personal radio into the facility.
- (6) Medication
  - (A) Employees are authorized to bring into the facility only the amount of prescription and non-prescription medication to be taken during a normal working day. The medication should be carried in its container to work. A necessary dosage for work may be brought into the facility while the rest must remain secured in the vehicle. Additional medication, both prescription and non-prescription may be stored in the employee's vehicle.
  - (B) Employees shall immediately report any lost or missing medication to the Shift OIC. When reporting this, the employee should provide any information concerning the name of the medication(s) and offer any assistance in locating same.
- (7) Vehicle Keys- NCDPS staff shall be authorized to enter facilities with vehicle keys.
- (8) Female Personal Hygiene- NCDPS female staff shall be authorized to enter facilities with female personal hygiene items. This authorization does not include cosmetic items.
- (9) Glasses- NCDPS staff shall be authorized to enter facilities with glasses.
- (10) Pocket Notepad, Pocket Calendar and Writing Utensils- In order to adequately perform job functions, NCDPS staff shall be authorized to enter facilities with the aforementioned items.
- (11) Carrying Devices: Items designed for the sole purpose of transporting staff meals and/or articles associated with work functions in and out of the facility. In general, these items should be removed at the end of each workday. All carrying devices will be searched in accordance with section .3307 of this policy.
  - (A) Briefcases are not permitted without prior approval by the Facility Head.
  - (B) Carry bags/containers will be allowed in accordance with the following:

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- (i) Clear purses not to exceed 10"x 12"x 6" containing authorized items only.
  - (ii) Clear gym bag or clear backpack of reasonable size. Clear gym bags or clear backpacks are not permitted in areas accessible to inmates and must be secured in a locker located in staff locker rooms. (if applicable) Clear gym bags or clear backpacks will contain exercise clothing or authorized items only.
  - (iii) Clear Coolers/lunch boxes: Plastic or nylon type, external dimensions may not exceed 15"x 9"x 12". Only one cooler allowed per staff member. Coolers/lunch boxes must be kept in a secure location (a locked office, refrigerator or personal locker). Clear Coolers/lunch boxes shall contain food or authorized items only.
  - (iv) Unopened plastic beverage containers: Various size containers are allowed within the facility but the amount will not exceed one, two (2) liter container or smaller plastic beverage containers equal to or less than the two liter amount. Beverage containers made from any other substance (i.e. glass or aluminum) will not be permitted.
  - (v) Non ceramic type plastic or aluminum coffee cups/mugs are permitted but must be void of liquid contents for inspection when passing through a facility entrance/exit point.
  - (vi) Clear food containers: All food items entering the facility must be placed in clear plastic, rubber or silicone food containers, clear plastic bags and/or wrapped in clear plastic wrap. All food and beverage items must be transported in a clear wrapper or container that permits visual inspection. Frozen microwave meals must be in a frozen state, and may be searched in the original container if such container displays a clear wrapping sealed by the manufacturer. Outside food deliveries made to the facility must be in the vendor's original packaging and will be subject to inspection prior to entering the facility. Food containers must be secured in a refrigerator, locked office or a personal locker.
- (12) Cell Phones/Pager: Cell Phones and/or pagers are not permitted within prison facilities, with only the following exceptions:
- (A) Departmental Official Visitors and Law Enforcement Officers (SBI, FBI, Local Law Enforcement) will be authorized to retain their cell phone or pager designated for official business when entering a prison facility.
  - (B) PERT, HNT, SOTIT & SORT teams, Canine Handlers, will be authorized

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- to retain their state/agency issued cell phone or pager when entering a facility.
- (C) Each approved cell phone entering the facility will be documented.
- (D) In the event a State cell phone is misplaced or inadvertently falls into an offender's hands, the Facility Services Telecommunication's Office must be notified immediately at 919-838-3520 and the vendor will be requested to deactivate the device. Should a personal or other agency cell phone be misplaced or inadvertently fall into an offender's hands, the individual that was in possession of the phone must immediately deactivate the phone through their service provider.
- (b) **AUTHORIZED ITEMS FOR VISITORS:** Approved items must not be accessible to the offender population. These items must remain under close control by the visitors or secured in their vehicles at all times. All items are subject to search in accordance with section .3307 of this policy. Approved items are limited to:
- (1) For offender visitors with small children may bring in a diaper, wipes, pacifier, and one bottle of milk. These items must be transported into the facility by either a clear plastic bag or a clear purse no larger than 10"x12"x6".
  - (2) Visitor key ring. (Vehicle keys only no ornaments)
  - (3) Picture I.D. or driver's license (mandatory)
  - (4) Cash for vending machines (where applicable)
  - (5) Legal documents (For attorneys)
  - (6) Food brought by volunteers for service clubs and or religious feasts are subject to search in accordance with section .3307 of this policy.
- (c) **UNAUTHORIZED ITEMS:** The following items will not be allowed within the confines of the facility at any time unless approved by the Facility Head or his/her designee:
- (1) Any device or item, regardless of its intended use or design, if said item may compromise safety and security, and/or facilitate an assault, escape, insurrection, and/or interfere with or negatively impact the orderly and efficient operation of the facility.
  - (2) Weapons and associated components that include but are not limited to: firearms, ammunition, edged weapons, impact weapons, stun guns, chemical agents, or other weapons. Visiting law enforcement or correctional transport officers must store their weapon(s) in a weapons depository if it is available at the facility. If a depository is not available at the facility, then the weapon(s) must be secured in



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either the trunk of the vehicle or in a locked glove box inside the vehicle if a trunk is not available (i.e. van, etc).

- (3) Personal handcuffs or handcuff keys, unapproved weapons belts, and other related personal equipment not issued by the facility or otherwise approved by Prisons policy. This will not apply to law enforcement officers, and staff assigned to Division of Community Corrections.
- (4) Protective apparel or equipment to include bullet-proof/bullet-resistant devices, or impact-resistant devices.
- (5) Excess Custody, Medical, or Maintenance uniforms
- (6) Excess personal clothing
- (7) Controlled substances; with the exception of prescription medication noted in .3306 (a)(6)
- (8) Unlabeled or bulk medications, either prescription or non-prescription
- (9) Chemicals or poisons
- (10) Hazardous materials, including volatile or flammable chemicals or agents or incendiary devices, matches or lighters
- (11) Aerosol containers, flammable materials such as nail polish remover, thinners, contact cement, alcohol, or any item labeled "Harmful or Fatal if Swallowed".
- (12) Knives (including pocket-knives), with the exception of State-owned pocket-knives in the possession of a Maintenance Staff member and with a blade length no longer than three inches (3"). These pocket-knives may be purchased by the Facility and will be made a standard tool item maintained on the tool inventory.
- (13) Cutlery or utensils including but not limited to forks, spoons, and knives, though plastic utensils may be authorized.
- (14) Scissors or Letter openers
- (15) Audio and video recording devices except as authorized by the facility head; Authorized devices may be approved for security or program functions, but must be secured when not in use.
- (16) Cameras – Exceptions made for cell phones in accordance with section .3306 (a)(12) of this policy.
- (17) Cellular or mobile phones – Exceptions made for cell phones and pagers or for

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staff identified in accordance with section .3306 (a)(12) of this policy.

- (18) Beepers/Pagers
- (19) PDA's (Personal Digital Assistants), unless approved by/and used by DOP Medical Staff (i.e. Treatment Doctors)
- (20) Personal computers (desk or laptop), IPAD, E-readers, or computer software or hardware
- (21) Computerized game devices such as Gameboys, etc
- (22) Electronic media and media players, including but not limited to televisions, CD/DVD players, MP3 players, and CDs and DVDs, with exception of cell phones consistent with section .3306 (a)(12) of this policy.
- (23) Communication equipment
- (24) Metal and/or aluminum cans/Pop-top canned items (i.e. canned soda, Beanie Weenies, Vienna Sausages, etc.).
- (25) Glass containers
- (26) Alcohol
- (27) Tobacco
- (28) Personal publications, newspapers, books, catalogs or periodicals which are not directly related to job duties
- (29) Any sexually explicit or obscene material
- (30) Tools, except for inventoried personal tools in the possession of approved contractors and vendors
- (31) Heating or air-conditioning devices
- (32) Any device that consumes or produces electricity or other energy that is not specifically identified as authorized in this procedure or approved by the Facility Head or his/her designee.
- (33) Motorcycle safety helmets (Facility will provide adequate storage area. Cannot go past Master Control)

Any issues or disputes concerning authorized or unauthorized items should be directed to the facility head or designee.

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**.3307 SEARCH TO CONTROL CONTRABAND****(a) Search Notification**

- (1) Each facility head shall have signs in English and Spanish, posted conspicuously at all entrance roads to facility grounds and at all entrance/exit point and vehicular gate entrances to advise employees and visitors to the facility that:
- (2) All persons, property, and vehicles are subject to search.
- (3) Illegal drugs, alcohol, firearms, ammunition, explosives, weapons, cell phones, tobacco and other contraband are prohibited within the confines of the facility as defined by Prisons policy.

**(b) Metal Detection**

- (1) All facilities designated by Prisons Management shall be equipped with metal detectors, walk-through or hand held, at all appropriate entrance/exit points.
- (2) All pedestrian traffic entering a facility will be processed through a designated, primary entrance at each facility. A designated secondary entrance/exit point may be authorized by the Region Director upon receipt of a written request from the facility head. All approved entrance/exit points must document each person's entrance/exit and use metal detection for search of persons and items.
- (3) All personal items/effects to include hats, coats, belts, jewelry, hair clips, jackets, brief cases, purses, lunch containers, coolers, food items, etc. will be placed on a search table and all pockets will be emptied into provided container. These items will be hand searched and/or searched using metal detection.
- (4) All persons entering a facility must be processed by passing through metal detection (walk-through, hand-held, and/or both). Failure to clear metal detection **may** result in the person not being allowed access to the facility.
- (5) **Any person who does not clear metal detection will be referred to the Facility Head or designee. If circumstances warrant, the Facility Head or designee may allow entrance as long as other security measures are met.**
- (6) Any person with a medical prosthesis/appliance that may alert metal detection must provide medical documentation from their doctor (i.e. Pacemaker Identification Card) of the medical prosthesis/appliance.

**(c) Routine Searches (Pat/Frisk)**

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- (1) All employees shall receive a routine search (pat/frisk) upon entry to a facility. Female Officers may conduct routine searches on either female or male employees. Male Officers shall conduct routine searches on male employees only.
  - (2) Visitors – All visitors sixteen (16) years of age or older shall receive a routine search (pat/frisk) upon entry to a facility. Female Officers may conduct routine searches on either female or male visitors. Male Officers shall conduct routine searches on male visitors only. When visitors are suspected of carrying contraband, the Officer in Charge is authorized to request the assistance of local law enforcement provided that such assistance results in a routine search of the visitors by an officer of the same sex.
  - (3) All persons upon leaving or while in the confines of any NCDPS Prisons facility may be subject to a routine search of their person and personal effects. Any such search must be authorized by the facility head or designee. The right-to-search includes, but is not limited to, work areas, break areas, personal property, possessions, lockers, vehicles, and any other property located on facility property. Such searches are authorized by the Officer-in-Charge. Lockers (if applicable) will be searched at least once every six months and as often as necessary if suspicion arises.
  - (4) Items belonging to a visitor such as purses, boxes, briefcases, or other personal items will remain outside the confines of any NCDPS Prisons facility. Exceptions may be approved by the facility head or designee. If approval is granted, the personal effect(s) in question will be subject to a thorough visual and/or metal detector search. Any visitor who refuses to submit to a search of their belongings will be denied entry into the facility and **will** be subject to permanent revocation of visiting privileges.
  - (5) A person's wallet or employee's purse may not be handled by the searcher, but shall be opened completely by the owner/bearer and its content displayed.
  - (6) **All persons entering a close/medium facility must be processed by passing through metal detection (walk-through, hand-held, and/or both). Failure to clear metal detection will result in the person not being allowed immediate access to the facility. The person who does not clear metal detection will be referred to the Facility Head or designee. The Facility Head or designee has the authority to allow entrance as long as other security measures are met.**
- (d) Complete searches (unclothed).
- (1) Of visitors, volunteers, vendors, etc. is solely the authority of local law enforcement. While such searches may be conducted on agency property,

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Division staff should not provide assistance. Any complete search by law enforcement officers shall be conducted in an area that affords the maximum level of privacy to the visitor and to law enforcement personnel while the complete search is performed. If a law enforcement officer of the same sex as the visitor is not available to conduct a complete search then the visitors will be declined entry into a facility.

- (2) Of employees who consent is solely the authority of local law enforcement. Any complete search by law enforcement officers shall be conducted in an area that affords the maximum level of privacy to the employee and to law enforcement personnel while the complete search is performed. If a law enforcement officer of the same sex as the employee is not available to conduct a complete search, then law enforcement may ask for assistance from a same sex division employee of superior rank to the employee being searched; or local law enforcement may removed the employee from the premises.
- (3) Body cavity search of employees is solely the authority of local law enforcement.
- (4) Refusals - Any persons attempting to enter any NCDPS Prisons facility who refuses to comply with any required search (i.e. routine, metal detection, etc.) of themselves or their property or to produce and/or identify the item causing the metal detection to alert (where applicable) will not be allowed to enter the facility. A written report detailing the person's refusal shall be prepared by the staff member(s) involved and forwarded to the officer in charge for inclusion in an incident report.
  - (A) Employees – Who refuse to submit to a search or refuse to remain in the area as ordered, shall be denied access to the facility. Appropriate disciplinary action up to and including dismissal, shall be initiated in accordance with the Department's Disciplinary Policy and Procedures.
  - (B) Visitors - Who refuse to submit to any search shall be denied entry into the facility and should be considered for exclusion from an inmate's approved visitors' list in accordance with the inmate Visitation Policy/Procedure policy, D.0200
- (5) Any persons found with any unauthorized items will be reported to the OIC immediately.
- (6) If contraband is found on a person or in the personal effects of a person, the contraband should be confiscated and local law enforcement authorities may be notified immediately.
  - (A) Until local law enforcement authorities arrive, reasonable efforts short of the use of force should be utilized to encourage the visitor to remain at the facility. If the visitor refuses to remain then as much descriptive and

information data as can be accumulated by correctional staff regarding the identity of the visitor and direction of departure and method of departure should be communicated to the local law enforcement officers.

- (B) An employee may be ordered to remain in a designated area until local law enforcement authorities arrive. Whenever possible more than one staff person should be present in the area and one of these staff persons should be a supervisor superior in rank to the person searched. If the employee refuses to remain in the area as ordered, appropriate disciplinary action up to and including dismissal, shall be initiated in accordance with the Department's Disciplinary Policy and Procedures. A written statement detailing the employee's refusal shall be prepared by the staff member(s) involved and forwarded to the officer in charge for inclusion in an incident report.
  - (7) If prior to entry, prison officials receive reliable information that a person will attempt to smuggle contraband into the facility, the Officer in Charge should contact the local law enforcement agency for assistance.
- (e) Vehicle Search Inside Secure Perimeter
- (1) Other than inmate transport vehicles, vehicular traffic involving departmental vehicles will be permitted inside the secure perimeter, only in situations where reasonable alternatives cannot accomplish the movement of materials, equipment, supplies, or other legitimate purposes.
  - (2) If it is determined that a departmental vehicle (other than offender transport vehicles) is required to enter the secure perimeter, the officer-in-charge or designee will be contacted for authorization. The officer-in-charge or designee will:
    - (A) make a determination of the necessity of such access or if a reasonable alternative can accomplish the same objective;
    - (B) consider whether the compound needs to be closed while the vehicle is on the compound or if sufficient staff is available to ensure safe movement; and
    - (C) if the officer-in-charge or designee authorizes entry, ensure that the authorized vehicular access is noted on the facility's shift narrative.
  - (3) Each facility's standard operating procedures will stipulate how many vehicles may be inside the perimeter at any one time, and will specify the Officers duties and responsibilities when assigned to a loading dock, sally port, entrance gate, etc... Facility Standard Operating Procedures will also specify the number of offenders utilized to load/unload vehicles and specify when designated offenders have access to the loading dock or sally port area. These areas are not to be

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accessible by offenders other than those assigned to work this area.

- (4) All vehicles, commercial, private, or facility, will be thoroughly searched both entering and departing the facility to prevent the introduction of contraband or use of the vehicle as a means of escape by offenders. Vehicles will be searched above, inside, under the hood, and below. Additionally, any attachment to the vehicle such as trailers, carts, toolboxes, etc., will be searched prior to entry and exit of the institution. Specialized vehicles such as food trucks, waste trucks, will receive a thorough inspection. All clothing baskets, furniture boxes, or other containers that are large enough to conceal an offender will be checked before being loaded onto a vehicle. Mirrors and probing rods will be kept readily available to aid in checking these containers.
- (5) At close/medium custody facilities, vehicle keys will be placed in a secured area such as a tower or key box after the vehicle has entered the confines of the facility and prior to offenders accessing the vehicle.
- (6) All non-departmental persons will be questioned regarding possession of unauthorized items or contraband (e.g. firearms, ammunition, narcotics, knives, ropes, jacks, tools, cell phones, tobacco, etc.). Prior to being allowed entry, the driver of the vehicle will turn over any articles offering a threat to the security of the facility to staff who will ensure they are stored in a secure area until his/her departure. Items remaining on the vehicle (e.g. ropes, jacks, etc.) should remain secured while within the facility. All vehicle occupants are subject to search pursuant to section .3307 of this policy.
- (7) Vehicles entering the secure perimeter will keep their windows rolled up and the doors locked at all times while inside the compound. Vehicles inside the compound will be locked while parked and unattended. If a vehicle needs to be left inside the compound overnight, it will be rendered inoperable by the driver by removal of an engine part necessary for its operation (i.e. battery removal, etc.). No motorized vehicles will be stored, parked or left unattended in the loading dock or sally port areas. There will be constant supervision of the areas anytime an offender or vehicle is present. Offenders will be under constant supervision when on the loading dock. The loading dock/sally port Officer will maintain a log of all incoming and outgoing vehicles to include company name, license tag number, date and time in and out.
- (8) Prior to entry, a careful inspection of the interior of vehicles such as a box truck, semi-truck, etc., will be conducted. The cargo truck will remain secured until it reaches its destination and an officer is present at the rear of the truck to closely monitor the loading/unloading of the truck. The officer will maintain constant visual observation of the loading/unloading area of the truck and, upon completion, will secure the cargo bay. The cargo bay will remain secured until it is inside the sally port area for an exit security inspection. Vehicles will be

allowed to exit the area only after all offenders have been accounted for.

- (9) Commercial vehicles leaving the facility will have a designated point at which to stop before reaching the vehicle entrance/exit gate so that the driver can establish to the assigned gate officer the fact that s/he is not under duress.
  - (10) During formal counts, vehicles will be held at the gate area until the count is officially cleared this includes transfer buses, enterprise vehicles, law enforcement, etc.
  - (11) In situations where a life threatening medical emergency exists, the normal search requirements for vehicles entering and exiting the facility compound via the vehicle gate will be suspended for emergency vehicles (e.g. ambulance or fire truck) called to provide emergency transport. In order to expedite the ambulance entrance/exit, security staff will meet the ambulance at the gate and provide constant observation of the vehicle until the ambulance exits the compound. Staff should positively identify the emergency personnel, as well as look inside the vehicle to ensure there is no breach of security.
  - (12) Pedestrian traffic through vehicle access gates will be restricted to only those persons whose job responsibilities require use of this entrance/exit area. The facility head, or designee, will determine what pedestrian traffic will be permitted through this gate; however, this should be based on need rather than convenience. Any person entering through any vehicle gate will be subject to search in accordance with section .3307 of this policy
  - (13) All loading dock/sally port areas will be well lit in order to permit good observation during periods of low/limited light. These areas shall remain clean and well organized. No excess storage or other items such as wooden pallets or milk crates will be left in this area past the end of the workday, unless they are secured by cable or chain, or locked in a separate fenced area.
  - (14) All dumpsters, recycling or trash containers inside the secure confines of the facility will remain locked and secured when not in use. Trash compactors will be secured with padlocks at both the front and back access points.
  - (15) Offenders assigned to the loading dock area will wear a safety vest with the word "INMATE" printed on the back for clear identification.
- (f) Employee's Personal Vehicle Search
- (1) Employees will ensure their parked and unattended personal vehicles are locked and the windows rolled up while on state property.
  - (2) If a vehicle is found to be unlocked, the officer-in-charge will be notified immediately.



- (A) The driver of the vehicle will be determined via consultation with local law enforcement (license registration) and then notified to report to the vehicle.
- (B) Action will be taken to secure the vehicle and/or the vehicle contents.
- (3) Employee vehicles parked on Division property are subject to external inspections by Department staff and/or Narcotic Detection Canines.
- (4) Employee vehicles on Division property may be searched if consent is given by the employee, or a Search Warrant has been properly issued and is being served by a law enforcement agency, or under some other legal justification for a search as determined by local law enforcement officials.
- (5) Employees who bring a personal firearm onto NCDPS Prisons facility property must obtain written authorization in advance from the facility head.
  - (A) Staff members who carry a firearm to and from work in their personal vehicle are expected to store it in a locked glove box, locked box or locked trunk.
  - (B) Firearms will not be placed in toolboxes or other similar storage devices affixed to or located in a truck bed.
  - (C) If the vehicle is a Jeep or similar soft top, no top, and/or no trunk type of vehicle, then a firearm must be secured in a locked box in order to be approved to have it on state property.
  - (D) Firearms will not be removed from a vehicle while on state property.

### **.3308 AUTHORITY TO DETAIN**

- (a) Prisons staff may detain another person when the staff member has probable cause to believe that the individual to be detained has committed in his or her presence any of the following:
  - (1) A felony
  - (2) A breach of the peace
  - (3) A crime involving physical injury to another person
  - (4) A crime involving theft or destruction of property
- (b) The detention must be in a reasonable manner considering the offense involved and the

circumstances of the detention.

- (c) The individual may not be detained any longer than required to accomplish the earliest of the following:
  - (1) The determination that neither of the events described in section F.3308 (a) above has occurred.
  - (2) Surrender of the individual being detained to a law enforcement officer.
- (d) A staff member who detains another person must immediately notify a law enforcement officer and must then surrender the person to the law enforcement officer , unless the staff member releases the person pursuant to section F.3308(c)(1) above.
- (e) This section does not pertain to situations in which contraband is found on the person or in the personal effects of a visitor. The procedure to follow for that situation is detailed in Section F.3307 (d) (6) of this policy.

### **.3309 DESIGNATED ENTRANCE/EXIT POINT AT MEDIUM/CLOSE CUSTODY FACILITIES**

- (a) Setup
  - (1) Each facility must designate a single entrance/exit point to conduct a proper search of employees and visitors.
  - (2) The layout and function of the facility's entrance/exit point must be documented in the facility standard operating procedures and be approved by the Region Director.
  - (3) The smaller the entrance/exit point; the fewer number of persons allowed in the area during search.
  - (4) At minimum, the entrance/exit search station should have the following:
    - (A) Metal detection device(s) (i.e. walk-through, hand-held, or both) (Standardized model per Security manual section .1400).
    - (B) Table or tables.
    - (C) Baskets to separate each individual's personal items.

- (b) Staffing

The entrance/exit point is the cornerstone in the facility security net to prevent contraband. Therefore, it is considered a specialized assignment requiring specialized

skills and training. Assignment to this post should be based on an officer's ability to search, professional demeanor and ability to complete their task while possibly making some staff and visitors uncomfortable due to the thoroughness of the search process. Facility heads should not consider this a pull post or a routine rotation of staff.

- (1) Staff selected for the entrance/exit post should be professional with good interpersonal communication skills.
- (2) Staff selected for the entrance/exit should be experienced in conducting searches of persons as well as property.
- (3) Staff selected should be well trained in the Division's D.0200 Visitation Policy, F.0100 Operational Searches, F.3300 Entrance/Exit Policy as well as the facility's standard operating procedures on entrance/exit and search.
- (4) Entrance/Exit staff should ensure all persons and personal items are carefully searched.
- (5) The Shift OIC will randomly report to the entrance/exit point to observe the entrance/exit operations to ensure Prisons policies and the facility's standard operating procedures are being followed.
- (6) The facility head should periodically meet staff at line-ups to address the division's commitment to preventing contraband from entering the facility and emphasize his/her support for the entrance/exit staff as it relates to facility security.



\_\_\_\_\_  
Director of Prisons

10/29/2018

\_\_\_\_\_  
Date

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# EXHIBIT D

North Carolina  
Department of Public Safety



New Employee Manual  
January 2017

## **Disclaimer**

The manual presented here is for guidance and reference purposes only. It is of a general informational and educational nature. Policies and procedures may change. You should consult the Department of Public Safety Personnel Manual, the Office of State Personnel Manual, the Department of Public Safety Website, or the Department of Public Safety Office of Human Resources for the most current information.

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# GENERAL INFORMATION

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## INTRODUCTION

The North Carolina Department of Public Safety is North Carolina's statewide public safety and homeland security agency.

The department was formed in 2012 from the consolidation of the former departments of Crime Control and Public Safety, Correction and Juvenile Justice and Delinquency Prevention. It is home to the State Highway Patrol, State Capitol Police, N.C. National Guard, State Bureau of Investigation, Alcohol Law Enforcement, Alcohol Beverage Control Commission, Private Protective Services, Emergency Management, adult and juvenile corrections and other law enforcement agencies.

## DEPARTMENT OF PUBLIC SAFETY VISION

To provide the finest safety and security services for all North Carolinians.

## DEPARTMENT OF PUBLIC SAFETY MISSION

Safeguard and preserve the lives and property of the people of North Carolina through prevention, protection and preparation with integrity and honor.

## GOALS

**Prevent** – We are the model for preventing and reducing crime.

**Protect** – North Carolina is safe for living, working, and visiting.

**Prepare** – We are leaders in public safety readiness, communication, and coordination.

**Perform** – We excel in every facet of our work- Law Enforcement, Emergency Management, National Guard, Adult Correction, Juvenile Justice, and Quality of Administrative Services.

**People** – We will value each other like family.

## VALUES

**Safety**- We value the safety of our employees and the citizens we serve.

**Integrity**- We perform our work in an ethical, honorable, respectful, courageous, truthful, and sincere way.

**Customer Service**- We consistently exceed our customers' expectations through speed of delivery of services and continuous evaluation.

**Professionalism**- We exhibit courteous, conscientious, and businesslike manner in all customer service activities; We stay knowledgeable of all aspects of our job; We act for the public without regard to convenience or self-interest.

**Diversity**- We draw strength from our differences and work together as a family in a spirit of inclusion, teamwork, and mutual respect.

**Quality**-we pursue excellence in delivering the programs and services entrusted to us.

Blank for State Gov't O Chart

Blank for DPS O Chart

## **ORGANIZATIONAL STRUCTURE**

### **OFFICE OF THE SECRETARY**

The Secretary serves as the sole representative on the Governor's Cabinet for the state's law enforcement, juvenile justice, correction and emergency response community. The department focuses citizen and legislative attention on law enforcement and public safety issues, such as the supervision of offenders in prison or on community corrections, drinking and driving, underage access to alcohol and tobacco, the proper use of child safety seats, crime prevention, and preparation for natural disasters. The department is constantly updating plans and providing training for local officials to respond to emergencies such as natural disasters, terrorism, communicable diseases, nuclear power plant incidents and civil unrest. This agency serves as the coordinating agency for North Carolina's homeland security preparedness.

### **COMMUNICATIONS OFFICE**

The Communications staff works to ensure the people of North Carolina are informed and knowledgeable about programs, events and conditions affecting their safety and well-being. Staff works to provide timely and accurate information to news media and to inform the public of emergency action steps to be taken during natural or man-made disasters. Members of the Communications Office respond to media inquiries, write speeches and press releases and produce educational materials. Communications staff members are on call 24 hours a day, seven days a week assisting members of the news media either by phone or at the scenes of incidents. When necessary, communications staff prepare and distribute news releases and arrange for news conferences.

### **OFFICE OF SPECIAL INVESTIGATIONS**

Established in 2015, the Office of Special Investigations (OSI) serves as the platform that provides consistency in the handling of internal complaints involving any Department of Public Safety employee, volunteer, or contractor on allegations of serious misconduct. Office of Special Investigations consolidates the various internal affairs entities within the North Carolina Department of Public Safety (DPS), to improve the efficiency and efficacy of internal investigations processes throughout the agency.

The Office of Special Investigations is also tasked with ensuring that the integrity of the Department of Public Safety is maintained through an internal system in which independence, fairness, and justice are guaranteed by an impartial investigation and independent review of allegations of violations of laws, rules, or policies made against any DPS employee, volunteer, or contractor that could significantly impact that ability of DPS to accomplish its mission.

As part of its mission, the Office of Special Investigations strives to maintain an ethical work environment which creates and sustains trust between the DPS and the citizens of North Carolina.

### **SAMARCAND TRAINING ACADEMY**

Occupying 430 acres in Moore County, Samarcand Training Academy provides correctional, in-service, law enforcement and advanced law enforcement training. A 2013 North Carolina General Assembly allocation of \$10.4 million has been used to convert the former Samarkand Manor into a corrections and law enforcement training center for the Department of Public Safety. The funding paid for renovations to 14 of the 24 buildings and to build a firearms training range. Samarcand has six classrooms, dormitory space capable of housing 89

overnight students and a cafeteria. The primary purpose of the academy is to conduct basic training for correctional officers, probation/parole officers and juvenile justice employees, as well as other in-service training. The law enforcement agencies within DPS are able to use Samarca to conduct in-service and advanced training programs, while other local, state and federal agencies may also conduct training at the facility from time to time.

## **OFFICE OF THE GENERAL COUNSEL**

The Office of the General Counsel is responsible for the following program areas.

- PREA
- Legal Affairs

## **DPS OPERATIONS**

The Operations Division provides an array of services for the entire department. DPS Operations consists of the following sections:

- Budget & Analysis
- Controller's Office
- Internal Audit
- Purchasing and Logistics
- Information Technology Systems & FirstNet
- Governor's Crime Commission
- Victim's Services
- North Carolina Private Protective Services
- Emergency Management
- Governmental Affairs

## **HUMAN RESOURCES**

The Human Resource Office provides professional guidance, advice and support to sections in a variety of functions such as staffing, job classification, training and development, employee relations, and benefits administration in order to make the Department of Public Safety employment experience enriching and rewarding. The Safety, Occupational, & Environment Health Office is also under the Human Resources Office.

## **ADULT CORRECTION & JUVENILE JUSTICE DIVISION (ACJJ)**

The Division of Adult Correction and Juvenile Justice includes the sections of Adult Correction, Juvenile Justice, and ACJJ Administration.

### **Adult Correction**

#### **Prisons**

Housing adult inmates across the state in prisons  
Rehabilitating with work, academic, vocational and religious programs  
Preparing inmates for re-entry to our communities  
Providing constitutionally-mandated healthcare



### **Community Supervision**

Supervising inmates

Officer specialties: sex offenders, domestic violence, school partnerships, gangs/community threat groups

Reducing recidivism through the use of research-proven practices and promoting coordination between state- and community-based corrections programs.

### **Security Services**

Security Services includes facility security, intelligence gathering on threat group activities, emergency response, and law enforcement collaboration. Special Operations Teams respond to institutional emergencies, assist with warrantless searches with community corrections, lead canine units for drugs and cell phone searches, and operate drug interdiction efforts.

Intelligence staff provides transcripts of inmate calls and monitors facility gang activity.

Emergency responders address critical facility incidents, collaborate with State Emergency Management to secure facilities and offer community assistance (e.g., prevent looting, run shelters, offer clean-up) in times of natural disasters. Staff collaborates with the US Marshalls and Federal Bureau of Investigation Violent Crimes Task Forces, operates an extradition program, provides drug screening labs, executes high-profile crime response, provides gang interdiction, and operates a 24-hour/7-day a week DCI terminal for wanted person warrants and data.

## **Juvenile Justice:**

### **Juvenile Community Programs**

The Juvenile Community Programs section provides community-based alternatives (programs, residential alternatives and court sanctions) for youth that are at-risk of juvenile delinquency, or that have been alleged to have committed a criminal offense, or that have been adjudicated delinquent by the Juvenile Court. Community Programs options range from services for at-risk youth, to diverted/dismissed juveniles (youth with official juvenile court complaints that are diverted or dismissed at intake), court-supervised juveniles, as well as those returning to the community from a youth development center on post-release supervision.

Juvenile Community Programs consists of the following core components:

Juvenile Crime Prevention Council (JCPC) Programs, funded through a state and local partnership in all 100 counties; Statewide Residential Contractual Services, including short-term residential facilities and multipurpose group homes; and Non-Residential Contractual Services, home-based dispositional alternatives and re-entry transitional services for those youths returning home from a residential placement.

### **Juvenile Facilities**

Juvenile Facility Operations operates two types of secure commitment centers for youths in North Carolina: juvenile detention centers and youth development centers.

Juvenile detention centers temporarily house youths alleged to have committed a delinquent act or to be a runaway. Youths are generally placed in a juvenile detention center while awaiting a court hearing, or until another placement can be found, either in a community-based program or service or in a youth development center. Youth development centers are secure facilities that provide education and treatment services to prepare committed youth to successfully transition to a community setting. This type of commitment is the most restrictive, intensive dispositional option available to the juvenile courts in North Carolina. The structure of the

juvenile code limits this disposition to those juveniles who have been adjudicated for violent or serious offenses or who have a lengthy delinquency history.

### **Juvenile Court Services**

Juvenile Court Services provides intake and supervision services for undisciplined and delinquent juveniles within a continuum of services that provides care and control. The mission of Juvenile Court Services is to keep communities safe by holding juveniles accountable for their actions and to prevent future delinquent behavior by providing or securing services to meet the needs of the juvenile and his or her family. This mission is carried out in accordance with laws and court orders and in full collaboration with multiple community agencies.

### **Juvenile Treatment & Intervention Services**

Juvenile Treatment and Intervention Services ensures appropriate clinical treatment and youth development interventions for youth served in juvenile justice facilities and programs. Clinical treatment/programming includes medical, psychiatric, dental, nutritional, psychological, substance abuse, recreational, spiritual, and case management services. Additionally, this unit provides oversight of the education programming in youth development centers, juvenile detention centers, and contracted community-based residential programs, and is charged with fulfilling all state and federal mandates of a traditional school system.

## **ACJJ Administration:**

### **Correction Enterprises**

Employing inmates and teaching job skills in a variety of industries while providing valuable goods and services at a cost savings to state and local governments.

- Agriculture • Braille production • Printing • Janitorial products
- Optical • Metal products • Furniture and reupholstery
- Clothing and embroidery • Highway signs and license tags • Laundry

### **Rehabilitative Programs and Support Services**

The Rehabilitative Programs and Support Services section is responsible for developing, implementing, and monitoring correctional interventions for adult offenders in prison and on supervision in the community. The goals of the section include promoting public safety, improving offender behavior, and reducing re-offending. Utilizing evidence-based practices as the foundation of all programs and services, offenders are prepared with the necessary skills and tools to live as productive members of the community. The section focuses on offender programs and services in the major areas of substance abuse, cognitive behavioral programs, educational attainment, vocational training, victim services, and reentry and transition pre-release and post-release planning.

### **Staff Development and Training**

The Office of Staff Development and Training provides training for employees across the Department of Public Safety. Employees from entry-level to seasoned veterans have found avenues available for increased effectiveness through training. With more than 500 different job classifications, mandated training and standards required by the North Carolina Criminal Justice Education and Training Standards Commission, a comprehensive training program is required to meet the agency's needs. OSDT strives to address the specialized training needs of all staff from top management officials to first line employees.

### **Combined Records**

Combined Records maintains the centralized repository of inmate records for the North Carolina Department of Public Safety.

### **Central Engineering**

The Department of Public Safety Central Engineering section is the department's capital program manager and manager of physical plant operations. This physical plant operation encompasses more than 12 million square feet of building space and more than 18,000 acres. A full range of architectural, engineering and construction services are available to all departmental divisions.

## **STATE HIGHWAY PATROL**

The mission of the State Highway Patrol is to ensure safe, efficient transportation on our streets and highways, reduce crime, protect against terrorism, and respond to natural and man-made disasters. This mission will be accomplished in partnership with all levels of government and the public, through quality law enforcement services and education based upon high ethical, professional, and legal standards.

## **STATE CAPITOL POLICE**

The State Capitol Police provides a safe and secure environment for public officials, state employees, and visitors within the State Government Complex and at state-owned properties throughout the Raleigh/Wake County area, through the consistent enforcement of established regulations and laws.

## **STATE BUREAU OF INVESTIGATION**

The State Bureau of Investigation assists local law enforcement with criminal investigations, working closely with local police, sheriffs, district attorneys, federal investigators, and federal prosecutors. The SBI has statewide jurisdiction and investigates homicides, robberies, property crimes and other serious cases. Involvement is at the request of the local department that maintains original jurisdiction over the case. The SBI has original jurisdiction in these areas:

- Drug Investigations
- Arson Investigations
- Election Law Violations
- Child Sexual Abuse in Day Care Centers
- Theft and Misuse of State Property
- Computer Crime Investigations that Involve Crimes Against Children

## **ALCOHOL LAW ENFORCEMENT**

ALE is recognized as a “cutting-edge” agency by its peers in the National Liquor Law Enforcement Association. Along with its core mission of enforcement and regulation of the alcohol beverage industry and controlled substance investigation, ALE is charged with enforcement of the sale of tobacco products to underage persons and acting as the enforcement arm of the North Carolina Education Lottery, the North Carolina Boxing Authority, regulating boxing, toughman, mixed martial arts, and charitable bingo licensing and regulation.

## **NORTH CAROLINA NATIONAL GUARD**

- 12,000 citizen soldiers standing ready to protect the lives and property of North Carolinians

- Defending the nation as an all-volunteer Army and Air Guard
- Providing trained soldiers and a cost-effective military force
- Providing expertise in aviation, transportation, engineering, logistics, medicine and security
- Operating Army National Guard from 93 armories
- Operating Air National Guard from three state locations
- Maintaining emergency equipment such as helicopters, airplanes, light to heavy vehicles, generators, communications gear and more.

## **MANUALS, POLICIES, FORMS, AND LINKS**

Department-wide Policy Manuals for the Department of Public Safety are located here:

<https://www.ncdps.gov/Index2.cfm?a=000002,002186>

From this link, you can then select from the Human Resources, Information Technology, or Purchasing and Logistics Manuals. You can also view directly all existing Department of Public Safety policies and procedures. The DPS Human Resource Manual and the DPS Fiscal Manual are to be used in conjunction with the State Personnel Manual from the Office of State Personnel and the State Budget Manual. Additionally, as employees you are expected to comply with all section, division, and work-unit specific requirements, policies, and procedures.

## **PHONE DIRECTORY**

To locate a DPS Employee, you may access the online directory located here:

<https://www.ncdps.gov/directory.cfm>

To locate a Human Resources Professional to assist you with any HR Questions, access the HR Staff list here:

<https://www2.ncdps.gov/Index2.cfm?a=000002,001545>

Additionally, a State of NC Employee Directory is located here:

<http://www.ncgov.com/empDirSearch.aspx>

# HR PAYROLL SYSTEM

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## **THE HR PAYROLL SYSTEM**

The Human Resource Payroll Integrated System, originally known as BEACON, is the primary program for maintaining employee master data to include hours worked and leave applied. This is also the system used for enrolling in and maintaining some benefits. Payroll is integrated with time management. Specifically, Time Entry, Leave and Pay are all maintained by the system and, closely connected to, affected by, and dependent on one another. This section explains the inter-related components of Time Entry, Leave and Pay.

### **ID NUMBER**

You will receive an employee ID number that is unique to you and is randomly generated and assigned by the ORBIT retirement system. This number (also known as your “Personnel ID Number”) will not only serve as your ID number during your active duty as a state employee, but will also be your means of identity in the retirement system even after you leave state government service or retire. The first step to receiving an ID Number is setting up an NCID account.

### **NCID ACCOUNT**

The North Carolina Identity Management Service – Next Generation (NCID-NG) is the standard identity and access management platform provided by the Office of Information and Technology Services. NCID-NG is a Web-based application that provides a secure environment for state agency, local government, business and individual users to log in and gain access to real-time resources, such as customer-based applications.

The NCID Login is utilized for the processing of payroll, enrolling and maintaining of benefits, and for utilizing the employee Learning Management System for training. Your NCID account and permanent password will be created on your first day of employment with the department. Your local NCID Administrator should provide you with assistance on that process.

Your NCID password must be updated every 90 days. If you do not login within 90 days, your password expires, or you have 3 failed login attempts, your NCID access will be locked. In order to reset your login, you should contact your local NCID Administrator. A list of NCID Administrators is located here:

<https://www.ncid.its.state.nc.us/StateAgencyListing.asp>

### **POSITION SETTINGS IN THE HR PAYROLL SYSTEM**

Each employee’s position has the following designations:

1. A designated, predefined work schedule
2. A holiday calendar
3. A work period
4. Position settings which determine eligibility for:
  - OT/Comp Time/Gap
  - Shift Premium Pay
  - On-Call/Emergency Call Back
  - Holiday Premium Rate
5. Compensatory Time Aging Limit

The position settings and time entry are the foundation for how an employee's time is processed and, ultimately, paid in the HR Payroll SAP. These settings are determined by executive management when a position is created.

**EMPLOYEE SELF-SERVICE (ESS) AND MANAGER SELF-SERVICE (MSS):**

The Human Resource Payroll System offers an online self-service option known as Employee Self-Service (ESS) and a Manager Self-Service (MSS). Employees have access to ESS as follows:

**Employee Self-Service (ESS) WITHOUT Time Entry:**

ESS without Time Entry means employees have access to enroll and update benefit and other employee information, however, do NOT enter work time, leave, or submit leave requests in ESS.

**Employee Self-Service (ESS) WITH Time Entry:**

In addition to having access to enroll and update benefit and employee information, employees who work at locations that have (ESS) WITH Time Entry have been authorized to enter their time and leave in ESS.

**Please refer to your supervisor and/or manager to determine whether your location has access to ESS with or without Time Entry. IMPORTANT NOTE: *If your work location is NOT authorized to enter time and leave in ESS and you enter time and/or leave using ESS, your pay and/or leave could be adversely affected.***

**EMPLOYEE SELF-SERVICE (ESS):**

In ESS, employees have easy access to information and services. ESS is organized as follows and employees using ESS can do the following:

<u>My Personal Data</u>	<ul style="list-style-type: none"> <li>• Update/change Address (Permanent Residence and Emergency Contact)</li> <li>• Update/change Tax Withholding Information</li> <li>• Add/Update Family Member/Dependents</li> <li>• Change Bank Information</li> </ul>
<u>My Working Time</u>	<ul style="list-style-type: none"> <li>• <b><i>**Enter working time and leave (see note below);</i></b></li> <li>• <b><i>**Request leave from supervisor (see note below);</i></b></li> <li>• View and print Leave Quota balances.</li> </ul> <p><b><i>**Note: Only certain locations have authorization to enter time, leave and submit leave requests in ESS. Please refer to your supervisor/manager to determine if you should enter your time and leave in ESS.</i></b></p>
<u>My Pay</u>	<ul style="list-style-type: none"> <li>• View and print past and current paystubs;</li> <li>• Access multi-year W-2 information (Total Compensation Statement)</li> </ul>
<u>My Benefits</u>	<ul style="list-style-type: none"> <li>• Enroll in State Health Plan and NCFlex programs;</li> <li>• Add/Change beneficiary information for NCFlex programs;</li> <li>• Access to 401K and Deferred Comp websites for enrollment.</li> </ul>

## MANAGER SELF-SERVICE (MSS):

MSS allows managers to:

- Review and approve time entry of their employees;
- Review and approve leave requests;
- Access to general information on their employees;
- Ability to run various Time Reports.

*Note: Since MSS is used by supervisors/managers primarily to approve time entry and leave requests of employees, locations that have not been authorized to enter time/leave in ESS will not have MSS.*

Employee Self Service Overview - Training

The Office of State Controller has developed a course entitled "Employee Self Service Overview" to help familiarize all employees with the ESS portal. Employees will be required to complete the ESS Overview training as part of New Hire Orientation. This training will explain what is available in ESS and how employees can enroll and make changes to their benefits and other employee information using ESS. The training can be accessed here:

<http://osc.nc.gov/state-agency-resources/training/hrpayroll-system-course-listing/es200-employee-self-service-new-2016>

## BEST SHARED SERVICES

BEST Shared Services is the organization created to support the HR Payroll community including:

- Employees,
- Managers, and
- Agency HR.

BEST Shared Services will:

- Provide HR, benefits, and payroll administration services;
- Address HR and payroll questions and processing needs;
- Coordinate with agency HR and payroll groups to resolve employee issues;
- Provide support for reporting activities;
- Provide system maintenance and assistance.

As an employee, you may need to contact BEST Shared Services to resolve issues relating to payroll deductions, benefit enrollment, etc.

BEST Shared Services contact information is as follows:

Phone#: 866-622-3784 Phone# (Raleigh Area): 919-707-0707  
Fax#: 919-855-6861  
Email: [best@osc.nc.gov](mailto:best@osc.nc.gov)  
Website: <http://qa.osc.nc.gov/BEST/index.html>

When calling BEST Shared Services, it is recommended that you have your Personnel ID number available.

## TIME ENTRY IN THE HR PAYROLL SYSTEM

All DPS employees have access to Employee Self-Service (ESS) to enroll and update benefits and employee information. However, only certain DPS locations have been authorized to have access to Employee Self-Service (ESS) **WITH** Time Entry. Therefore, depending on the work

location, Time Entry into the HR Payroll System will be by the Employee or Time Administrator as follows:

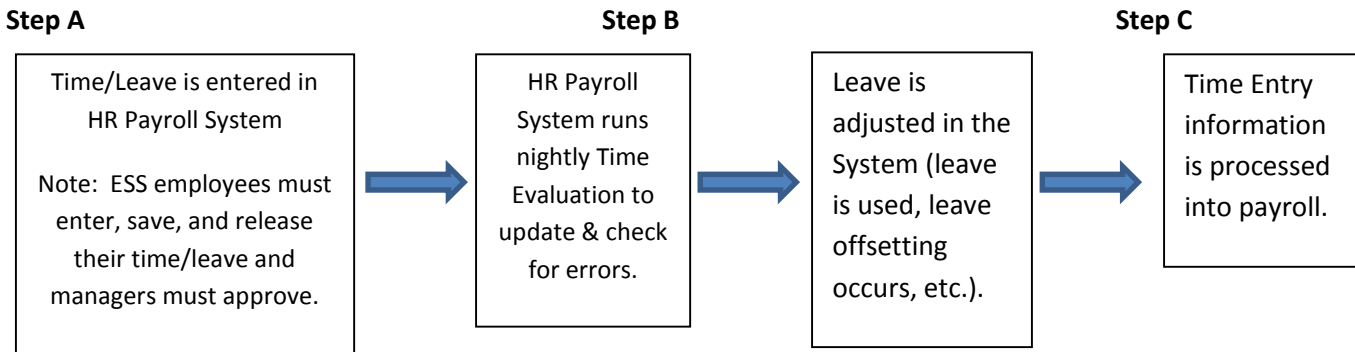
EMPLOYEE:	TIME ADMINISTRATOR:
<p>Employees at work locations that have been authorized to enter their time/leave in the Human Resource Payroll System using ESS shall enter/save their time daily in ESS and release their time to their supervisor weekly.</p> <p>For information on how to enter time in ESS, these employees will need to complete the online ES210 Employee Self-Service Time Entry Course at <a href="http://osc.nc.gov/state-agency-resources/training/hrpayroll-system-course-listing/es200-employee-self-service-new-2016">http://osc.nc.gov/state-agency-resources/training/hrpayroll-system-course-listing/es200-employee-self-service-new-2016</a>.</p>	<p>For employees <b>NOT</b> entering time through ESS, timesheets are required to be completed and maintained. The Department has (3) different timesheets. These include:</p> <p><b>Timesheets:</b></p> <ol style="list-style-type: none"> <li>1. Weekly Employee Time Report (Monday Start) <a href="https://www.ncdps.gov/emp/hr/TIMESHEET_DPS_Mon_start_wit_h_Charge_Objects_revised062512.xls">https://www.ncdps.gov/emp/hr/TIMESHEET_DPS_Mon_start_wit_h_Charge_Objects_revised062512.xls</a></li> <li>2. Weekly Employee Time Report (Sunday Start) <a href="https://www.ncdps.gov/emp/hr/TIMESHEET_DPS_Sun_Start_revised062512.xls">https://www.ncdps.gov/emp/hr/TIMESHEET_DPS_Sun_Start_revised062512.xls</a></li> <li>3. Temporary Employee Time Report <a href="https://www.ncdps.gov/emp/hr/TIMESHEET_DPS_TEMP_Revised_Final062512.xls">https://www.ncdps.gov/emp/hr/TIMESHEET_DPS_TEMP_Revised_Final062512.xls</a></li> </ol> <p>The supervisor shall review and sign the timesheet and then the time/leave is entered into the HR Payroll System by the designated Time Administrator at the work location.</p>

**Time Entry & Time Evaluation**

Once time/leave has been entered into the system by the Time Administrator and/or the employee via ESS (entered, saved, released, and approved by the manager), the system will run a nightly Time Evaluation. Time Evaluation determines:

- Overtime/Comp. Time
- Premium Pay
- Leave Offsets and
- Recovery of Liabilities

Time evaluation checks for time entry errors, updates the time/leave records that were entered and approved and these results are used to generate your pay.



**WEEKLY TIME REPORTING FOR NON ESS/MSS EMPLOYEES**

The Employee Time Report is the official source document for time and leave records of employees not using the ESS/MSS system. The Employee Time Report is a weekly time report capturing a Sunday through Saturday or Monday through Sunday work period. A new report is completed for each week.



- Entries should be made weekly on a timely basis. The completed Employee Time Report shall be signed by the employee and submitted to the supervisor by the following completion of the work period for review and approval.
- The supervisor is responsible for reviewing time data to ensure that the employee will meet his/her standard hours, manually offset as necessary and appropriate to ensure accurate payment of supplemental pay, and to ensure the employee receives holidays as scheduled and is properly coded for any supplemental pay, such as shift premium pay, emergency call back, etc. Necessary corrections to hours worked outside of leave offsetting shall be acknowledged and initialed by the employee.
- The supervisor shall submit the completed Employee Time Report to the Time Administrator on a timely basis following the completion of the work period for direct entry into the Human Resource Payroll system. When it is not possible for the supervisor to submit a completed Employee Time Report to the Time Administrator within a reasonable period of time, it is recommended that a comment be provided on the Employee Time Report
- Under no circumstances may an employee exceed their standard work schedule for the day using benefit time (e.g., leave).
- The Human Resource Payroll system deducts approved leave according to the established approved leave hierarchy (holiday compensatory time, overtime compensatory time, gap hours, on call compensatory time, travel compensatory time, vacation leave, bonus leave and advanced leave). All items in the leave hierarchy fall under the Approved Leave (A/A 9000) category. For example, if an employee records an Approved Leave (A/A 9000) code, the system will automatically deduct the amount of time taken from the employee's leave quota using the established hierarchy. Sick leave (A/A 9200) is also subject to a hierarchy (sick leave, received shared leave and advanced sick leave).
- Time is subject to leave offsetting.

### **WEEKLY TIME REPORTING FOR ESS/MSS EMPLOYEES**

Specific work units use the Employee Self Service/Manager Self Service for time and leave entries into the HR Payroll System/SAP system. Additional work units may be considered by management with approval from the executive management team. Both ESS and MSS are roles that must be added to a position.

- It is recommended that employees enter time daily with weekly approval by the manager. Time entry must be completed prior to payroll deadline to ensure timely leave accrual, accurate supplemental pay compensation, and timely longevity payments.
- The employee should be contacted directly to resolve time submission issues which were not approved.
- The standard leave policies and procedures apply. Employees shall request and obtain approval in advance for all leave benefits, including leave of absence without pay. ESS is a portal for entry of hours worked and leave taken that has been approved by the supervisor. Entering and releasing time in periods greater than one week may result in a delay of leave

accrual, delay of supplemental payment(s), inaccurate leave quota balances to include compensatory leave and particularly holiday compensatory leave, and other issues.

## **GAP HOURS**

Gap hours, also known as straight time, are those hours that are caught in the gap between the maximum hours of work required to meet the work schedule standard and the overtime threshold. Gap hours ONLY apply to employees subject to overtime. These hours are subject to leave offsetting and are first applied to advanced leave liabilities and adverse weather leave.

The employee shall receive straight time compensation in either cash payout or compensatory leave for the remaining gap hours worked after offsetting depending on the position classification. It is the decision of agency management in consideration of budget and organizational needs whether compensation will be made monetarily (cash) or as time off. The decision to pay cash versus compensatory time off is not an employee decision.

## **NAME AND ADDRESS CHANGE**

Many work locations require employees to complete a personal data sheet or employee information form at the time of hire that indicates the employee's:

- name
- address
- home phone numbers (or other phone numbers where the employee can be reached)
- contact person name and phone number, in case of emergencies, etc.

Some units have developed Standard Operating Procedures that require employees to update their personal information should there be any changes regarding any of the information on their personal data sheet. Please refer to your HR representative at your work location when you have a change in Name, Address, or other personal contact information.

### **Name Change**

For names changes, the following steps should be taken:

1. Notify the HR representative at your work location or Central HR of the Name Change. You will be asked to complete a Personal Data Change Form indicating the change in name.
2. The HR representative will make the necessary changes in the HR Payroll system.  
(Note: If you are a certified criminal justice employee, your HR Representative will forward a copy of the Personal Data Change Form to DPS Personnel so that the Criminal Justice Standards Division can be notified of the Name Change).

This will automatically update your Name Change for the standard state benefits, such as Retirement, the State Health Plan, and NCFlex. For all others (besides Retirement, State Health Plan, and NCFlex), employees must contact individual vendors to notify them of Name Changes (ex: supplemental insurance plans, 401K, Deferred Comp, SEANC, etc.)

### **Address Changes**

Employees are able to update their address information in ESS by going to <https://mybeacon.nc.gov> and selecting "Addresses" on the "My Personal Data" tab. Specifically, employees can update:

- Permanent Residence – This is your physical address. If your physical address is the same as your mailing address, do not enter "Mailing Address."

- Mailing Address – If your physical address is NOT your mailing address, you need to enter a “Mailing Address.”
- Emergency Contact – Employees can enter emergency contact information.

Once the address is changed/updated in ESS, your Address Change will automatically be updated for the standard state benefits, such as Retirement, the State Health Plan, and NCFlex. For all others (besides Retirement, State Health Plan, and NCFlex), employees must contact individual vendors to notify them of Address Changes (ex: supplemental insurance plans, 401K, Deferred Comp, SEANC, etc.). It is important that employees maintain current address information in the ESS system.

**Work Telephone Number Changes**

Employees must notify the HR representative at their work unit for changes to the work telephone number. This is the number that will be included in the employee directory.

**PAY**

Pay Period

Employees are paid either monthly or bi-weekly.

<p><b><u>Monthly Pay:</u></b> Employees in Permanent Positions</p>	<p><b><u>Bi-Weekly Pay:</u></b> Employees in Temporary Positions or Personal Services Contract Employees</p>
<p>All permanent employees (including independent contractors) are paid monthly, usually on the last working day of each month. You are paid monthly for <b>that</b> month. Employees will receive their full pay (i.e. base pay) unless Leave Without Pay is reported. Therefore, if time/leave is <b>not</b> entered into HR Payroll System by payroll deadline, permanent employees that are <b>not</b> on Leave Without Pay <b>will receive their base pay</b>. If time/leave is <b>not</b> entered into The HR Payroll System:</p> <ol style="list-style-type: none"> <li>1. Leave will not accrue; and</li> <li>2. Overtime and premium hours will not be paid (<i>i.e. time/leave must be entered into the HR Payroll System to receive supplemental pay</i>).</li> </ol>	<p>Temporary employees and those working on personal services contracts will be paid on a bi-weekly basis. These employees are paid based on actual time recorded and entered into the HR Payroll System. <b>Time must be entered</b> into the HR Payroll System in order for the employee to be paid for that time.</p>

**Base Pay**

Employees in permanent positions are paid (12) times a year; therefore, the annual salary divided by (12) is your monthly salary or “base pay.” For permanent employees, your base pay is for hours worked/leave taken from the 1st of the month through the last day of the month.

Example: May paycheck includes base pay for working in May.

**Supplemental Pay**

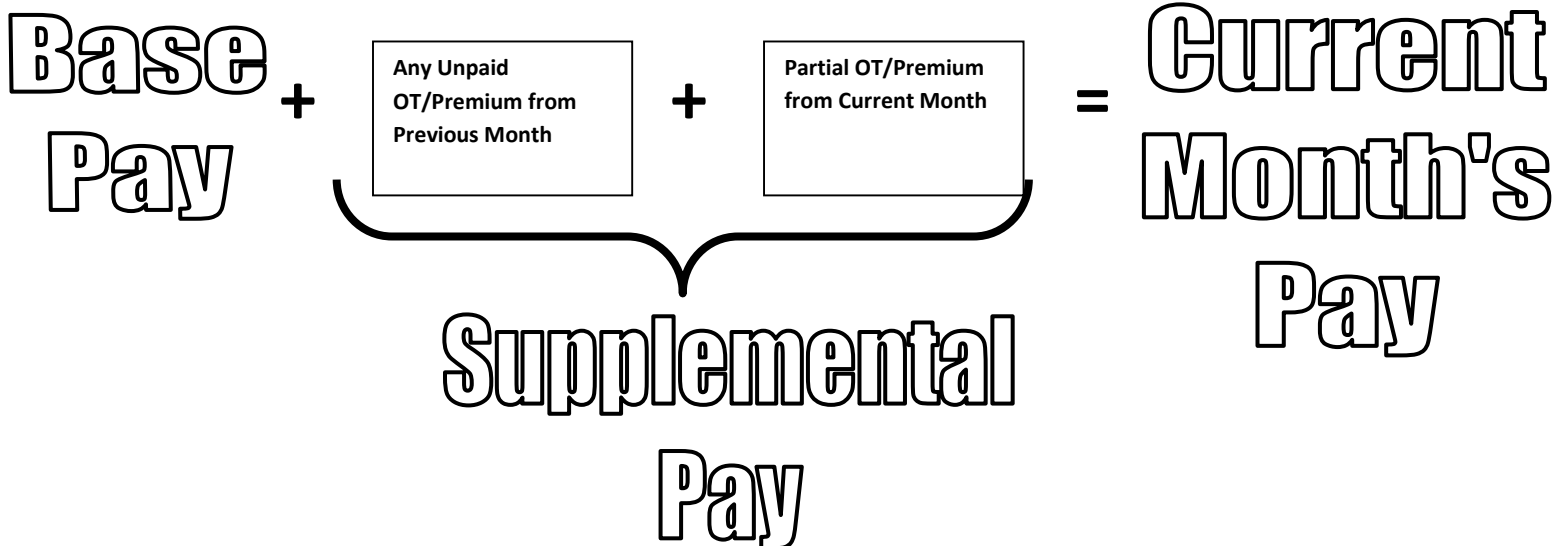
Supplemental pay is additional pay beyond base pay. Supplemental pay includes overtime pay, shift premium, holiday premium, weekend premium, on-call/ callback pay, etc. Supplemental pay is earned by working overtime (hours exceeding the minimum standard work hours), working nights, weekends, or holidays. Not all positions are eligible for supplemental pay.

Position information (work schedule, overtime eligibility, shift premium eligibility, etc.) has been entered into the HR Payroll System. As a result, the HR Payroll System SAP system automatically

calculates overtime, shift premium, holiday premium, weekend premium, and on-call/ callback pay based on the position profile.

Supplemental Pay is based on time entered and approved from one payroll deadline to the next payroll deadline.

Supplemental Pay	
Overtime (OT) Pay	Shift Premium Pay
<ul style="list-style-type: none"> <li>All positions have minimum standard hours to be worked in an overtime period. The position you occupy determines your minimum standard hours (40 hrs, 160 hrs) and your overtime period (7-day, 28-day, etc.).</li> <li>Some positions shall receive monetary compensation for OT while others shall receive Compensatory ("Comp") Time that can be used later for future absences.</li> <li>To receive monetary compensation, the position must be eligible for OT pay. OT pay is based on the position, not the employee. Time must be entered (if ESS, released, and approved) and run through Time Evaluation before payroll deadline to be paid.</li> <li>Time off from work is "offset" by extra hours worked (i.e. overtime) during each overtime period. This is known as "leave offsetting."</li> <li>Overtime periods do not align with payroll periods (or pay cycles).</li> </ul>	<ul style="list-style-type: none"> <li>The position must be eligible for premium pay. Premium pay is based on the position, not the employee.</li> <li>Employee must be scheduled (or substituting) for a premium-eligible shift.</li> <li>Time must be entered (if ESS, released and approved) and run through Time Evaluation before payroll deadline to be paid.</li> </ul>
<p>Payroll periods (pay cycles) as noted on the Pay Statement do not match up to payroll cutoff dates (usually around the 25<sup>th</sup> of each month). This means that for any given paycheck, an employee will gain some hours from the previous month (days that were entered and approved after payroll deadline LAST month) and will lose some hours for the current month (days entered and approved after payroll deadline this month).</p>	



Pay Statements

Employees can print their own pay statements in ESS. Pay statements will include:

- Pay period beginning and end date;
- Employee ID number;
- Total Earnings & Net Pay;
  - Total Base Pay: Pay statements will include a "Total Base Pay" summary line which should be very close to the same figure from pay period to pay period. Total Base Pay is the sum of an employee's Regular Salary plus the pay an employee receives for any leave taken (Total Base Pay = Regular Salary + Benefits/Comp used).
  - Total Other Pay: Pay statements will include a line for "Total Other Pay" which is the sum of any supplemental pay (overtime, shift premium, etc.).
- Deductions (pre-tax deductions, post-tax deductions, tax-deferred deductions);
- W-4 Withholding information;
- Taxes;

**Sample Pay Statement**

Pay Period: 10/01/2007 through 10/31/2007 Check Date: 10/31/2007		Name: Tina Thompson Organization: 0701-State Treasurer		Personnel No: 99999500	
<b>Earnings</b>		<b>Deductions</b>		<b>Taxes</b>	
Current:	4,326.25 -	1,727.68 -	698.18 =	1,900.39	
YTD:	35,099.44 -	9,916.85 -	7,182.34 =	18,000.25	
<b>Earnings</b>		<b>Hour</b>	<b>Current</b>	<b>YTD</b>	
Regular Salary		184.00	4,326.25	26,573.04	
Shift Premium 10%			48.00		
Vacation Leave			848.64		
Administrative Leave			199.68		
Community Service Leave			199.68		
Military Leave-Training			1,797.12		
Military Leave-Active Duty			4,392.96		
Paid Holiday			798.72		
Comp Leave			249.60		
<b>Total Earnings</b>			<b>4,326.25</b>	<b>35,099.44</b>	
<b>Deductions</b>					
# PPO PT					1,261.26
# PPO Pre Plan PT					180.18
# NC Plex Dental-PT				52.20	258.36
# NC Plex Vision Sup PT				15.96	63.84
# NC Plex AD&D PT				20.00	140.00
# NC Plex Life Ins PT				109.80	329.40
# NC Plex Cancer PT				32.78	90.08
# NC Plex Health PSA PT				327.27	
# NC Plex Health PSA PT					2,290.90
# NC Plex Dep Care PSA PT			909.09		
# NC Plex Dep Care PSA PT					3,181.82
# TSHRS ER			259.58		2,106.01
SRCU					15.00
<b>Total Deductions</b>			<b>1,727.68</b>		<b>9,916.85</b>
<b>Tax Authority</b>	<b>Tax Type</b>	<b>Status</b>	<b>EXMT AdJamt</b>	<b>Cur Tax</b>	<b>YTD Tax</b>
Federal	Withholding	Single		325.54	3,558.62
Federal	Social Security			177.20	1,692.82
Federal	Medicare			43.44	395.90
North Carolina	Withholding	Single		154.00	1,535.00
<b>Total Taxes</b>				<b>698.18</b>	<b>7,182.34</b>
<b>Payment</b>	<b>Account type</b>	<b>Amount</b>	<b>Leave balances as of 10/31/2007</b>		
Check		1,900.39	Vacation	18.34	Hours
			Sick	16.00	Hours
			Holiday	24.00	Hours
			Comp Time	2.50	Hours
			Community Service	16.00	Hours
			Military	48.00	Hours
*** MESSAGES ***					
Deduction Codes: # - Pretax Deduction * - Tax Deferred Deduction					
****					

### **Direct Deposit**

It is state policy that all employees receiving their pay through the HR Payroll System must be enrolled in direct deposit as a condition of employment. Employees can choose to have their pay deposited into multiple accounts at multiple financial institutions via direct deposit. Employees will have one primary default account and then can elect to have portions of their pay directed into as many as three additional accounts. The distribution of pay into these separate accounts (if you choose to use this feature) will be automated when your pay is deposited on payday.

### **First Paycheck**

The Department has monthly payroll deadlines. Therefore, the date you report to work will affect when you get your first paycheck. The following circumstances may affect the timeliness of your first paycheck:

- If you report to work and your paperwork is processed prior to the payroll deadline for that month (usually mid-month), you may receive a paycheck on the last working day of the month.
- If you report to work and your paperwork is processed after the payroll deadline for that month, you will receive a paycheck on the last working day of the following month (pay for your first month's work will be included in this paycheck).

NOTE: Please note that any changes to your date of hire may affect the timely delivery of your first paycheck.

Your first paycheck may be issued as a printed hard-copy paycheck and not deposited directly into your bank account. Direct Deposit should activate after the first check. Hard-copy paychecks are mailed directly to you at your mailing address. Paychecks are mailed on payday. If you have a change in your mailing address or concern about the address on record, contact your facility's personnel office.

If your check is lost and/or not received by you, please contact your facility's Personnel Office. Generally, it takes approximately (3) weeks for a replacement check to be issued and received.

### **Pay and Leave Troubleshooting**

If you have questions regarding your pay and leave, please refer to your supervisor and/or your HR Representative at your work location. You may also contact central HR at (919) 716-3800 or BEST Shared Services at (919) 707-0707.

# BENEFITS

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**IMPORTANT: Employees do not need an NCID account in order to sign up for benefits. Contact your Health Benefits Representative for instructions on how to register outside of BEACON.**

## LEAVE

### VACATION LEAVE

At least 112 hours (14 days, 9.33 hours/month) of vacation leave is provided annually. This leave is earned after an employee has worked at least ½ of the work days in each month. The monthly vacation earning rate increases every five years of state service. At separation, an employee will be paid the balance of their vacation leave up to a maximum of 240 hours.

Yrs of Total State Service	Hrs Granted per Month	Hrs Granted per Year	Days Granted
Less than 5 years	9 hrs. 20 mins. / 9.33	112	14
5 but less than 10 years	11 hrs. 20 mins / 11.33	136	17
10 but less than 15 years	13 hrs. 20 mins / 13.33	160	20
15 but less than 20 years	15 hrs. 20 mins / 15.33	184	23
20 years or more	17 hrs. 20 mins / 17.33	208	26

### SICK LEAVE

96 hours (12 days, 8 hours/month) of sick leave is provided annually. This leave is earned after an employee has worked at least ½ of the work days in each month. Every 20 days equals one month of state service towards retirement. At separation, the sick leave balance shall be retained for 5 years and reinstated if the employee returns to state government within 5 years from the date of separation.

### BONUS LEAVE

On 09/30/02, 07/01/03, 07/01/05, and 9/1/2014 the General Assembly provided a one-time additional benefit as bonus leave to eligible employees, provided they were employed on these given dates. Per legislation, any balance of bonus leave will be paid in addition to regular vacation leave upon separation.

### HOLIDAYS/HOLIDAY LEAVE

State employees receive 12 paid holidays annually as set by the State Personnel Commission. To be eligible for the holiday, the employee must be in pay status thru the holiday for extended leave without pay (Leave of Absence status-LOA) or in pay status one half or more of the regularly scheduled work days in a month for short leave without pay (docking). Employees receive Holiday Premium Pay and equal time off if required to work on a holiday.

The Holiday Schedule may be found here: <http://www.oshr.nc.gov/holsched.htm>

National Guard employees follow the federal holiday schedule. These employees receive 10 federal holidays plus 2 additional days at Christmas to total 12 paid holidays, the same as other State employees. The federal holiday schedule includes:

New Year's Day

Independence Day

Thanksgiving Day (1 day)

Martin Luther King, Jr.'s Birthday	Labor Day	Christmas (3 days)
Washington's Birthday (Presidents Day)	Columbus Day	
Memorial Day	Veteran's Day	

## COMPENSATORY LEAVE

Under the State's overtime compensation policy, employees are designated as either subject to Fair Labor Standards Act (S-FLSAOT) or not subject to Fair Labor Standards Act (N-FLSAOT) for overtime based on their position.

S-FLSAOT: Employees designated as S-FLSAOT earn overtime at 1½ times the amount of time worked beyond their designated standard hours after leave offsetting. These hours are paid out if not taken as time off under the approved leave hierarchy based on their position payout schedule (i.e. immediate, 30 day, 365 day).

N-FLSAOT: Employees designated as N-FLSAOT earn overtime on an hour-for-hour basis for time worked beyond their designated standard hours. These hours will be lost if not taken as time off under the approved leave hierarchy within 365 days from the date the hours are earned.

## COMMUNITY SERVICE LEAVE

State employees are allowed up to 24 hours per calendar year to volunteer in support of schools, communities, citizens and non-profit organizations. Parents may also use the leave for child involvement.

## COMMUNITY SERVICE LEAVE LITERACY, TUTORING AND MENTORING

In lieu of regular Community Service Leave (24 hours), an employee may choose to:

- volunteer in a literacy program in a public school for up to 5 hours each month not to exceed 45 hours in a calendar year; or
- volunteer in a formal standardized approved tutoring/mentoring program in a public school or a non-public school for one (1) hour of leave for each week, up to a maximum of 36 hours, that schools are in session as documented by the elected board of the local education agency or the governing authority of any charter school or non-public school.

## OTHER MANAGEMENT APPROVED LEAVE

Time may be given for Emergency Services, Blood and Bone Marrow Donorship and Disaster Service Volunteer with the American Red Cross.

## CIVIL LEAVE

Leave with pay is provided to employees when serving on a jury, when subpoenaed as a witness or for a job-related proceeding in connection with official job duties.

## MILITARY LEAVE

### Location

[https://www.ncdps.gov/emp/Policies/HR/Military\\_Leave.pdf](https://www.ncdps.gov/emp/Policies/HR/Military_Leave.pdf)

The state provides two types of military leave to employees for certain periods of service in the uniformed services.

Military Training: Provides leave with pay up to the maximum of 120 hours for each fiscal year beginning October 1 thru September 30 when performing active duty for training and inactive duty training.



Reserve Active Duty: Provides leave with full pay up to the maximum of 30 calendar days for each period of involuntary service for members of the uniformed services reserve components when ordered to State or Federal active duty.

## **ADVERSE WEATHER LEAVE**

Policy Location: <https://oshr.nc.gov/policies-forms/leave/adverse-weather>

Adverse Weather Leave (AWL) may be granted where accumulation of snow or ice, high winds, hurricanes, tornadoes, floods, and other weather events that can cause a variety of safety risks to employees and impede the ability of individuals to travel to and from work. The adverse weather policy does not cover child or elder care issues resulting from school/day care center closing decisions that may occur in advance or after adverse weather warnings are issued and expire. For such situations, vacation leave is the appropriate category to account for such absences, or an employee with insufficient leave balance may request permission to take leave without pay.

If management approves adverse weather make-up time, the supervisor shall be responsible for scheduling make-up time within the same pay period as the adverse weather event, if possible. If make-up time cannot be scheduled within the same pay period, management shall schedule the make-up time within 90 days of the adverse weather absence.

AWL does not apply to positions defined as emergency personnel/essential staff.

## **NC THINKS – INCENTIVE BONUS PROGRAM & GOVERNOR’S AWARD FOR EXCELLENCE PROGRAM**

An employee may be granted up to twenty-four hours of leave as part of an award for a suggestion that is adopted under the NC Thinks Program and an award given under the department or university program which supports the Governor’s Awards for Excellence Program.

## **FAMILY AND MEDICAL LEAVE (FMLA)**

The Family Medical Leave Act (FMLA) of 1993 was enacted into law to provide leave benefits to employees facing medical emergencies. Eligible employees are entitled to 12 weeks (480 hours), paid or unpaid leave, during an established 12-month period, as determined by the FMLA qualifying event. The benefit is used for the illness of the employee, spouse, parent or child. To be eligible, the employee must have 12 months of service and have been in pay status at least 1040 hours in the preceding 12 months. FML ensures the state’s portion of the health insurance is covered by the state and FML protects the employee’s position during the 12-week period.

## **FAMILY AND MEDICAL LEAVE-QUALIFYING EXIGENCY**

The Family and Medical Leave Act (FMLA) entitles eligible employees to take up to 12 workweeks of unpaid, job-protected leave in a 12-month period for a “qualifying exigency” arising out of the foreign deployment of the employee’s spouse, son, daughter, or parent. FMLA leave for this purpose is called qualifying exigency leave.

## **FAMILY AND MEDICAL LEAVE-MILITARY CAREGIVER**

The Family and Medical Leave Act (FMLA) entitles eligible employees to take unpaid, job-protected leave to care for a family member who is a current service member or a covered veteran with a serious injury or illness. FMLA leave for this purpose is called “military caregiver leave.”

## **FAMILY ILLNESS LEAVE (FIL)**

Family Illness Leave provides leave to eligible employees for the purpose of caring for a seriously ill child, parent or spouse. It does not provide leave for the employee's illness. An employee is entitled to up to 52 weeks of leave during a 5-year period. To be eligible, the employee must have 12 months service and have been in pay status at least 1040 hours in the preceding 12 months. This benefit also protects the employee's position during the 52-week time period.

## **VOLUNTARY SHARED LEAVE**

State employees may donate leave to another employee who has been approved to receive voluntary shared leave. Voluntary Shared Leave may be used for a medical condition of the employee or of a member of the employee's immediate family. The minimum amount of sick, vacation and/or bonus leave that may be donated is 4 hours. The maximum amount of leave a recipient may receive is 1,040 hours. However, management may grant continuation, on a month-to-month basis, to a maximum of 2,080 hours, if management would have otherwise granted leave without pay.

## **LEAVE WITHOUT PAY**

Leave without pay may be taken for educational purposes, illness, vacation or other reasons approved by management. If you have vacation time, you must use it before taking leave without pay for a vacation. Leave without pay is normally not longer than six months but may be extended. You must apply for this leave in writing and also give a written 30-day notice of your intent to return to work. If you do not return to work as agreed, it may be considered a resignation. During this leave, you will keep your unused leave and retirement status.

## **LEAVE QUOTAS (LEAVE BALANCES)**

Employees will be able to view their Leave quota (balances) in ESS by selecting "Quota Overview." Leave quota balances will be current up through the last Time Evaluation ran after the manager approved the time/leave (*Note: Leave balances may not reflect leave offsetting within the current overtime period*).

### **Vacation and Sick Leave Accrual:**

Employees with a permanent, probationary, trainee, or time-limited appointment can accrue monthly Vacation and Sick Leave. Part-time (half-time or more) employees earn a prorated amount based on the percentage of their work schedule. Please refer to the Vacation and Sick Leave section for more specific information on accrual rates.

An employee will accrue their leave when they have achieved 50% of their payroll period. Specifically, quota hours are accrued after:

1. An employee is in pay status for 50% of the work days in the month. Pay status includes time worked, holiday leave, approved leave, or any other hours for which the employee is paid.
2. Time has been entered into the HR Payroll System (if ESS, time must be entered, saved, released by employee & approved by supervisor); and
3. Time Evaluation has run.

This means that leave typically accrues around the 15th of the month if leave has been entered by the employee **and** approved by the supervisor.

### **System Management of Quotas:**

The Human Resource Payroll System automatically manages an employee's accruals and deductions of various quotas (Leave balances) including:

- Vacation Leave
- Sick Leave
- Overtime Comp Time
- Holiday Comp Time
- Travel Comp Time
- On Call Comp Time
- Holiday Leave
- Bonus Leave
- Adverse Weather Leave
- Community Service Leave
- Voluntary Shared Leave
- Military Leave
- Incentive Leave

It is important to remember:

- Leave is set up to make up the difference between time worked and the minimum expected work hours.
- You **cannot** use leave to put you into overtime/comp time status.
- Time off is "offset" by extra hours worked and this happens automatically regardless of how many hours you code as leave.
- All time except Holiday, Civil Leave, Other Management Approved Leave and Injury Leave is "offset" by extra hours.

### **Leave Offsetting**

Offsetting is a function that takes extra hours worked and adds them to your leave quotas. In some cases, they replenish time that you have taken off within an overtime period. In other cases, they are added to your buckets of time off (comp time) and in some cases you are paid for them (overtime).

When Approved Leave, Bonus Leave, Sick Leave, Community Service Leave, Military Leave, and Educational Leave is taken in the same overtime period where the employee has worked additional hours, the amount of leave taken will be offset with the additional work hours, and the leave that had been recorded will be restored to the employee's quota. Leave restoration will be "first taken, first restored" and will be done within the employee's overtime period.

For employees with a 7-day overtime period, Leave Offsetting will be done within the 7-day overtime period. For employees with a 28-day overtime period (i.e. Correctional Officers, Lead Correctional Officers, Correctional Sergeants), the entire 28-day overtime period is subject to offsetting.

Note: Leave offsetting will automatically occur in the HR Payroll System as soon as the employee exceeds their minimum standard hours within the overtime period. This means that should an employee exceed their minimum standard hours (time/leave has been entered, approved, Time Evaluation run) **BEFORE** the end of the overtime period, leave offsetting will automatically occur at that point in time. Neither employees nor managers are able to change this offsetting or select which leave will be restored.

### **Leave Hierarchy**

The HR Payroll System deducts leave according to a standard leave hierarchy. There is a hierarchy for “Approved Leave” and for “Sick Leave.” The quotas in each hierarchy will be automatically deducted in the order listed below:

#### **Approved Leave Hierarchy**

1. Holiday Comp
2. Overtime Comp
3. On-Call Comp
4. Travel Comp
5. Vacation Leave

Note: All of the above leave falls under the “Approved Leave” hierarchy.

Note: If your position is eligible for Gap Hours Comp time, it will be deducted before On-Call Comp Time (#3).

#### **Sick Leave Hierarchy**

1. Sick Leave
2. Voluntary Shared Leave

Note: All of the above leave falls under the “Sick Leave” hierarchy.

For example, when a time entry is entered for “Approved Leave,” when the HR Payroll System runs the Time Evaluation, the leave quotas are checked in succession until enough quota is found to cover the recorded absence (Holiday Comp, then Overtime Comp, etc.).

### **Bonus Leave**

In 2002, 2003, 2005 and 2014, the General Assembly authorized bonus leave for eligible state employees. Bonus leave, with the appropriate authorization, can be used for any purpose for which regular vacation leave is used, but may be taken only upon appropriate authorization and can only be used after holiday compensatory time, over-time compensatory time, gap hours compensatory time, callback compensatory time, on-call compensatory time, travel compensatory time, and emergency closing compensatory time.

Bonus leave shall be accounted for separately from regular earned vacation leave and shall be charged in units of time consistent with regular vacation leave guidelines. Any balance of bonus leave on December 31 will be retained by the employee and transferred into the next calendar year. It will not be as part of the maximum 240 hours of vacation that can be retained. Bonus leave will not be subject to conversion to sick leave. Any balance of bonus leave will be transferred with the employee who transfers to another State agency eligible for bonus leave. Bonus leave balance will be paid in addition to regular vacation leave if the employee leaves state government or the appointment type changes to a non-leave earning status (such as exempt, part-time, etc.).

## **LONGEVITY**

Longevity Pay recognizes long-term service of employees who have worked at least 10 years with State government. The employee must have a full-time or part-time (20 hours a week or more) permanent, probationary, trainee, or time-limited appointment. Periods of leave without pay in excess of one-half

the workdays and holidays in a pay period will delay the longevity date (except for Workers' Compensation Leave).

The employee receives a lump sum payment each year on their anniversary date based on a percentage of their salary ranging from 1.5% to 4.5%, as the percentage increases with every 5 years of state service.

YEARS OF TOTAL STATE SERVICE	LONGEVITY PAY RATE
10 but less than 15 years	1.5%
15 but less than 20 years	2.25%
20 but less than 25 years	3.25%
25 or more years	4.5%

*NOTE: Teachers' longevity rate is different.*

## **RETIREMENT**

### **Location**

<https://www.nctreasurer.com/retirement-and-savings>

The State of North Carolina provides retirement benefits for state employees in case of disability, retirement, or death after an employee has completed certain service requirements. The State, state employees, and the investment earnings on total contributions pay the cost of providing retirement benefits.

Employees pay 6% into a retirement account under the Teacher's & State Employee's Retirement System (TSERS) which is automatically deducted from the paycheck each month. Employees become vested in the Retirement System after completing a minimum of five years of membership service.

### **Employees may retire with an unreduced service retirement benefit after:**

Reaching age 65 and completing five years of membership service.  
Reaching age 60 and completing 25 years of creditable service.  
Completing 30 years of creditable service at any age.

### **Employees may retire early with a reduced retirement benefit after:**

Reaching age 50 and completing 20 years of creditable service.  
Reaching age 60 and completing five years of membership service.

### **Refund of Contributions**

If you leave the System for any reason other than retirement or death, you can either:

- Receive a refund of your contributions plus interest, (refunds can only be processed once you have been separated from employment for at least 60 days), or
- Leave your contributions in the System and keep all the creditable service you earned to that date. (*NOTE: You are entitled to a benefit at a later date if you leave after you have completed 5 years of membership service, provided you do not withdraw your contributions*).

If you leave the System before you have 5 years of membership service, the only payment you can receive is a refund of your contributions. If contributions are withdrawn, creditable service may be

restored by making a lump sum payment. To be eligible to buy back creditable service an employee must be rehired and contribute to this System for 5 years.

### **Health Insurance at Retirement**

At the time of completion of the Application for Retirement, the Retirement System will provide you with instruction for going online and enrolling in the State's health insurance plan.

Under current law, if you were first hired before October 1, 2006, and retire with 5 or more years of TSERS membership service, the state will pay for your individual coverage under the non-contributory plan at retirement (currently 70/30 or Medicare Advantage Base).

Based on the conditions described above, if you were first hired on or after October 1, 2006, in order to receive individual coverage at no cost, you must retire with 20 or more years of retirement service credit. If you have 10 but fewer than 20 years of retirement service credit, you will have to pay 50% of the cost for your coverage. If you have 5 but fewer than 10 years, you will have to pay the full cost for your coverage.

In all cases, if you choose coverage for your dependents, you must pay the full cost of dependent coverage.

### **Unused Sick Leave:**

Unused sick leave may be converted to creditable service and, therefore, can be used to establish eligibility for Retirement. Unused sick leave can be converted to creditable service at the rate of one month of service for each (20) days of Sick Leave. One more month of retirement credit is allowed for any part of 20 days left over.

Sick leave may be used to complete:

- 30 years of service, regardless of age;
- 25 years of service after age 60; and
- 20 years of service after age 50.

Sick leave cannot be used to meet the minimum qualifications for a disability, deferred benefit or the Survivor's Alternate Benefit.

### **Payment of Vacation Leave:**

The retiree shall be paid for accumulated vacation leave, using an hourly rate of pay based on 2080 work hours per year, not to exceed a maximum of 240 hours. The retiree shall also be paid for any unused Bonus Leave. Employees retiring on Service Retirement or Early Retirement may choose to exhaust vacation leave, upon management's approval, after the last actual day of work but prior to the effective date of retirement. Retirement is always effective on the first day of the month, so the employee should work or exhaust vacation leave, if available, until the last possible workday of the month prior to the effective date of retirement.

All benefits are earned while exhausting leave. Any unused vacation leave (not to exceed 240 hours) and unused bonus leave not exhausted prior to the effective date of retirement will be paid in a lump sum. Payment for unused vacation/bonus leave will be made on the regular payroll. Leave is paid through the nearest tenth of an hour.

### **ORBIT**

Your retirement information can be viewed at any time through the NC Department of the State Treasurer’s ORBIT site (Online Retirement Benefit through Integrated Technology).

<https://orbit.myncretirement.com/> You will first have to create an account. This online tool provides you with full, secure access to your personal retirement account information 24 hours a day. In ORBIT, you can view your account summary, view your annual benefits summary, estimate your benefits, and create an estimate for purchasing years of service.

**TOTAL RETIREMENT PLANS FOR STATE EMPLOYEES**

**Location**

<http://www.ncplans.prudential.com/>

The State offers additional savings plans to provide a way for employees to save money and supplement the State’s retirement benefits by making contributions through payroll deduction. These plans are administered by Prudential and include:

**401(K), AND DEFERRED COMP (457) SAVINGS PLANS**

Both plans offer tax-deferred or Roth (after tax) investment programs. All members currently contributing to the Teachers’ and State Employees’ Retirement System (TSERS) are eligible to participate in 401(k) and all employees compensated directly by the State are eligible to participate in Deferred Comp (457).

For the tax deferred plans, employees have the opportunity to build their savings while reducing their taxes. Contributions to the Plans are pre-tax payroll deductions which reduce the current taxable income. The Roth after-tax savings plans also offer the opportunity to build retirement savings. Like the pre-tax savings, the interest and earnings grow tax deferred but upon receipt of a qualified Roth distribution in retirement, the Roth benefits will be tax free for NC state and federal income tax purposes.

**Contact Information**

If you would like more information on the 401(k) and Deferred Compensation programs, please visit the North Carolina Supplemental Retirement Plans’ website at [www.NCPlans.prudential.com](http://www.NCPlans.prudential.com). You can also take advantage of the North Carolina Supplemental Retirement Plans’ toll-free phone number by calling 1-866NCPlans (1-866-627-5267).

**Enrollment Information**

To enroll in a Supplemental Retirement Plan (401k and/or Deferred Comp), you can go to [www.NCPlans.prudential.com](http://www.NCPlans.prudential.com) and complete an enrollment form online. You can also contact Prudential directly at: 1-866-NCPlans (1-866-627-5267).

**Comparison of 401k & Deferred Comp (457)**

	NC Deferred Comp Plan (NC 457 Plan)		NC 401(k) Plan	
	Pre-Tax Contributions	Roth After-Tax Contributions	Pre-Tax Contributions	Roth After-Tax Contributions
<b>Eligibility</b>	<ul style="list-style-type: none"> <li>• Full-time, temporary, and part-time employees.</li> <li>• Elected or appointed officials.</li> <li>• Rehired retired employees.</li> </ul>		Contributing members to one of the NC public employees Retirement Systems including: <ul style="list-style-type: none"> <li>• Teachers’ and State Employees’ Retirement System (TSERS);</li> <li>• Local Governmental Employees’ Retirement System (LGERS);</li> <li>• Legislative Retirement Systems;</li> </ul>	

				<ul style="list-style-type: none"> <li>Consolidated Judicial Retirement Systems.</li> </ul>
<b>Contributions</b>	<ul style="list-style-type: none"> <li>Payroll deduction;</li> <li>No minimum contribution requirement</li> <li>2016 annual contribution limit of \$18,000 (amount is not reduced by rollovers into the Plan from other qualified plans).</li> </ul>			<ul style="list-style-type: none"> <li>Pre-tax contributions and/or Roth after-tax contributions;</li> <li>Payroll deduction;</li> <li>No minimum contribution requirement.</li> <li>2016 annual contribution limit of \$18,000 (amount is not reduced by rollovers into the Plan from other qualified plans).</li> </ul>
<b>Age 50+ Catch-Up Contributions</b>	<p>If age 50 or older by December 31, 2016, the member may contribute an additional \$6,000 to the Plan for a total maximum deferral of \$24,000.</p> <p><i>Note: Cannot be used in conjunction with the 3-year Catch-Up contribution.</i></p>			<p>If age 50 or older by December 31, 2016, the member may contribute an additional \$6,000 to the Plan for a total maximum deferral of \$24,000.</p>
<b>Three-Year catch-up provision (457)</b> <i>(Note: Cannot be used in the 457 Plan if the age 50 &amp; older catch-up is used)</i>	<p>Available to members who are within 3 yrs of the taxable year in which normal retirement age is attained &amp; who did not contribute the maximum allowed in prior years. Maximum contribution is \$36,000 in 2016.</p> <p><i>Note: Cannot be used in conjunction with the Age 50+ Catch-Up provision.</i></p>			Not available.
<b>Savers Tax Credit</b>	<p>A non-refundable tax credit is available to eligible taxpayers who make contributions to qualifying retirement plan(s). Depending upon the member's adjusted gross income (AGI), the credit ranges from 10 to 50% of the first \$2,000 in eligible contributions. Generally, this credit would be available to joint filers with an AGI of up to \$61,500, head of household filers with an AGI of up to \$46,125 and single filers with an AGI of up to \$30,750.</p>			
<b>Rollovers into the Plan</b>	<p>Pre-tax rollovers are accepted from eligible retirement plans including 401(k), 401(a), 403(b), governmental 457(b) plans &amp; some IRAs.</p>	<p>Roth after-tax rollovers are accepted from eligible retirement plans such as governmental 457(b), 401(k) and 403(b) plans but not from Roth IRAs.</p>	<p>Pre-tax rollovers are accepted from eligible retirement plans including 401(k), 401(a), 403(b), governmental 457(b) plans &amp; some IRAs.</p>	<p>Roth after-tax rollovers are accepted from eligible retirement plans such as Roth 401(k), Roth 403(b), Roth 457 plans but not from Roth IRAs.</p>
<b>Loan Provision</b>	<p>Loans may be taken for any reason, provided funds are available in the member's account, and are repaid with interest through payroll deduction. May take up to five years to repay with no prepayment penalty. Only one loan may be outstanding at a time.</p>			
<b>Hardship Withdrawals</b>	<p>Available in the following circumstances:</p> <ul style="list-style-type: none"> <li>For medical expenses not covered by insurance for the member, spouse, or dependents;</li> <li>To prevent eviction or foreclosure on a primary residence;</li> <li>To cover funeral/burial expenses for the member's immediate family member;</li> <li>To repair damage to the member's principal residence that qualifies as a casualty deduction.</li> </ul>		<p>Available in the following circumstances as defined by the IRS:</p> <ul style="list-style-type: none"> <li>For medical expenses not covered by insurance for the member, spouse, or dependents;</li> <li>To provide a down payment on a primary residence;</li> <li>For college tuition, room, board, and some related educational expenses for member, spouse or dependents.</li> <li>To prevent eviction or foreclosure on a primary residence;</li> <li>To cover funeral/burial expenses for the member's immediate family member;</li> <li>To repair damage to the member's principal residence that qualifies as a casualty deduction.</li> </ul>	
<b>Withdrawals &amp; Rollovers while Employed</b>	<ul style="list-style-type: none"> <li>Available upon reaching age 70 ½;</li> <li>Transfer to the NC Retirement System to purchase service credit, if eligible for purchase;</li> <li>Allowed if the account balance is less than \$5,000 and no contributions have been made for a period of two years.</li> </ul>	<ul style="list-style-type: none"> <li>Available upon reaching 70 ½ &amp; in order to receive favorable tax treatment the 1<sup>st</sup> contribution must be at least 5 years old.</li> <li>Allowed if the balance is less than \$5,000 &amp; no contributions have been made for a period of 2 years.</li> </ul>	<ul style="list-style-type: none"> <li>Available upon reaching age 59 ½ ;</li> <li>Transfer to the NC Retirement System to purchase service credit, if eligible for purchase.</li> </ul>	<ul style="list-style-type: none"> <li>Available upon reaching age 59 ½ &amp; in order to receive favorable tax treatment the 1<sup>st</sup> contribution must be at least 5 years old.</li> </ul>
	<ul style="list-style-type: none"> <li>Leave funds in the Plan (subject to federal rules on minimum</li> </ul>	<ul style="list-style-type: none"> <li>Leave funds in the Plan (subject to federal rules on</li> </ul>	<ul style="list-style-type: none"> <li>Leave funds in the Plan (subject to federal rules on minimum required</li> </ul>	<ul style="list-style-type: none"> <li>Leave funds in the Plan (subject to federal rules on minimum required</li> </ul>



<b>Options upon Termination or Retirement</b>	required distributions); <ul style="list-style-type: none"> <li>• Begin making withdrawals (lump sum, partial payments or systematic payout options);</li> <li>• Annuitize all or a portion;</li> <li>• Roll all or a portion of the balance to another qualified retirement plan or IRA;</li> <li>• At or after retirement, members may move balance to the Retirement System to increase their monthly benefit.</li> </ul>	minimum required distributions); <ul style="list-style-type: none"> <li>• Begin making withdrawals (lump sum, partial payments or systematic payout options);</li> <li>• Roll all or a portion of the balance to another Roth 401(k), Roth 403(b), Roth IRA or Roth 457.</li> </ul>	distributions); <ul style="list-style-type: none"> <li>• Begin making withdrawals (lump sum, partial payments or systematic payout options);</li> <li>• Roll all or a portion to an annuity;</li> <li>• Roll all or a portion of the balance to another qualified retirement plan or IRA;</li> <li>• At retirement only, members may move balance to the Retirement System to increase their monthly benefit.</li> </ul>	distributions); <ul style="list-style-type: none"> <li>• Begin making withdrawals (lump sum, partial payments or systematic payout options);</li> <li>• Roll all or a portion of the balance to another Roth 401(k), Roth 457, Roth 403(b) or Roth IRA.</li> </ul>
<b>One-Time Deferrals</b>	<ul style="list-style-type: none"> <li>• Upon separation, employees may choose to defer their leave payout of vacation/bonus leave or longevity into their Prudential Savings Plan (401k or Deferred Comp/457b) to help increase their savings contributions or meet their annual savings maximum.</li> </ul>			
<b>Tax Considerations</b>	<ul style="list-style-type: none"> <li>• Withdrawals of pre-tax funds are subject to federal and state income taxes for the year in which the distribution(s) is processed;</li> <li>• Rollovers to other qualified plans or IRAs are not taxable events.</li> </ul>	Withdrawals are NOT subject to federal or state income taxes provided: <ul style="list-style-type: none"> <li>• The 1<sup>st</sup> Roth contribution has been in the account for a t least 5 tax years; and</li> <li>• The member is 59 ½ or older, disable, or deceased.</li> </ul>	<ul style="list-style-type: none"> <li>• Withdrawals of pre-tax funds are subject to federal and state income taxes for the year in which the distribution(s) is processed;</li> <li>• Rollovers to other qualified plans or IRAs are not taxable events.</li> </ul>	Withdrawals are NOT subject to federal or state income taxes provided: <ul style="list-style-type: none"> <li>• The 1<sup>st</sup> Roth contribution has been in the account for a t least 5 tax years; and</li> <li>• The member is 59 ½ or older, disable, or deceased.</li> </ul>
<b>Tax Penalties</b>	Regardless of age at withdrawal, no additional penalties will apply.	Regardless of age at withdrawal, no additional penalties will apply.	Withdrawals prior to age 59 ½ may be subject to an additional 10% federal income tax penalty. This penalty can be avoided if the member: <ul style="list-style-type: none"> <li>• Separates from service in the calendar year they turn 55, or later;</li> <li>• Elects to receive substantially equal payments based upon life expectancy;</li> <li>• Is disabled or deceased.</li> </ul>	State and federal income taxes along with a federal tax penalty for early withdrawal may apply to the earnings (not contributions) if the member is younger than 59 ½ or if the first Roth contribution has not been in the account for at least 5 years.
<b>Minimum Required Distributions</b>	The federal government dictates that minimum withdrawals must begin by age 70 ½ , provided a member is no longer employed by the sponsoring employer. Failure to receive this annual minimum required distribution (MRD) may result in significant tax penalties.			

## **SHORT-TERM DISABILITY**

### **Location**

<https://www.nctreasurer.com/ret/DINCP%20Employer/TSERSDisabilityHandbook.pdf>

Employees who become temporarily or permanently disabled and are unable to perform their regular work duties may be eligible to receive partial replacement income through the Disability Income Plan of North Carolina. In order to qualify for short-term disability benefits, an employee must be in permanent status and work at least 30 hours per week for nine months of the year and participate as a member of the retirement system for at least one year during the 36 months preceding the disability. Eligible employees may receive a monthly short-term benefit equal to 50% of their monthly salary, plus 50% of

their annual longevity. Monthly benefits during the short-term period cannot exceed \$3,000. This monthly benefit is reduced by any workers' compensation or Veteran's Affairs benefit received for the same disability. Short-term benefits are available for up to one year and may be extended for up to one additional year if the disability is temporary and is likely to end within that additional year. Additional information can be found on The Office of the NC State Treasurer's website at [www.nctreasurer.com](http://www.nctreasurer.com).

## **LONG-TERM DISABILITY**

Long-term benefits may be payable after the conclusion of the short-term disability period. Employees should apply within 180 days of the end of their short-term or extended short-term benefit period. In order to qualify for long-term disability benefits, an employee must have at least five years of membership service with the Retirement System during the 96 months preceding the conclusion of the short-term disability period. During the first three years of long-term disability, eligible employees may receive a monthly long-term benefit equal to 65% of monthly salary, plus 65% of annual longevity pay. Monthly benefits during the long-term period cannot exceed \$3,900. This benefit is reduced by any Workers' Compensation (excluding permanent partial Workers' Compensation awards) or Veteran's Affairs benefits if for the same disability; any primary Social Security benefits, regardless of whether the employee elects to receive such benefits; and any monthly payments from any other federal agency. Additional information can be found on The Office of the NC State Treasurer's website at [www.nctreasurer.com](http://www.nctreasurer.com).

## **DEATH BENEFIT**

### **Location**

<https://www.nctreasurer.com/Retirement-And-Savings/For-New-Government-Employees/Pages/Death-Benefits.aspx>

A death benefit is payable if the employee dies while still in active service and after 1 year as a contributing member of the Retirement System. The death benefit amount is one year's salary determined by the highest salary within a consecutive 12-month time period in the last 24 months. This amount would be at a minimum of \$25,000 or not to exceed \$50,000.

## **SWORN LAW ENFORCEMENT SPECIFIC BENEFITS**

Law Enforcement has additional separate benefits that are in addition to those afforded to all State Employees. Those benefits are administered through the NC Treasurer's Office. A detailed explanation of those are located here:

[https://www.nctreasurer.com/ret/Benefits%20Handbooks/TSERS\\_LEOhandbook.pdf](https://www.nctreasurer.com/ret/Benefits%20Handbooks/TSERS_LEOhandbook.pdf)

## **INSURANCE BENEFITS FOR STATE EMPLOYEES**

The State of North Carolina provides health care benefits to teachers, employees, retirees, and their eligible dependents according to the provisions and limitations of North Carolina General Statutes. Health Insurance is offered to every permanent employee that is working at least (30) hours per week. Employees have (30) days to enroll in health insurance coverage from the date of hire. Employees that do not enroll in health insurance within (30) days of being hired, will need to wait until the next Annual Enrollment in order to enroll with their coverage being effective January 1<sup>st</sup> of the following year.

## DEPENDENTS

Eligible dependents under the State Health Plan include:

- Legal Spouse;
- Children up to age 26 including natural, legally adopted, foster children, children for whom the employee is court-ordered guardian and stepchildren of the employee;
- Children (described above) who are covered by the Plan when they turn age 26 to the extent that they are physically or mentally incapacitated on the date that they turn age 26. A child is physically or mentally incapacitated if they are incapable of earning a living due to a mental or physical condition. Coverage continues for such children as long as the incapacity exists or the date coverage would otherwise end, whichever is earlier.

Please note that an individual cannot be enrolled as a dependent under the Plan if he or she is enrolled as an employee. In addition, a dependent cannot be enrolled under two Plan contracts at the same time.

## HEALTH INSURANCE

The State of North Carolina provides health care benefits to teachers, employees, retirees, and their eligible dependents according to the provisions and limitations of North Carolina General Statutes. Health Insurance is offered to every permanent employee that is working at least (30) hours per week. The following Health Care Plan options are available as Preferred Provider Organization (PPO) Options:

1. Enhanced (80/20)
2. Consumer Directed Health Plan
3. Traditional (70/30)

Active Employee Premiums									
Participation in Wellness Activities									
Wellness Activities		All 3	Two Activities Completed			One Activity Completed		None	
Smoking Attestation		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			
PCP Selection		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		
Health Assessment		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	
Plan Options – Employee Only	Employer Share	Employee / Retiree Share							
Enhanced 80/20	\$479.48	\$15.04	\$40.04	\$40.04	\$55.04	\$66.04	\$80.04	\$80.04	\$105.04
Consumer Directed	\$479.48	\$0.00	\$20.00	\$20.00	\$40.00	\$40.00	\$60.00	\$60.00	\$80.00
Traditional 70/30	\$479.48	N/A	N/A	N/A	N/A	\$0.00	N/A	N/A	\$40.00
Dependent Premiums									
Dependent Group				Enhanced 80/20 with all credits		Consumer Directed with all credits		Traditional 70/30 with Smoking Credit	
Employee + Child(ren)				\$305.18		\$189.82		\$210.92	
Employee + Spouse				\$683.52		\$489.14		\$543.46	
Employee + Family				\$723.76		\$520.96		\$578.86	
Total Employee Contribution = Active Employee Share + Dependent Premium									

Click here for a comparison of the plans:

<https://shp.nctreasurer.com/ActiveEmployees/8020/benefits/Pages/default.aspx>

## **NC FLEX BENEFITS**

The NCFlex Program provides a variety of pre-tax plans available to state agency, university, and select community college employees. Employees are eligible to participate in NCFlex if they are a state agency or university employee working 20 or more hours per week in a permanent, probationary, or time-limited position. Specific information on each of the plans can be located on [www.ncflex.org](http://www.ncflex.org).

### **Effective Dates of Coverage**

You have 30 days from the date of hire to enroll in the NCFlex programs. Employees can enroll in NCFlex online using ESS, you will then be re-directed to the BenefitFocus online enrollment portal. If you do not enroll at the time of hire, you will have the opportunity to enroll each year during annual enrollment which is usually in the fall. Unlike health insurance, you do not have a choice for effective date of coverage. NCFlex benefits will be effective the 1st of the month following the date of hire. For example, if an employee is hired on 4/5/16, their Flex benefits would be effective 5/1/16. Unlike health insurance where you pay a month in advance for the next month's coverage, NCFlex premium deductions pay for the current month's coverage. This means that NCFlex premiums deducted from April paycheck pays for NCFlex coverage for April.

### **Dependent Eligibility**

Coverage for your eligible dependents is available for most NCFlex benefits (see the specific benefit section for details). Eligible dependents are generally:

- your legally-married spouse;
- any unmarried child, including stepchild and foster child, who is dependent upon you for support and maintenance until the end of the month in which the child turns age 26;
- any unmarried child, including stepchild and foster child, of any age who remains dependent upon you for support and maintenance and who is unable to make a living because of a mental or physical handicap.

For the accidental death and dismemberment, cancer, critical illness, dental and vision plans, you may cover children who meet the above requirements.

For the Health Care Flexible Spending Account (HCFSAs), you may also cover children under the age of 26, regardless of student, tax dependency or marital status. In addition, you may submit eligible expenses for a qualifying relative, which includes any individual who is not the tax dependent of another taxpayer, has the same principal residence as you, and for whom you provide more than half of the support for the calendar year.

Below is a brief description of each NCFlex plan available:

### **Health Care Spending Account**

The Health Care Flexible Spending Account (HCFSAs) is a supplement to the current health insurance. Through the HCFSAs, employees may choose to contribute a set amount of money to an account through payroll deduction on a pre-tax basis. With this account, employees are reimbursed with the pre-tax dollars set aside to pay for medical, dental, or other health care expenses not covered by a health plan. Employees never pay taxes on the money received from the spending account which helps health care

dollars go farther. The annual contribution cannot be less than \$120 a year (\$10 per month) or greater than \$2,550 a year (\$212.50 per month).

### **Reimbursement Process**

You have two options for reimbursement:

Option One is to complete the HCFS Form and submit the HCFS Form along with the required documentation to P & A Group. Reimbursements are usually processed within one week and are directly deposited into the same bank account that your paycheck is deposited.

Option Two is to use the NCFlex Convenience Card. The Convenience Card allows you to pay a provider/vendor directly from your HCFS at the point of purchase for eligible health care expenses. The card reimburses up to your annual election. You will still need to submit receipt documentation and a HCFS Form EXCEPT when the transaction equals a copayment amount from your prescription, medical, dental, or vision plan. There is no fee for the convenience card option.

### **Dependent Day Care Spending Account**

The Dependent Day Care Flexible Spending Account (DDCFSA) is designed to benefit employees with young dependent children or disabled dependents of any age. Eligible day care expenses may be reimbursed for:

1. Your "qualifying child" (including a stepchild, foster child, child placed for adoption, or younger brother or sister) under age 13 who has the same principal residence as you for more than ½ the year and does not provide more than ½ of his/her own support during the calendar year; OR
2. Your "qualifying child" (as defined above) of any age, spouse, or other dependent who receives over ½ of his/her support from you (e.g. your disabled elderly parent), who is physically or mentally incapable of caring for himself or herself and has the same principal place of residence as you for more than ½ of the year. To reimburse day care received outside of your home, your disabled dependent must spend at least 8 hours per day in your home.

***NOTE:*** Special rules apply for divorced or separated parents with dependent children. Generally, the child must be a dependent for whom the employee can claim an income tax exemption. In other words, the employee must have legal custody of the child for over ½ of the year for day care expenses to be reimbursed through the DDCFSA.

### **Vision Care Plan**

The NCFlex Vision Care plan is administered by Superior Vision Services (SVS). Under this plan there are three plan options:

- Core Wellness Exam (no monthly premium cost, \$20.00 copay for exam only)
- Basic Plan – Exam and Materials
- Enhanced Plan – Enhanced Exam and Materials

All these plans offer in-network and non-network services. However, using an in-network provider will result in less expenses for the employee. Employees have a choice of over 2,000 vision providers in the SVS network that includes ophthalmologists, optometrists, and optical companies. Please keep in mind that employees are responsible for paying any charges in excess of the covered benefit.

There is NO waiting period for first-time enrollees. However, if coverage is elected and dropped the following year, the employee will have to wait an additional two years ("lockout" period) before being allowed to get back in the plan. EXAMPLE: if you enrolled for 2016 and drop coverage for 2017, you

cannot participate in the Basic plan until 2019. The lockout period does not apply if you move from Basic to Enhanced, Basic or Enhanced to Core Wellness, or Core Wellness to Basic or Enhanced. The two-year lockout will apply at any time the employee is in the first year of participation in the Basic Plan and coverage is dropped the next open enrollment period with no further coverage elected.

### **The Voluntary Accidental Death and Dismemberment Insurance Plan**

The Voluntary Accidental Death and Dismemberment (AD&D) Insurance Plan is administered by Voya Financial and underwritten by Reliastar Life Insurance Company. It pays a benefit if the employee suffers a loss as the result of a covered accident while insured under the plan. It also pays a benefit for certain disabling injuries that occur while covered.

Employees can elect to cover spouses and dependent children. The coverage is effective 24-hours a day, 365 days a year and includes accidents on or off the job.

Employees may choose from \$50,000 up to \$500,000 of principal sum as insurance coverage. If an employee or their spouse are both eligible (as state or university employees) to elect this coverage, both may elect to participate as employees, but only one may enroll for employee and family coverage. The spouse who elects employee and family coverage will not have coverage for his/her spouse, only children. In addition, an employee cannot be covered as both an employee and a dependent.

### **Core AD&D**

The Core Accidental Death and Dismemberment (AD&D) Insurance Plan is administered by Voya Financial and underwritten by ReliaStar Life Insurance Company, a member of the Voya family of companies. It can pay a benefit if you suffer a loss as the result of a covered accident while you are insured under the plan. It also pays a benefit if you suffer certain disabling injuries while covered. The coverage is effective 24 hours a day, 365 days a year and includes accidents on or off the job.

A \$10,000 core Accidental Death & Dismemberment (AD&D) benefit, if elected, is provided at no cost to the employee. The NCFlex Core AD&D is in addition to any NCFlex Voluntary AD&D insurance plan or any other coverage an employee may have under any other insurance policy. To have the Core AD&D \$10,000 insurance benefit, employees must enroll in the NCFlex **Core** AD&D plan. Coverage may end at any time, as determined by the State of North Carolina.

### **Cancer and Specified Disease Insurance**

NCFLEX offers Cancer and Specified Disease Insurance through Allstate Benefits. Employees have three plan options (Low, High, and Premium) and two coverage levels (Employee Only and Employee Family) to choose from depending on how much coverage is needed.

In addition to cancer coverage, this insurance pays benefits for 29 other specified diseases such as: Muscular Dystrophy, Multiple Sclerosis, Tuberculosis, Sickle Cell Anemia, and Cystic Fibrosis. As a new hire, employees enrolling within the first 30 days from the date of hire, may elect coverage on a guaranteed basis (without providing Evidence of Insurability – EOI) and coverage is effective the first of the month following the date of hire. An EOI form is a way of providing proof of good health. This evaluation may include questions relating to current health status, medical history, and family medical history. If enrolling **at a later date**, employees will have to provide an EOI form to Allstate for approval before coverage becomes effective.

**Critical Illness**

NCFlex offers a Critical Illness Insurance plan. The insurance is administered by Allstate Benefits and complements existing medical coverage, but does not replace it. The coverage pays a lump-sum benefit of up to \$15,000 or \$25,000 per diagnosis. You choose the level of coverage and can use your benefit as you see fit. See below for a list of covered conditions and the eligible lump sum payment:

Coverage Amount: \$15,000 or \$25,000	
Pays 100% of Benefit	Pays 25% of benefit
<ul style="list-style-type: none"><li>• Heart Attack</li><li>• Stroke</li><li>• Major Organ Transplant</li><li>• Bone Marrow Transplant</li><li>• Invasive Cancer</li><li>• Paralysis</li><li>• End Stage Renal Failure</li></ul>	<ul style="list-style-type: none"><li>• Carcinoma Insitu (non-invasive cancer)</li><li>• Coronary Artery Bypass Surgery</li></ul>

Coverage is available for the employee, spouse, and child(ren). If an employee or their spouse are both eligible, both may elect to participate as employees, but only one may enroll for employee and family coverage. An employee may NOT be covered as both an employee and a dependent.

**Group Term Life**

Voluntary Group Term Life Insurance is administered by Voya Financial and underwritten by Reliastar Life Insurance Company. Group Term Life Insurance pays a benefit to an employee’s beneficiary(ies) if the employee dies while covered under the policy. Please note that this is strictly a life insurance policy that provides a benefit upon death. There is no accumulated cash value.

New Hires enrolling within the first 30 days of employment may elect coverage from \$20,000 up to \$500,000 without providing Evidence of Insurability (EOI).

An EOI form is a way of providing proof of good health. This evaluation may include questions relating to current health status, medical history, and family medical history. If enrolling or increasing coverage **at a later date**, employees will have to provide an EOI form to ReliaStar Life for approval before coverage can become effective.

Monthly premiums are deducted on a pre-tax basis and based on the employee’s age as of January 1<sup>st</sup> of the current plan year and the coverage amount elected. Coverage can be elected in increments of \$10,000. A minimum of \$20,000 is available up to a maximum of \$500,000 of coverage.

Coverage is also available for a spouse and/or child(ren). Coverage from \$20,000 up to \$50,00 for your spouse can be elected, as well as \$5,000 or \$10,000 for any eligible child(ren) without providing an EOI. Premiums for a spouse are also based on the age of the covered employee as of January 1<sup>st</sup> of the current plan year. Premiums for child(ren) coverage is \$0.68 for \$5,000 and \$1.36 of \$10,000. If spouse and/or child(ren) coverage is elected, then premiums for the employee and dependents are deducted on a post-tax basis.

### **Dental Coverage**

NCFlex offers both a Low and High option dental plan through MetLife. Employees can visit a network or non-network provider and get the same amount of coverage, but can save more money by visiting a MetLife network dentist. For a summary of benefits and a comparison of the NCFlex dental plan and the agency specific MetLife post-tax dental plan, please click on the link listed below under the 'Agency Specific Insurance Benefits' section.

## **TRICARE SUPPLEMENT**

TRICARE Supplement is administered by Selman & Company and underwritten by Transamerica Premier Life Insurance Company. As a Military Retiree or a Qualified National Guard and Reserve Member (TRS) working for the state 20 or more hours, you can take advantage of the TRICARE Supplement Plan through the NCFlex Program. You must be enrolled in one of the TRICARE Plans offered by the Military.

More information can be obtained at <http://oshr.nc.gov/state-employee-resources/benefits/nc-flex/tricare-supplement>

## **QUALIFYING LIFE EVENTS**

### **STATE HEALTH PLAN:**

Qualifying Life Events is the only time during the year that you can make changes to your benefits. You can add or drop dependents but you cannot change the coverage level (i.e. change from the 70/30 Basic Plan to the 80/20 Enhanced Plan). Election changes must be consistent with the Qualifying Life event as defined by the IRS.

Here are some examples of what may be considered as Qualifying Life Events. Please refer to the "When Coverage Begins & Ends" section of the N.C. State Health Plan Benefits Booklet ([www.shpnc.org](http://www.shpnc.org)) for detailed information on Qualifying Life Events.

- Change in legal marital status which includes marriage, death of a spouse, divorce, legal separation, or annulment.
- Dependents change due to birth, adoption, placement for adoption, or death of the dependent.
- You, your spouse, or your dependents terminate or commence employment, resulting in the loss or gain of health coverage.
- You, your spouse, or your dependents reduce or increase their hours of employment.
- You, your spouse, or your dependents are entitled to coverage under Part A or Part B of Medicare, or Medicaid.
- Your dependents cease or commence to satisfy the requirements for coverage due to attainment of age or their own employer sponsored health care coverage.
- You, your spouse, or your dependents commence or return from an unpaid leave of absence such as Family Medical Leave or military leave.
- You receive a court order to provide coverage for your child(ren).
- There is a substantial change (at least \$50 per month) in the premiums and/or benefits in the plan covering dependents. (*Example: Spouse covers dependent child(ren) and the cost of spouse's coverage increases at least \$50 per month, dependents can be added to the State Health Plan.*)



### **NC FLEX PLANS:**

Each year you can choose to participate in any or all of the NCFlex benefits. Once you have decided to participate, **you cannot change or cancel that decision during the year unless you have a life event — a change in family or employment status.** These events include, but are not limited to:

- Marriage
- Legal Separation of at least 90 days or Divorce
- Birth or adoption (or placement of adoption) of a child
- Death (yours or that of a covered dependent)
- Unpaid leave of absence
- Change in your spouse's employment
- Your dependent turns 26
- Employee changes from part-time to full-time and becomes benefit eligible (20 or more hours)
- Spouse changes from part-time to full-time and becomes benefit eligible (20 or more hours)
- Employee changes from full-time to part-time and loses eligibility (less than 20 hours)
- Spouse changes from full-time to part-time and loses eligibility (less than 20 hours)

If you wish to change your elections, you must log onto the eEnroll system through ESS where you will be re-directed to BenefitFocus. You will then create the appropriate Qualifying Life Event and make your plan change(s). Qualifying Life Event changes **must** be made within **30 days** of the event. Valid changes to your elections are effective on the first day of the month following the date of your life event. You will only be able to make changes to your benefits as it relates to the specific Life Event that has occurred. **You may be required to provide documentation to verify the change.**

For more details about qualifying life events and the steps you need to take when one of them occurs, visit [www.ncflex.org](http://www.ncflex.org).

### **How to Make Benefit Changes due to a Qualifying Life Event:**

If you wish to make changes to your insurance elections, **notify your Benefits Representative immediately.** You only have **30 days from the Life Event** to make changes to your benefits. Your change in elections must be consistent with your status change and may be subject to approval. Documentation may be required. Changes to dental benefits could result in waiting periods, read the benefit details carefully.

Please follow these steps to make changes to your benefits when a Qualifying Life Event (QLE) occurs:

1. Obtain written proof of your QLE, including the effective date (i.e. birth certificate, marriage license, divorce decree, adoption papers, etc.).
2. Submit a copy of your QLE documentation to your unit Health Benefit Representative (HBR) for auditing purposes.
3. Login to Employee Self Service (ESS) at <https://my.beacon.nc.gov> select **My Benefits**, then select **eEnroll**. This link will take you directly to the BenefitFocus portal and allow you to create the Qualifying Life Event and make the necessary changes to your State Health plan and/or NC Flex plans.

***Important Note: Employees MUST make their benefit changes online within 30 days from the Qualifying Life Event.***

## AGENCY SPECIFIC INSURANCE BENEFITS

In addition to the state-sponsored insurance programs, the Department of Public Safety can approve and make available other insurance options for DPS employees. These insurance programs are approved through the DPS Insurance Committee and are administered through private insurance agencies/brokers.

**The supplemental agency-specific plans are NOT part of N.C. State Government and, therefore, are NOT transferable if you leave DPS and transfer to another State Agency.**

The following supplemental insurance plans are available to DPS employees on a post-tax basis:

**MetLife Dental** - The MetLife dental insurance is comparable to the NC Flex high option dental plan. Monthly payroll deductions for MetLife are made after taxes have been taken out, while the NCFlex Dental Plans have monthly payroll deductions taken out PRIOR to taxes.

**Pierce Heart and Stroke Insurance** – The Heart and Stroke Insurance includes Wellness and Intensive Care. The plan helps cover costs associated with a heart attack, stroke, or heart disease.

**Pierce Whole Life Insurance** – This plan is underwritten by Transamerica Life Insurance Company. You can enroll yourself, your spouse and/or any eligible dependents. Monthly premiums are deducted on an after tax basis. For more information regarding this plan go to:  
[http://pierceins.com/vinfu/wp-content/uploads/2015/12/Whole-Life\\_CWL01C-NCDPS-0915.pdf](http://pierceins.com/vinfu/wp-content/uploads/2015/12/Whole-Life_CWL01C-NCDPS-0915.pdf)

**Colonial Life Cancer Insurance** – This plan pays a lump sum benefit to assist with the medical and/or non-medical costs associated with the diagnosis of cancer, or carcinoma in situ. For more information regarding this plan go to:  
<https://ncdps.s3.amazonaws.com/s3fs-public/emp/BenefitsandSafety/ColonialLifeBrochure.pdf>

**Colonial Life Disability Insurance** – This plan helps to replace a portion of your income to make ends meet if you become disabled from a covered accident/illness. Additional plans also available are: Accident, Gunshot Wound and Medical Bridge Hospital Confinement plans.

## NC HEALTHSMART:

NC HealthSmart is an initiative by the State Health Plan to provide employees with resources and information to be as healthy as you can be. On the [www.shpnc.org](http://www.shpnc.org) website, please visit the NC HealthSmart Wellness Programs link to view a wealth of resources that can help you reach your health and wellness goals. This link includes:

- Personal Health Portal – Login and take a Personal Health Assessment (PHA) and receive a Personal Action Plan.
- Worksite Wellness Toolkit – Learn how to create a health-friendly workplace using NC HealthSmart tools and resources.
- Review Your Preventative Care & Immunization Benefits
- Wellness Services – Provides information on quitting tobacco, incorporating more nutritious foods into your diet, reducing stress, etc.
- Disease and Case Management Services

NC HealthSmart also includes information for contacting a Health Coach who would be available to answer questions you may have concerning your or your family's health. Please visit [www.shpnc.org](http://www.shpnc.org) website for more information on this program.

## ENROLLMENT INFORMATION

Plan Type	How to Enroll	When to Enroll	Effective Date of Coverage
<b>State Health Plan</b>	Employees will enroll online in the HR Payroll System portal under their My Data (ESS), My Benefits links. You will be redirected to the BenefitFocus portal where you will be able to complete your enrollment.	Employees must enroll within 30 days from their hire date.*	1 <sup>st</sup> of the month following date of hire, or 1 <sup>st</sup> of the second month following date of hire
<b>NC Flex Plans</b>	Employees will enroll online in the HR Payroll System portal under their My Data (ESS), My Benefits links. You will be redirected to the BenefitFocus portal where you will be able to complete your enrollment.	Employees must enroll within 30 days from their hire date.*	1 <sup>st</sup> of the month following date of hire
<b>Agency Specific Plans</b>	Employees will enroll by submitting the appropriate enrollment form to DPS Payroll or the Insurance Vendor.	Employees must enroll within 30 days from their hire date.*	Plans will become effective after the 1 <sup>st</sup> payroll deduction
<b>Total Retirement Plans (401k &amp; 457)</b>	Employees have 4 options to enroll: <ul style="list-style-type: none"> <li>• Employees can enroll online by visiting <a href="http://www.NCPlans.prudential.com">http://www.NCPlans.prudential.com</a></li> <li>• Employees can enroll by submitting a 401k or Deferred Comp enrollment form to Prudential;</li> <li>• Employees can enroll by contacting their local Education &amp; Enrollment Manager;</li> <li>• Employees can enroll by calling 1-866-NCPlans or 1-866-627-5267</li> </ul>	Employees may enroll at any time.	Plans will become effective the month the 1 <sup>st</sup> payroll deduction is taken

**\*NOTE:** For the State Health Plan and NC Flex plans, if the 30 day enrollment opportunity is missed, the employee will have to wait for the next open enrollment. For agency specific plans, if the 30 day enrollment opportunity is missed and the employee has the option to enroll prior to the next open enrollment, pre-existing conditions or waiting periods may apply.

## AFFORDABLE CARE ACT

**Location:** <https://www.ncdps.gov/emp/BenefitsandSafety/MarketplaceNotice9-25-13.pdf>

The ACA offers individuals to buy private health insurance through a 'Health Insurance Marketplace', also referred to as 'The Exchange'. This allows you to find private health insurance options to compare with the State's health coverage; to ensure the health coverage you choose meets your needs and fits your budget. In purchasing private insurance thru the Exchange, you may be eligible for a tax credit, which may result in a lower premium. However, please be aware that if you purchase a private health plan through the Exchange, you may lose your employer contribution to the health benefit plan offered by the State.

Please remember, purchasing private health insurance through the Exchange is not mandatory. It is totally up to you to choose insurance through your employer or a private company within the

Exchange. But, as your employer, North Carolina Department of Public Safety has an obligation to inform you of your options for health care.

## **UNEMPLOYMENT INSURANCE**

Office of State Personnel maintains a centralized Unemployment Insurance Cost Management Program to provide effective claims administration and control of benefit costs.

## **WORKER'S COMPENSATION**

The purpose of the Workers' Compensation Act is to provide medical benefits, compensation for lost time from work and compensation for any permanent or permanent partial disability that results from a compensable job related injury. The North Carolina Department of Public Safety is self-insured for the purpose of administering the Workers' Compensation Act. Workers' compensation expenses are paid from the department's current operating budget. All workers' compensation claims are handled by a third party administrator (TPA). The TPA is CorVel. Employees can contact the Human Resources Workers' Compensation office or CorVel with questions regarding their workers' compensation benefits. CorVel decides whether a claim is compensable under the workers' compensation laws.

### Employee Responsibilities

1. Immediately report any injury/illness by notifying the supervisor or work location designee when an on the job injury/illness occurs.
2. Provide written notice to the work location that an injury/illness occurred by completing the DPS HR201 WC-EE Form.
3. Accept medical treatment by a medical provider approved by the employer/CorVel to treat the injury. Obtain and provide a Medical Authorization Form for the treating physician to complete.
4. Follow the prescribed treatment to affect a cure for the injury (NOTE: Refusal may bar the employee from further compensation until such refusal is resolved).
5. Provide supervisor with any medical restrictions (NOTE: Refusal to comply with work restrictions may bar the employee from further compensation.)
6. Employees without restrictions shall return to the regular work schedule).
7. Provide supervisor with an out of work medical note. The supervisor will forward a copy of the medical note to the Workers' Compensation office.
8. Maintain contact with supervisor weekly while out of work.

Employees whose injury/illness is covered under Workers' Compensation are eligible for a benefit equal to 66 2/3% of the employee's average weekly earnings up to a maximum established by the Industrial Commission after a required seven (7) day waiting period. During the seven (7) day waiting period, employees may elect to exhaust sick or approved leave or be on leave without pay.

Employees who are in Criminal Justice Certified/Sworn position and are injured as a result of a heightened risk or special hazard, or an Adult Correction employee that is injured as a result of a direct and deliberate act of an offender/inmate may be eligible for Salary Continuation which is full pay for up to two years from the date of disability.

Employees who return to work but continue to require medical or therapy visits to reach maximum medical improvement will receive paid leave for time away from work for visits authorized by CorVel.

Death Benefit

In the event of death resulting from an injury arising out of and in the course of an employee's employment, compensation is paid to the surviving spouse and/or dependents for 500 weeks or until the child reaches their 18th birthday, whichever is longer. There is a \$10,000 allowance for funeral expenses.

## **STATE EMPLOYEE'S CREDIT UNION**

As a North Carolina State Government employee, you are entitled to membership with the State Employees' Credit Union (SECU). You and your immediate family (spouse, parents, children, siblings and others maintaining a single economic unit) may become members of SECU by opening a \$25 share account, your membership account. This membership allows you to take advantage of SECU's excellent rates and services.

SECU is a not-for-profit financial cooperative owned by state and public school employees of North Carolina and their families. SECU has been providing consumer financial services for more than 70 years and serves nearly 1.6 million members. Unlike profit-oriented institutions, SECU's purpose is to serve members by providing fair, convenient, low-cost services. SECU has more than 230 branch locations, 1,000+ no-surcharge Cash Points ATMs, 24/7 call centers, a Voice Response Service and a website [www.ncsecu.org](http://www.ncsecu.org).

To open a share account, visit your local SECU branch or contact the call center and provide a copy of your most recent pay stub to verify employment with the State of North Carolina. If joining through a family member, provide their social security number and/or share account number.

Additional Information can be found here: [www.ncsecu.org](http://www.ncsecu.org)

## **EMPLOYEE ASSISTANCE PROGRAM**

The Department of Public Safety provides an Employee Assistance Program as a benefit to assist employees who may be experiencing personal problems. The program seeks to maintain and restore individual health and well-being, improve productivity and retain valued and experienced employees. The EAP is sponsored and maintained by DPS Human Resources. McLaughlin Young Group EAP Services provides the contract services. There is no fee for the services provided by the EAP. However, any cost associated with recommended treatment with a professional resource is the employee's responsibility. The Employee Assistance Program includes free and confidential assessments and referrals for you and your family members. The EAP provides assistance and resources to help you deal with a wide variety of difficulties. Trained Care Coordinators are ready to help you solve your problems so that you can maintain a sense of well-being and workplace productivity.

### **Benefits of using the EAP**

- It costs you nothing.
- It's available for you and your family.
- It provides practical solutions
- It's easy to access.
- It's confidential.
- It provides referrals

### **Issues Addressed by EAP**

- Dealing with stress at home or in the workplace.
- Coping with the impact of a tragedy.
- Quitting smoking.
- Coping with loss or grief.
- Suffering from domestic violence.
- Resolving marital, parenting, and family problems.
- Living with depression or anxiety.
- Experiencing problems with co-workers
- Having trouble with personal finances.
- Substance Abuse / Alcoholism

### **EAP Services:**

- Telephonic or Face-to-Face Assessment
- Self-Assessment Tools
- Legal Referrals
- Crisis, Risk, and Referral Assessments
- Online Health and Wellness Resources
- Financial Counseling & Planning

### **McLaughlin Young Contact Information:**

To access any EAP services, call McLaughlin Young EAP Services toll free at 1-888-298-3907 or 704-717-5295.

### **Online Resource**

The McLaughlin Young website, [www.mygroup.com](http://www.mygroup.com), provides a variety of online resources including articles, seminars, and skill builders on a wide variety of topics. This free resource is available 24 hours a day.

The user name is: **NCDPS**

The password is: **Guest**

### **WE CARE PROGRAM**

WE CARE is an initiative created by the North Carolina Department of Public Safety to address employees' overall wellness. WE CARE stands for Wellness Education Committed to Assisting and Reaching our Employees and is supported by the NCDPS Employee Wellness and Resilience Committee. The purpose of the WE CARE initiative is to provide all DPS Employees with positive reinforcements through multiple avenues and to support them when they are faced with adverse situations. This mission of supporting all DPS Employees through adverse situations reinforces that WE CARE for the whole person, physically, mentally and emotionally by providing opportunities to address issues that may influence the overall job performance, career development, and well-being of all DPS Employees.

# POLICY INFORMATION

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## **EMPLOYMENT POLICIES**

### **APPOINTMENT TYPES**

#### **New Appointment**

A new appointment is the initial employment of an individual to a position or the reemployment of an individual who is either not eligible for reinstatement or is not offered reinstatement. An employee entering into State service in a permanent or time-limited permanent position shall be given a Probationary or Trainee appointment. The probationary and trainee periods are intended to serve as an extension of the selection process and are used to determine whether the person will be able to meet acceptable performance and/or personal conduct standards. If the employee in probationary or trainee status does not meet performance or personal conduct standards, the employee will be separated.

#### **Probationary Status**

Most position classifications within the Department (excluding those hired in trainee status) require new hires to be placed in Probationary Status. Employees hired in positions requiring Probationary Status must serve a probationary period of 12 months from the date of hire. Credit is given for each month in which employees are in pay status for one-half or more of the workdays and holidays. (This probationary period is not the same as and should not be confused with the probationary certification prescribed for criminal justice officers). Employees hired into certain sworn law enforcement positions where the completion of a formal training program prior to assuming law enforcement duties is required must serve a 24 month probationary period.

#### **Trainee Status**

Employees hired in position classifications requiring trainee progressions do not have all of the necessary knowledge, skills, and abilities to meet the minimum qualifications of the position. A trainee progression is established for the employee to obtain the necessary qualifications.

Employees in trainee progressions must remain in trainee status until the completion of the trainee progression. The minimum requirement for a trainee appointment is outlined in the class specification for the regular classification

#### **Permanent Appointment**

An employee shall be given a permanent appointment when the requirements of the probationary period have been satisfied or when the employee with a trainee appointment has satisfactorily completed all training and experience required for the position classification.

## **MERIT-BASED HIRING AND SELECTION**

#### **Location**

[https://www.ncdps.gov/emp/Policies/HR/Merit-Based\\_Recruitment\\_and\\_Selection\\_Plan.pdf](https://www.ncdps.gov/emp/Policies/HR/Merit-Based_Recruitment_and_Selection_Plan.pdf)

#### **Purpose**

It is the policy of the Department of Public Safety to provide equal employment opportunity to all applicants, without regard to race, religion, color, national origin, sex, age, disability, or political affiliation/influence. All selection decisions shall be based solely on job-related criteria and comply with

all federal and state employment laws, regulations, rules and policies and will be consistently applied to promote fairness, diversity and integrity.

The primary purpose of the Merit-Based Recruitment and Selection Process shall be to ensure that positions subject to the State Personnel Act (G.S. 126) are filled with most qualified individuals from among the pool of qualified applicants as determined by job related criteria and in the judgment of unbiased, objective human resource professionals.

### **Provisions**

The Secretary of the Department of Public Safety accepts the responsibility for ensuring that the recruitment and selection process complies with all applicable and existing state and federal laws, policies, and rules governing personnel actions and ensuring that all hiring practices are applied consistently and equitably, thereby demonstrating commitment and support for the merit-based recruitment and selection plan. The merit based recruitment and selection plan shall also comply with established procedural guidelines issued by the Office of State Human Resources.

The Secretary has delegated the responsibility for policy compliance and enforcement to managers and expects full support and cooperation from all managers and supervisors in the management and application of the merit-based recruitment and selection process.

### **Appeal Process**

If an applicant has reason to believe they were denied employment due to political affiliation or influence, the applicant may appeal the hiring decision to the Equal Employment Opportunity Office following the NCDPS Grievance Process referenced in this guide.

## **EQUAL EMPLOYMENT OPPORTUNITY**

### **Location**

<https://www.ncdps.gov/emp/Policies/EEO/EEOpolicy.pdf>

### **Purpose**

The Department of Public Safety is an Equal Employment Opportunity Employer; therefore, we are committed to providing all current employees and applicants with equal employment opportunities without discrimination on the basis of race, color, sex, religion, national origin, age, genetic information, or disability status, except where age, sex or physical requirements constitute bona fide occupational qualifications.

### **Provisions**

The Department of Public Safety's Equal Employment Opportunity program is intended to create a diverse workforce climate that is responsive and respectful of fairness and equity for applicants and employees which ensures compliance with State and Federal laws and Departmental policies. Equal Employment Opportunity guidelines also prohibit retaliatory actions against employees or applicants because they filed a charge, testified, assisted or participated, in any manner, in a hearing, proceeding, investigation, or employment discrimination complaint.

### **Discrimination Grievance**

**Location:** <https://oshr.nc.gov/policies-forms/discipline-appeals-grievances>

An applicant for State employment, probationary State employee, former probationary State employee, career State employee or former career State employee (hereafter referred to as complainant) alleging



unlawful discrimination, harassment or retaliation shall first file a complaint with the agency Equal Employment Opportunity (EEO) Officer within **15 calendar days** of the alleged discriminatory or retaliatory act that is the basis of the complaint. If the complainant alleges facts that would constitute unlawful discrimination, harassment, or retaliation as prohibited by law, the complaint will be investigated as a part of the EEO Informal Inquiry. The investigation will determine if the facts support a finding that there is reasonable cause to believe the alleged act rises to the level of unlawful discrimination, harassment or retaliation.

The agency (EEO Office) has **45 calendar days** from receipt of the complaint to investigate and respond to the complainant, unless the complainant and the employer mutually agree in writing to extend the time due to occurrences that are unavoidable or beyond the control of either party. Any extension shall not exceed 15 calendar days.

At the conclusion of the investigation, the agency (EEO Office) shall communicate the outcome of the investigation in writing to the complainant. If there is reasonable cause to believe that unlawful discrimination, harassment, or retaliation occurred, management shall take appropriate action to resolve the matter. If the complaint is successfully resolved, the complainant will sign a letter of agreement with the agency detailing the terms of the resolution. The agency shall ensure that the terms of the agreement under the control of the agency are implemented.

If the complaint is not successfully resolved, then the complainant may continue the process by filing a formal grievance within **15 calendar days** of the written response from the EEO Informal Inquiry.

In filing a formal grievance, the complainant may bypass the Informal Discussion with Supervisor process. At any point in the grievance process, the complainant/grievant has the right to bypass discussions with or review by the alleged offender. Time spent in the EEO Informal Inquiry is not a part of the formal internal grievance process.

#### **External Filing of a Discrimination Charge**

The complainant alleging unlawful discrimination, harassment or retaliation has the right, at any time, to bypass or discontinue the EEO Informal Inquiry or the formal internal grievance process and file a charge directly with the Equal Employment Opportunity Commission. The complainant may not, however, file a contested case with the Office of Administrative Hearing if the internal process has not been completed. The charge must be filed within **180 calendar days** of the alleged event or action that is the basis of the complaint.

Information about filing an EEOC charge can be found at:

<http://www.eeoc.gov/employees/charge.cfm> or by calling the EEOC regional offices located in Raleigh, Greensboro and Charlotte at 1-800-669-4000.

Information about filing through the Civil Rights Division of the Office of Administrative Hearings can be found at: <http://www.ncoah.com/civil/> or by calling (919) 431-3036.

#### **Simultaneous Internal and External Filing of a Discrimination Charge**

An applicant for State employment, probationary State employee, former probationary State employee, career State employee or former career State employee may file simultaneously with the Equal Employment Opportunity Commission (EEOC) at any point in either the EEO Informal Inquiry or the formal internal grievance process.

## **AMERICANS WITH DISABILITIES ACT**

### **Location**

<https://www.ncdps.gov/emp/Policies/HR/ADA.pdf>

### **Purpose**

Title I of the Americans with Disabilities Act (ADA) prohibits discrimination against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. The Department's policy and procedures address all aspects of the employment process.

### **Provisions**

In accordance with the ADA, it is the policy of the Department of Public Safety to:

- Prohibit discrimination against employees and qualified applicants on the basis of a disability;
- Protect individuals from discrimination, coercion, intimidation, threats or interference when filing an ADA complaint or testifying about alleged ADA violations; and,
- Consider requests for and provide reasonable accommodation(s) to employees and qualified applicants consistent with the procedures delineated in this policy.

### **Requests for Accommodation**

Requests for reasonable accommodation(s) shall be initiated in writing by the employee and submitted through the appropriate chain-of-command to the ADA Compliance Officer for final approval. All requests related to mandatory Criminal Justice Education and Training Standards Commission Basic Training requirements shall be initiated using Request for Reasonable Accommodation – Basic Training form. This form shall be forwarded directly to the Director of the Office of Staff Development and Training for consideration.

### **Relevant Forms**

[https://www.ncdps.gov/emp/Policies/HR/DPS\\_Req\\_for\\_Accommodation\\_111412.doc](https://www.ncdps.gov/emp/Policies/HR/DPS_Req_for_Accommodation_111412.doc)

## **EMPLOYMENT OF RELATIVES**

### **Location**

<https://oshr.nc.gov/policies-forms/recruitment-selection-workforce-planning/selection-of-applicants>

### **Policy**

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. 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.

## **SECONDARY EMPLOYMENT**

### **Location**

### **Policy**

It is the policy of the Department of Public Safety to consider employee requests for secondary employment consistent with the requirements established by the Office of State Personnel. The purpose of this policy is to ensure a consistent process for employees seeking approval for secondary employment and to serve as a tool for management in the consideration, approval and denial of requests for secondary employment.

### **Provisions**

Secondary employment shall not be permitted when it may reasonably be expected that such employment would:

- Impair in any way the employee's ability to perform all required duties and responsibilities or any other duties and responsibilities as assigned;
- Impair in any way the employee's ability to make decisions and/or carry out the responsibilities of the employee's position in an objective fashion;
- Result either directly or indirectly in a conflict of interest with the primary employment. The term "conflict of interest" shall include, but is not limited to, those situations where the secondary employment would compromise the position of the employee or the Department with respect to firms or individuals doing business or desiring to do business with the Department.

### **Request Process**

An employee planning to undertake secondary employment shall complete the Request for Secondary Employment Form and submit to the appropriate manager/supervisor for approval. The employee has the responsibility to notify his supervisor in writing of any major changes in the nature of the secondary employment. In addition, the employee must request approval for secondary employment in writing on an annual basis or whenever the employee changes position (i.e. lateral transfer, promotion, reassignment, etc.), whichever is sooner.

Employee requests for approval of secondary employment, accompanied by any required supporting information, are considered public information and may be released upon request.

### **Disciplinary Action and Revocation of Approval**

Approval for secondary employment may be revoked at any time for any of the below listed reasons. These may also be grounds for disciplinary action up to and including dismissal.

- Failure to request and obtain approval of secondary employment initially, annually, and/or when the employee changes positions.
- The submission of falsified information to secure approval of secondary employment.
- Negative impact on the employee's work performance in his/her primary employment.
- The use of state resources or state time for the benefit of secondary employment.
- Failure to notify the immediate supervisor of any major change in the nature of the secondary employment.
- The issuance of disciplinary action shall result in a reevaluation of the employee's secondary employment relationship and may result in revocation of approval depending on the subject matter and severity of the disciplinary action.

Note: The secondary employment status for employees on leave, including injury leave, sick leave and leave of absence without pay, may be reevaluated by the manager or supervisor and temporarily revoked depending on the nature of their secondary employment.

**Relevant Forms**

<https://www.ncdps.gov/emp/Forms/HR020Req4SecEm52013LC.pdf>

**SALARY ADMINISTRATION/GENERAL PAY POLICIES**

**Location**

To be added when OSHR site is updated.

**Compensation Philosophy**

The State of North Carolina is committed to attracting and retaining a diverse workforce of high performing employees with the competencies, knowledge, skills and abilities and dedication needed to consistently meet continually evolving strategic goals. It is the policy of the State to compensate its employees to encourage exceptional performance and to maintain labor market competitiveness, within the boundaries of financial feasibility.

**Salary Structures**

The salary structures provide guidelines to set and manage compensation in a fair and consistent manner relative to the market for all positions subject to the State Human Resources Act. Each position is assigned to a pay grade with an associated salary range based on similar employment in the defined labor market. Each pay grade is constructed with a minimum, midpoint (market rate), and maximum salary rates that are competitive in the external labor market consistent with the State’s ability to pay; and proper relationships within State government employment to maintain internal equity. The minimum and maximum represent the lowest and highest salary that may be paid for a job assigned to that pay grade. Salaries are commensurate with an employee’s education and experience in relation to the salary range established for the position. Salary ranges are divided into quartiles, to aid in determining employee and potential employee salary placement within the prescribed salary range. As relevant labor markets change, salary ranges may be adjusted with approval by the State Human Resources Commission.

**Covered Employees**

Pay increases shall be granted only to full-time and part-time permanent, probationary, and time-limited employees subject to the State Human Resources Act who receive a “meets expectations” or “exceeds expectations” performance rating on their most recent performance evaluation; and without an active disciplinary action.

**Pay Factors**

When determining and setting an appropriate salary upon hire or adjustments to the rate of pay an employee receives upon Promotion, Reallocation, Lateral Transfer, Reinstatement, or In-Range Adjustment, these factors shall be taken into consideration:

- Market Relativity – a comparison of an employee’s pay relative to the market rate for his/her position that can be calculated by dividing an employee’s salary by the market rate
- Internal Equity – a fairness criterion that takes into consideration the relationship of one employee’s salary to the salaries of other employees who have comparable levels of education and experience and perform similar duties and responsibilities, within a work unit, division or agency
- Work Experience/Education – an employee’s relevant work history and academic qualifications

- Knowledge, Skills, and Abilities – special qualifications, competencies, and/or prerequisites needed to successfully perform the tasks required of a job
- Recruitment/Retention Issues – Issues related to hard-to-fill jobs and/or jobs that may warrant higher salaries compared to the market rate, creating retention issues
- Budget/Availability of Funds – consideration of allocated dollars funded to a position used to pay for salaries during a fiscal year

### **Pay Parameters**

**Above Maximum/Below Minimum** – Actual rates of pay and/or pay adjustments shall not be set below the minimum rate nor exceed the maximum rate of the specified salary range. If a recruitment range is published in a vacancy announcement, pay shall not be set below the minimum rate nor exceed the maximum rate of the specified recruitment range.

**Allowable Increases** – Increases may be granted to employees in the first, second, and third quartile, including employees paid at the market rate without OSHR approval, provided that the increase does not exceed the market rate by more than 10 percent.

**Restricted Increases** – Increases granted to employees in the third or fourth quartile whose salary prior to the increase exceeds the market rate by more than 10 percent require approval by OSHR.

**Effective Dates** – All pay adjustments and increases due to job change shall be effective on the day the employee assumes the duties or on the first day of the biweekly or monthly pay period closest to the effective date of job change. In-Range adjustments due to labor market or equity shall be effective on the first day of the most current biweekly or monthly pay period.

**Temporary Pay Adjustments** – Temporary pay increases shall be canceled when the additional duties and responsibilities are removed and/or prior to separation. Salary shall revert back to the rate of pay the employee received prior to the temporary pay adjustment.

**Part-time Salary Rates** – Employees with a permanent part-time appointment shall be paid a proportionate annual rate.

Salary increases of any kind are subject to the availability of funds. No action can be implemented that would exceed the funds available. Any written salary commitment shall include a statement of notification that the salary is subject to the availability of funds.

Any salary increase of 20 percent and above or any increase combined within a one-year period of 20 percent or above requires approval by OSHR.

Only with prior approval of the State Human Resources Director will exceptions to the above provisions be allowed.

## **JOB POSTINGS**

### **Location**

<http://www.oshr.nc.gov/jobs/>

### **Provisions**

To apply for a vacant position, you must submit an electronic application through Office of State Human Resources online hiring system, NEOGOV. This link provides you with a step by step guide of creating, saving, and submitting an application for a vacant position.

<https://www.governmentjobs.com/AgencyInstructions.cfm?&topheader=northcarolina>

To receive credit for your work history and credentials, you must list the information on the application. If possible, address the knowledge, skills, abilities, experience, education, and selective criteria requested in the job posting.

Your application must be received by 5:00pm on the closing date to be eligible for consideration. Applications received after that date and time will not be considered.

## **AWARDS AND RECOGNITION**

The State of North Carolina is noted for having loyal, efficient and dedicated employees who provide valuable services to every citizen of the State. North Carolina is proud of this tradition of public service and the competent, committed and dedicated employees who provide these services to and for the state. To express its appreciation to its valued employees, the State has adopted a policy of recognizing employees for committed dedicated and outstanding service. Thus, the State Employee Recognition Program is a significant component of the Human Resources System. Most awards and recognition programs are administered through the Office Of State Personnel and can be found here:

<http://www.oshr.nc.gov/Reward/recognize/recog.htm>

### **Employee Appreciation Week**

A week is annually proclaimed "State Employee Recognition Week" by the Governor of North Carolina in which State agencies and universities recognize their employees. A variety of activities determined by each individual agency/university occur during State Employee Recognition Week.

More information can be found here: <http://www.oshr.nc.gov/Reward/recognize/emplweek.htm>

### **Service Awards**

The success of State government in providing services to meet the needs of North Carolina and its citizens is dependent on the efforts of State employees. These employees provide services in the fields of human services, education, transportation, crime control, law enforcement, and health, as well as many other special areas. It is, therefore, important for the State to have competent, committed and dedicated employees to provide effective and efficient services to and for the State.

The Service Awards Program recognizes employees' total State service in increments of five years through retirement. For each five-year increment, the program offers a collection of other items (as adopted by the program on a bi-annual basis) from which eligible recipients may select. The value of the award increases in proportion to tenure.

More information can be found here: <http://www.oshr.nc.gov/Reward/recognize/service.htm>

### **The Caswell Award**

The Richard Caswell Award Program, awarded to state employees with 45 or more years of service, is designed to acknowledge and express appreciation for noteworthy extended dedicated service.

<http://www.oshr.nc.gov/Reward/recognize/caswell.htm>

### **The Memorial Program**

The Memorial Program honors State employees who lose their lives while in the line of service for North Carolina.

<http://www.oshr.nc.gov/Reward/recognize/memorial.htm>

### **Governor's Award for Excellence**

Governor's Awards for Excellence is the highest honor a State employee may receive. Recipients are honored during Excellence in State Government Week. The program is designed to acknowledge and express appreciation for outstanding accomplishments that do not fall entirely within the scope of normal duties, but are in the nature of a major contribution reflecting credit on the person and State service. The meritorious service or accomplishment is so singularly outstanding that special recognition is justified.

<http://www.oshr.nc.gov/Reward/recognize/govaward.htm>

## **CORRECTION ENTERPRISES PRODUCTS**

As a state employee, you may purchase items made and/or sold through Correction Enterprises. Correction Enterprises is a valuable program that teaches offenders personal responsibility and work skills to increase the likelihood of success upon release. Items available through Correction Enterprises include:

- Eyeglasses
- Furniture/ Reupholstery
- Matting and Framing
- Paint
- Cleaning Supplies

Additionally, as a DPS Employee, you may order shirts, bags, hats, and other items with the DPS Logo on them. For more information, go to <https://www.correctionenterprises.com/products/retail/>.

## **SEPARATION**

Should you choose to terminate your employment with the Department of Public Safety, please refer to the Separation information located on the DPS Website, For Employees, Human Resources.

## **RECORDS AND RELEASE OF INFORMATION**

### **PERSONNEL RECORDS**

#### **Location**

<https://oshr.nc.gov/policies-forms/employment-records/personnel-records>

#### **Definition of Personnel File**

For purposes of this policy, a personnel file consists of any employment-related or personal information gathered by the agency, the Retirement Systems Division of the Department of State Treasurer, or by the Office of State Personnel.

Employment-related information includes information related to an individual's:

- application;
- selection;
- promotion, demotion, transfer;
- salary and leave;
- contract for employment,
- benefits,
- performance evaluation; and
- suspension, disciplinary actions, and termination.

Personal information includes an individual's:

- home address,
- social security number,
- medical history,
- personal financial data,
- marital status, dependents and
- beneficiaries

## **RECORDS OPEN FOR INSPECTION**

The following information on each employee shall be maintained and open for inspection:

- Name
- Age
- Date of original employment or appointment to State service, the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its possession.
- Current position
- Title
- Current salary (includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation)
- Date and amount of each increase or decrease in salary with that department, agency, institution, commission, or bureau
- Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that department, agency, institution, commission, or bureau
- Date and general description of the reasons for each promotion with that department, agency, institution, commission or bureau
- Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the department, agency, institution, commission, or bureau. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the head of the department setting forth the specific acts or omissions that are the basis of the dismissal
- The office or station to which the employee is currently assigned

### **Confidential Information**

All employment-related and personal information in an employee's personnel file not specified under "Records Open for Inspection" is confidential.

### **All Information Available to Certain Persons**

All information in an employee's personnel file shall be open for inspection and examination to the following persons:

- The supervisor of the employee: for this purpose, supervisor is any individual in the chain of administrative authority above a given State employee within a pertinent State agency.
- Members of the General Assembly (authority G.S. 120-19).
- A party by authority of a proper court order.
- An official of an agency of the Federal government, State government or any political subdivision thereof. An official is a person who has official or authorized duties in behalf of an agency; it does not imply a necessary level of duty or responsibility. Such an official may inspect any personnel records when such inspection is deemed by the department head to be necessary and essential to the pursuance of a proper function of said agency; provided, however, that such information shall not be divulged for purposes of assisting in a criminal prosecution or a tax investigation This right to access includes the circumstances where one State agency is



considering for employment a person who is or has been employed in another State agency; the head of the latter agency may release to an official of another agency information relative to the employee's job performance.

- The employee, or his/her properly authorized agent. The personnel file may be examined in its entirety except for:
  - Letters of reference solicited prior to employment
  - Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient. The medical record may be disclosed to a licensed physician designated in writing by the employee. When medical information is obtained on any employee, the physician should indicate any information that should not be disclosed to the employee.
- A party to a quasi-judicial hearing of a State agency, or a State agency which is conducting a quasi-judicial hearing, may have access to relevant material in personnel files and may introduce copies of such material or information based on such material as evidence in the hearing either upon consent of the employee, former employee, or applicant for employment or upon subpoena properly issued by the agency either upon request of a party or on its own motion.

### **PROCEDURES FOR RELEASE TO CURRENT OR FORMER EMPLOYEES**

Employees and former employees may inspect and examine their personnel file during regular business hours provided they produce appropriate identification to the individual managing personnel records. Letters of reference solicited prior to employment, background checks, and recommendations for hire shall be removed from the employee's personnel file prior to the employee's review. Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient shall also be removed. There may be instances when files may not always be readily available for review. If the employee has been separated from the Department for more than five (5) years or if the employee transferred to another state agency after separating from the Department, the file may have to be requested from the State Records Center, etc. If so, it may take a few weeks before the file can be obtained.

### **RECORDS OF FORMER EMPLOYEES AND APPLICANTS FOR EMPLOYMENT**

The provisions for access to records apply to former employees and applicants the same as they apply to present employees. Personnel files of former State employees who have been separated from State employment for ten or more years may be open to inspection and examination except for papers and documents relating to demotions and to disciplinary actions resulting in the dismissal of the employee.

### **MEDICAL RECORDS**

All employee medical information is maintained separately from Personnel Records and is subject to different rules, regulations, and procedures. Any questions regarding medical information that may be considered part of a personnel file should be directed to the Human Resources Staff at your facility or at your Regional Employment Office.

# PROFESSIONAL STANDARDS & CONDUCT

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## **PROFESSIONAL STANDARDS & CONDUCT**

### **PERSONAL APPEARANCE**

#### **Location**

[https://www.ncdps.gov/emp/HR/DPS\\_Personal\\_Appearance\\_Policy\\_Approved\\_10112013.pdf](https://www.ncdps.gov/emp/HR/DPS_Personal_Appearance_Policy_Approved_10112013.pdf)

#### **Policy**

It is the expectation that each employee's dress, grooming, and personal hygiene within the Department of Public Safety should be appropriate to the work situation. Employees are expected at all times to present a professional, businesslike image. Departures from conventional dress or personal grooming and hygiene standards are not permitted. Therefore, this policy has been developed to provide guidelines to managers, supervisors and employees in the Department of Public Safety.

This policy covers all Department of Public Safety employees in non-uniformed positions and unless other standards (e.g., safety/security, injuries) apply.

#### **Division, Section, or Work Location Standards**

The nature of business in the operating Divisions, Sections or Work locations may result in additional, more specific dress code requirements. Each employee is responsible for complying with the Departmental requirements as well as any additional standard operating procedures in the Division, Section or work location.

#### **Disciplinary Action**

Depending on the nature of the attire and at the discretion of the manager, any employee who fails to meet the standards of this policy may be sent from the work unit to change their attire in order to meet the guidelines set forth in this policy and will be required to use his/her leave for the time away from the work unit. Upon a second incident of failure to comply with this policy, the employee shall be sent to change attire and may be subject to disciplinary action. Further instances of violating the policy will subject the employee to disciplinary action, up to and including dismissal.

### **WORKPLACE VIOLENCE**

#### **Location**

<https://oshr.nc.gov/policies-forms/workplace-violence>

#### **Purpose**

The Department of Public Safety prohibits violence in the work place in order to provide a safe and healthy work environment for our employees. Workplace violence includes, but is not limited to, intimidation, bullying, stalking, threats, physical attack, domestic violence or property damage and includes acts of violence committed by State employees, clients, customers, relatives, acquaintances or strangers against State employees in the workplace.

#### **Provisions**

This policy applies to:

- All full-time and part-time employees with either a permanent, probationary, trainee, time-limited permanent or temporary appointment;

- All individuals employed as temporary employees through an employment agency; and,
- All individuals employed on a contractual basis with the Department of Public Safety

This policy applies to any incident occurring at the work site regardless of the original source of the incident and further applies to such employees while working in any location related to his/her employment. This policy applies to the conduct of an employee while functioning in the course and scope of employment as well as off-duty violent conduct that has a potential adverse impact on a State employee's ability to perform the assigned duties and responsibilities.

This policy applies to acts of violence, intimidation, and inappropriate aggression occurring between employees or directed at employees by persons other than clients (i.e. inmates, probationers, etc.) of this agency. Offender related incidents are covered under other Division specific policies. The policy would apply, however, to incidents directed at employees by relatives or friends of offenders.

### **Procedure for Reporting Violence**

All employees of the Department share in the responsibility of creating and maintaining a work environment free from all forms of threatening behaviors. Therefore, employees shall report any and all violations of this policy to his/her supervisor, another authorized supervisor, or the manager immediately but at least within 24 hours of the occurrence of the policy violation(s). The employee may report his/her concerns verbally or in writing, however, if the report is verbal the employee shall be advised to follow-up in writing.

Following a report of a policy violation, the employee shall be expected to cooperate fully with his/her supervisor and management during the internal investigation of the policy violation. An employee's failure to cooperate during an internal investigation or hindering an internal investigation shall be considered unacceptable personal conduct and may result in disciplinary action up to and including dismissal.

NOTE: In the event of an emergency representing a threat of immediate harm, local law enforcement personnel may be contacted.

### **Prohibited Actions**

It shall be a violation of this policy to:

- Engage in workplace violence as defined in this policy;
- Fail to report a threat of workplace violence;
- Fail to investigate a report of a threat of workplace violence;
- Use or possess a weapon in violation of the Department of Public Safety policies and procedures or State law governing the use and possession of such weapons/firearms.
- Misuse authority vested to any employee of the State of North Carolina in such a way that it violates this policy.

Violations of this policy shall be considered unacceptable personal conduct and shall result in discipline up to and including dismissal in accordance with the Department's Disciplinary Policy.

An employee may possess a weapon, provided possession:

- Is in compliance with North Carolina law; and
- Is authorized by the Secretary of the Department of Public Safety or designee; or,
- Is by an employee who is a certified law enforcement officer; or,
- Is required as a part of the employee's job duties with the Department of Public Safety; or,

- Is connected with training received by the employee in order to perform responsibilities of their job with the Department of Public Safety.

**Employee Responsibility**

- Report signs of potential and actual workplace violence.
- Cooperate with managers during an internal investigation into allegations of potential or actual workplace violence.

NOTE: All employees are encouraged to be alert to the possibility of violence on the part of employees, former employees, customers, and strangers. Any report of violence shall be handled in a confidential manner, with information released in accordance with State Policy and Procedures.

**UNLAWFUL WORKPLACE HARASSMENT**

**Location**

<https://www.ncdps.gov/emp/Policies/EEO/UWHPolicy.pdf>

**Purpose**

The Department of Public Safety is committed to providing a workplace environment that reasonably accommodates all qualified employees and agents of the Department so that they may fulfill their essential job functions and carry out the mission of the Department of Public Safety in a professional manner and to the best of their ability. All employees and agents of the Department are expected to act in a manner consistent with standards of personal conduct that contributes to a professional working environment in all departmental workplaces. The Department has ZERO TOLERANCE for violations of the unlawful workplace harassment policy and for retaliation.

**(3) Steps to Understanding Unlawful Workplace Harassment (WPH):**

Must be based on one or more of the following categories:

<b>Category:</b>	<b>Definition:</b>
<b>Race</b>	Includes all races (African American, Caucasian, Hispanic, etc.)
<b>Color</b>	Color of skin, including shade of skin within a racial group.
<b>Religion</b>	The worship and service of God or the supernatural; institutionalized system of religious attitudes, beliefs, and practices.
<b>Sex</b>	Gender. Includes sexual harassment and pregnancy but does NOT include sexual orientation or sexual preference.
<b>Genetic Information</b>	Includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family medical history.
<b>National Origin</b>	National birth site.
<b>Age</b>	Persons 40 years old and over.
<b>Disabling Condition</b>	Physical or mental impairment which substantially limits one or more major life activity; a record of such an impairment; or a person regarded as having such an impairment.
<b>Retaliation</b>	Adverse treatment which occurs because of opposition to Unlawful Workplace Harassment.

1. Includes Unwelcomed or Unsolicited Speech or Conduct

Unwelcomed or Unsolicited Speech/Conduct could include, but is not limited to, the following:

- a. Threats of physical violence or harm; displaying items that imply such a threat;
- b. Slurs, epithets, humiliating and derogatory jokes or comments concerning national origin, ethnicity, race, color, handicap, age, religion, or gender;
- c. Off-color, sexually suggestive, sexist or risqué email, stories, jokes, items, songs, personal accounts, or pictures;
- d. Questioning others about personal matters, including the nature, existence or details of relationship with spouses or lovers, sexual preferences or history;
- e. Physical touching other than handshakes, including rubbing, hugging, stroking, kissing, or grabbing any part of someone else's body or personal items on their body without their consent;
- f. Sexually aggressive conduct, including bumping, cornering, or touching in any manner the area around (or clothing on) someone's buttocks, upper leg, thigh, crotch, chest or breasts; and
- g. Sexual advances, requests for sexual favors, comments containing sexual language or references with sexual innuendo or implications, obscene gestures.

NOTE: The department respects the constitutionally protected right of free speech. However, conduct or language that constitutes unlawful workplace harassment is NOT legally protected as free speech.

2. Creates one of the following:

Hostile Work Environment (HWE) - An environment that a reasonable person would find hostile or abusive and one which the person who is the object of the harassment in fact perceives to be hostile and abusive. Hostile work environment is determined by looking at all of the circumstances, including the frequency of the allegedly harassing conduct, the severity of the conduct, and whether the conduct is physically threatening or humiliating, or unreasonably interferes with an employee's work performance.

OR

Constitutes Quid Pro Quo Sexual Harassment - Unwelcomed sexual advances, requests for sexual favors or other verbal or physical conduct when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of employment, OR
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual.

#### **Immediate Duty to Report and ZERO Tolerance**

Every employee has a duty to report immediately conduct which he or she reasonably believes constitutes unlawful workplace harassment. The Department has a ZERO TOLERANCE stance against workplace harassment. The failure of an employee to report conduct that reasonably appears to violate the unlawful workplace harassment policy negatively impacts the Department's ability to identify and eliminated unlawful workplace harassment. Therefore, it is imperative that every employee report conduct he or she reasonably believes may violate the unlawful workplace harassment policy.

#### **Cultural Diversity**

The Department recognizes that on occasion employees engage in conversation or conduct with (or within sight or hearing of) co-workers at the workplace concerning current affairs or other matters of personal interest. Additionally, the Department appreciates that the workplace brings together culturally diverse individuals who may have differing viewpoints and sensitivities. As a result, a conversation, music, conduct or a personal item that one individual finds enlightening or amusing may be offensive to someone else who sees, hears or is exposed to it.

The lawful balancing of free speech with the prohibitions on unlawful workplace harassment (and admonitions regarding professional conduct) does not guarantee that one will never be exposed in the workplace to any word or conduct that one may find personally offensive. Nevertheless, the Department desires for all employees to work in an environment that is reasonably culturally sensitive and one that enhances work performance. Therefore, employees are encouraged to promptly and politely advise an offending co-worker (or the co-worker's manager) when exposed to speech, conduct or any matter that is personally offensive, so that the situation may be resolved as quickly and amicably as possible. Managers are encouraged to consult as needed with the Department's Legal or EEO office when conflicts arise resulting from social and cultural diversity in the workplace.

#### **Relationship between Employees**

While the Department does not prohibit romantic or personal relationships between employees, supervisory level personnel are strongly discouraged from seeking to date, dating, or engaging in romantic or intimate personal relationships with subordinate level personnel. Such relationships have a significant potential for creating disruption at the work site, including generating complaints of favoritism and allegations of harassment by the subordinate if the relationship fails. Also, a relationship involving supervisory personnel and subordinate level personnel may create problems within the work unit by questioning the Department's philosophy of fair play in providing equal opportunity to all qualified individuals.

Advisory Note: The Department will not tolerate workplace disruption related to such relationships whether involving similarly ranked employees or supervisors and subordinates. Further, management may transfer or make other work assignment changes to minimize potential workplace disruption or liability.

#### **Procedure for filing a Complaint**

An applicant for State employment, probationary State employee, former probationary State employee, career State employee or former career State employee (hereafter referred to as complainant) alleging unlawful discrimination, harassment or retaliation shall first file a complaint with the agency Equal Employment Opportunity (EEO) Officer or Affirmative Action (AA) Officer within **15 calendar days** of the alleged discriminatory or retaliatory act that is the basis of the complaint. If the complainant alleges facts that would constitute unlawful discrimination, harassment, or retaliation as prohibited by law, the complaint will be investigated as a part of the EEO Informal Inquiry. The investigation will determine if the facts support a finding that there is reasonable cause to believe the alleged act rises to the level of unlawful discrimination, harassment or retaliation.

The agency has **45 calendar days** from receipt of the complaint to investigate and respond to the complainant, unless the complainant and the employer mutually agree in writing to extend the time due to occurrences that are unavoidable or beyond the control of either party. Any extension shall not exceed 15 calendar days.

At the conclusion of the investigation, the agency shall communicate the outcome of the investigation in writing to the complainant. If there is reasonable cause to believe that unlawful discrimination, harassment, or retaliation occurred, management shall take appropriate action to resolve the matter. If the complaint is successfully resolved, the complainant will sign a letter of agreement with the agency detailing the terms of the resolution. The agency shall ensure that the terms of the agreement under the control of the agency are implemented. If the complaint is not successfully resolved, then the complainant may continue the process by filing a formal grievance within **15 calendar days** of the written response from the EEO Informal Inquiry.

In filing a formal grievance, the complainant may bypass the Informal Discussion with Supervisor process. At any point in the grievance process, the complainant/grievant has the right to bypass discussions with or review by the alleged offender. Time spent in the EEO Informal Inquiry is not a part of the formal internal grievance process.

#### **External Filing of a Discrimination Charge**

The complainant alleging unlawful discrimination, harassment or retaliation has the right, at any time, to bypass or discontinue the EEO Informal Inquiry or the formal internal grievance process and file a charge directly with the Equal Employment Opportunity Commission. The complainant may not, however, file a contested case with the Office of Administrative Hearing if the internal process has not been completed. The charge must be filed within **180 calendar days** of the alleged event or action that is the basis of the complaint.

Information about filing an EEOC charge can be found at:

<http://www.eeoc.gov/employees/charge.cfm> or by calling the EEOC regional offices located in Raleigh, Greensboro and Charlotte at 1-800-669-4000.

Information about filing through the Civil Rights Division of the Office of Administrative Hearings can be found at: <http://www.ncoah.com/civil/> or by calling (919) 431-3036.

### **PRISON RAPE ELIMINATION ACT (PREA)**

#### **Location**

<https://www2.ncdps.gov/Index2.cfm?a=000003,000008,002438>

#### **Policy**

The Prison Rape Elimination Act (PREA) was enacted by Congress to address the problem of sexual abuse of persons in custody in all public and private correctional institutions. The North Carolina Department of Public Safety has adopted a standard of zero tolerance of sexual abuse and sexual harassment of offenders/juveniles by staff, other offenders/ juveniles, volunteers, contract agents, or individuals having custody of or responsibility for the safety, security, care and/or treatment of offenders/juveniles. As an employee of the NC Department of Public Safety it is your responsibility to do whatever is necessary to reduce incidents of sexual abuses and sexual harassment and respond appropriately when they do occur. This means reporting sexual incidents between offenders or juveniles and unprofessional relationships between an offender / juvenile and staff, volunteer, contractor, vendor or agent.

### **Provisions**

In addition, pursuant to North Carolina General Statute 14-27.7(a), "If a person having custody of a victim of any age or a person who is an agent or employee of any person, or institution, whether such institution is private, charitable, or governmental, having custody of a victim of any age engages in vaginal intercourse or a sexual act with such victim, the defendant is guilty of a Class E felony. Consent is not a defense to a charge under this section."

As a result, if an employee engages in sexual relations with an offender or juvenile of the Department of Public Safety, the employee is subject to the department's disciplinary process as well as criminal prosecution. Failure to report knowledge of such behavior will subject an employee to disciplinary actions up to and including dismissal.

### **Definition of Sexual Abuse and Harassment:**

Sexual Abuse of an inmate, detainee, or juvenile by a staff member, contractor, or volunteer includes any of the following acts, with/without consent of the inmate, detainee, or juvenile:

- a. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire; to include kissing.
- b. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- c. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
- d. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of an inmate, detainee, or juvenile, and
- e. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in paragraphs (a)-(e) of this section;
- f. Voyeurism by a staff member, contractor, or volunteer: an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or of an inmate performing bodily functions.

Sexual Harassment:

- a. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one inmate, detainee, or resident directed toward another; and
- b. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

Such acts are prohibited regardless of the offender's consent to the act. Such acts are prohibited and the NC General Statutes provide that offenders or juveniles are unable to consent to the act.



## **PERSONAL DEALINGS WITH OFFENDERS AND JUVENILES**

DPS employees are required to maintain professional relationships with offenders in accordance with the laws, regulations, and general statutes governing such relationships. No employee shall discuss his/her personal affairs, including work related issues, with an offender of this agency. In addition to not engaging in sexual abuse with offenders or juveniles, DPS employees shall not:

- Borrow anything from an offender or juvenile,
- Lend anything to an offender or juvenile,
- Accept any gift or personal service from an offender or juvenile, except as specified by law, regulation, or directive;
- Tip an offender or juvenile,
- Make gifts to or perform personal services for an offender or juvenile,
- Sell or give any offender any intoxicating drink, barbiturate or stimulant drug, or any narcotic, poison or poisonous substance, except upon the prescription of a physician,
- Convey to or from an offender or juvenile any letters or oral messages or any instrument or weapon by which to effect an escape, or that will aid in an abuse or riot,
- Trade with an offender or juvenile for clothing or stolen goods, or
- Sell to an offender or juvenile any article forbidden by Divisions
- Use abusive, indecent, or profane language in the presence of an offender or juvenile,
- Curse an offender or juvenile,
- Knowingly make or maintain contact with or in any way associate with a member of an offender's family or close associates (i.e. friends, etc.), unless his/her assigned duties require such an association or unless he/she has been specifically authorized to do so by the Division Director or designee,
- Knowingly enter into a business relationship with an offender/ juvenile or their family member or close associate.

This list is not an all-inclusive list. Any time an employee is in doubt about an issue regarding dealings with an offender(s) or juvenile(s), the employee has an obligation to ask questions of his/her supervisor or other appropriate manager for clarification.

### **Contacts with Offender's Family & Close Associates**

If an employee is contacted by the family or close associate of an offender, the employee shall immediately report this fact to his/her supervisor.

Any employee who knowingly associates with an offender's family member or close associate in violation of this policy or fails to notify his/her supervisor that an offender's family member or close associate has contacted him/her shall be subject to disciplinary action up to and including dismissal.

### **Reporting Prior Relationships with Offenders**

Relationships between an employee and an offender that existed prior to employment or incarceration, probation, etc. shall be reported by the employee to his/her supervisor as soon as the employee becomes aware that the individual is now an offender and will be/is assigned to the facility or office where the employee works or under the supervision of the employee. Situations where the offender will not be assigned to the facility where the employee works but where the employee will be placed on the offender's list of approved visitors shall also be reported to the supervisor with a written follow-up. Any other situation where an employee may knowingly initiate a relationship with an offender or an inmate shall be reported by the employee to his/her supervisor verbally with a written follow-up requesting approval of the relationship prior to the employee making contact with the offender or inmate. Employees shall be responsible for bringing the above-cited situations or any other situation that could be considered personal to the attention of their

supervisor and when in doubt about a particular situation, the employee shall be responsible for asking questions to seek clarification of their obligations under policy.

#### **Contacts with Juvenile's Family & Close Associates**

Staff shall report any relationship between a staff member and a juvenile's family that existed prior to the juvenile's admission and/or commitment immediately to the supervisor.

Staff shall not make or have contact with any member of a juvenile's family, unless assigned duties require such an association, or unless specifically authorized by the Facility Director. This includes any visits with the juvenile's family while off-duty.

A staff member shall immediately report any contact with a juvenile's family member that occurs outside of the professional responsibilities to his supervisor.

#### **Limits to Cross Gender Viewing and Searches**

The NC Department of Public Safety is required under the national standards to Prevent, Detect, and Respond to Prison Rape under the Prison Rape Elimination Act (PREA) Standards §115.15 to implement limits to cross-gender viewing and searches. If you are hired to work in a facility which houses inmates, offenders or juveniles, this standard will require the following:

- a. Shall not conduct cross-gender strip searches or cross-gender visual body cavity searches (meaning a search of the anal or genital opening) except in exigent circumstances or when performed by medical practitioners.
- b. Shall not permit cross-gender pat-down searches of female persons in confinements, absent exigent circumstances. Facilities shall not restrict female persons in confinements' access to regularly available programming or other out-of-cell opportunities in order to comply with this provision.
- c. Shall document all cross-gender strip searches and cross-gender visual body cavity searches, and shall document all cross-gender pat-down searches of female persons in confinements.
- d. Shall implement policies and procedures that enable persons in confinements to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Such policies and procedures shall require staff of the opposite gender to announce their presence when entering a housing unit.
- e. Shall not search or physically examine a transgender or intersex persons in confinement or under supervision for the sole purpose of determining the person's genital status. If the person's genital status is unknown, it may be determined during conversations with the person's, by reviewing medical records, or, if necessary, by learning that information as part of a broader medical examination conducted in private by a medical practitioner.
- f. Shall conduct cross-gender pat-down searches, and searches of transgender and intersex persons in confinements, in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

#### **Hiring and Promotion Prohibition**

NCDPS is prohibited from hiring and promoting persons who may have contact with offenders or juveniles under its supervision. If you have ever engaged in:

- a. Sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution or

- b. Been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, or coercion, or if the victim did not consent or was unable to consent or refuse, or
- c. Administratively adjudicated to have engaged in the activities described, you MUST report this to your supervisor immediately.

Failure to report may result in disciplinary action up to and including dismissal and may result in criminal charges against the employee.

#### **Disciplinary Action**

Violations of this policy may result in disciplinary action up to and including dismissal and may result in criminal charges against the employee.

### **LIMITATION OF POLITICAL ACTIVITY**

#### **Location**

<https://oshr.nc.gov/policies-forms/employment-records/limitation-of-political-activities>

#### **Policy**

G.S. 126, Article (5) clearly delineates what State employees may and may not do relevant to political activity during regularly scheduled working hours. No State employee subject to the State Human Resources Act or temporary State employee shall:

- Take any active part in managing a campaign, or campaign for political office or otherwise engage in political activity while on duty or within any period of time during which he/she is expected to perform services for which he/she receives compensation from the State;
- Otherwise use the authority of his position, or utilize State funds, supplies or vehicles to secure support for or oppose any candidate, party, or issue in an election involving candidates for office or party nominations, or affect the results thereof.

No head of any State department, agency, or institution or other State employee exercising supervisory authority shall make, issue, or enforce any rule or policy the effect of which is to interfere with the right of any State employee as an individual to engage in political activity while not on duty or at times during which he/she is not performing services for which he receives compensation from the State. A State employee who is or may be expected to perform his/her duties on a 24 hour per day basis shall not be prevented from engaging in political activity except during regularly scheduled working hours or at other times when he/she is actually performing the duties of his office. The willful violation of this subdivision shall be a misdemeanor.

No State employee or official shall use any promise of reward or threat of loss to encourage or coerce any employee subject to the Personnel Act to support or contribute to any political issuer, candidate, or party. Any State employee subject to the Personnel Act, probationary State employee, or temporary State employee who without probable cause falsely accuses a State employee or a person appointed to State Office of violating this section shall be subject to disciplinary action up to and including dismissal. Failure to comply with G.S. 126, Article 5 is grounds for disciplinary action which, in cases of deliberate or repeated violation, may include dismissal or removal from office.

#### **Notification Procedure**

The employee shall, prior to filing for an elective office, notify the appropriate manager in writing of an intent to seek an elective office. The manager shall review the employee's notification to

determine if the elective office would create any conflict of interest for the employee and/or the Department and if the elective office would be full-time, part-time, or time-limited. The employee shall be notified in writing of approval or disapproval.

### **Appeal Process**

Should an employee disagree with the approving manager's final decision, the employee may appeal the decision to the Secretary of the Department by filing his/her grievance with the Personnel Director, 214 W. Jones Street, MSC 4203, Raleigh, NC 27699-4203 within (15) calendar days of receipt of the manager's decision.

## **REPORTING THEFT OR MISUSE OF STATE PROPERTY**

G.S. 114-15.1 requires that the Department Head report any information or evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement of, or misuse of, any state-owned personal property, buildings or other real property to the State Bureau of Investigation (SBI) within (10) days of receipt of such information. As a result, all employees are required to adhere to the following steps when reporting information:

1. All information shall be reported to the supervisor/manager immediately or no later than 72 hours after discovery.
2. The supervisor/manager shall immediately report this information to the Facility/Section Head.
3. The Facility/Section Head shall complete a State Property Incident Report (SBI-78 Form) in entirety and email it to the Director of Internal Audit as soon as possible. The Facility/Section Head shall report suspected criminal activity concerning the misuse of state property, such as suspected theft of state property, to local law enforcement authorities immediately.
4. Internal Audit will report the incident to the SBI.

All employees shall cooperate fully with SBI officials during an investigation. Failure to comply with these procedures or knowingly reporting false information shall be considered unacceptable personal conduct and may result in disciplinary action up to and including dismissal.

## **ALCOHOL AND DRUG FREE WORKPLACE**

Executive Leadership is currently reviewing and finalizing a DPS Policy regarding Alcohol and Drug use. Until that agency wide policy is signed in to effect, the division policies that are currently in place continue to apply related to alcohol and drug use. If you have any questions regarding alcohol and drug use, you should discuss it with your supervisor or HR staff.

## **EMPLOYEE GIFT BAN**

### **Location**

<http://www.doa.state.nc.us/pandc/documents/ExecutiveOrder24GiftBan.pdf>

[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_133/GS\\_133-32.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_133/GS_133-32.html)

### **Policy**

Executive Order 24 that was signed by Governor Perdue extends the provisions of General Statute 133-32 to all employees of the State of NC.

### **Provisions**

As an employee, you are not permitted to accept gifts or favors from contractors working or seeking to work with the Department of Public Safety. Further, a violation of North Carolina General Statute §133-32 is a Class 1 misdemeanor and failure to abide by Executive Order 24 and North Carolina

General Statute §133-32 will be considered unacceptable personal conduct and grounds for disciplinary action, up to and including dismissal.

## **CRIMINAL CONVICTIONS WITH FIREARMS**

### **Location**

[http://www.justice.gov/usao/eousa/foia\\_reading\\_room/usam/title9/crm01117.htm](http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/crm01117.htm)

[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_14/GS\\_14-415.1.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_14/GS_14-415.1.html)

### **Policy**

The Department of Public Safety must adhere to the federal “Domestic Violence Offender Gun Ban” at 18 U.S.C. § 922(g)(9) and the North Carolina Felony Firearms Act at N.C.G.S. §14-415.1. The federal statute prohibits the possession or use of weapons by persons convicted of misdemeanors involving domestic violence and the state law prevents gun possession or use by persons convicted of a felony.

### **Provisions**

To determine whether a misdemeanor conviction triggers the firearm prohibitions, the following definition is given in the statute at 18 U.S.C. § 921(a)(33)(A)(ii): “the term ‘misdemeanor crime of domestic violence’ means an offense that: (i) is a misdemeanor under federal or state law; and (ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.”

As a result of these prohibitions, the Department may not hire individuals subject to these prohibitions into positions that in the course of duty may handle firearms.

Employees are required to report criminal offenses. If subject to these prohibitions, the prohibition may result in a re-evaluation of the employee’s employment status.

## **CRIMINAL OFFENSES AND MOTOR VEHICLE OFFENSES**

### **Policy**

All employees, including those employees in other pay status (i.e. exhausting vacation leave, sick leave, military leave, etc.) or on leave without pay, are required to report to his/her supervisor any civil or criminal charge(s) for which they receive formal notice, excluding minor traffic non-moving violations where the maximum possible punishment is a fine and no personal injury is involved. This applies to offenses occurring in North Carolina and any other jurisdiction, foreign or domestic, whether federal, state, territory, commonwealth, or other governmental entity. Formal notice includes, but is not limited to:

- |                     |                                |                         |
|---------------------|--------------------------------|-------------------------|
| 1. Arrest           | 6. Permanent restraining order | 11. Order to Show Cause |
| 2. Detention        | 7. Warrant for arrest          |                         |
| 3. Citation         | 8. Order for arrest            |                         |
| 4. Criminal summons | 9. Bill of information         |                         |
| 5. Civil summons    | 10. Notice from DMV            |                         |

In addition, all employees are required to report to his/her supervisor any motor vehicle offense which could result in immediate suspension or revocation of the employee’s driver’s license if

convicted of the charged offense, either individually or in combination with previous or other violations. Examples of violations that must be reported include:

- Driving While Impaired (DWI)
- Driving Under the Influence (DUI)
- Speeding over 55 mph and over 15 mph over the posted speed limit

NOTE: This is not an all-inclusive list. When employees have questions about what should be reported, they have a duty to seek clarification from the work unit supervisor/manager.

**Notification Process:**

Once charged, an employee must report the offense to their supervisor/manager immediately upon returning to work or within 24 hours, whichever is sooner. Failure to notify your supervisor of an arrest or criminal charge in accordance to this policy is considered unacceptable personal conduct and may result in disciplinary action up to and including dismissal. In addition, employees in positions that may handle firearms are subject to the federal “Domestic Violence Offender Gun Ban” at 18 U.S.C. § 922(g)(9) and the North Carolina Felony Firearms Act at N.C.G.S. §14-415.1. Criminal offenses that relate to these prohibitions may result in employee termination. Refer to the section in the Orientation Manual on “Criminal Convictions with Firearms Prohibitions” for more information.

Once the employee has gone to court, the employee shall submit a certified true copy of the court disposition (with original raised seal/stamp from the Clerk of Courts Office) to their supervisor/manager within 48 hours of the disposition.

**Disciplinary Action**

Disciplinary action may be issued based on the documented behavior and is separate and apart from the criminal proceedings. Discipline may be issued at the time of being charged or may be issued after the court disposition and is normally considered on a case-by-case basis. If you are a certified officer, it is important to be aware that any disciplinary action that is initiated by the Department does not preclude any action that may be taken by the Criminal Justice Standards Division.

**CRIMINAL OFFENSES FOR CERTIFIED OFFICERS**

**Policy**

Arrests and criminal offenses of certified officers are required to be reported to the Criminal Justice Standards Division. Work units report certified officer’s criminal offenses to DPS Personnel and DPS Personnel reports these offenses to the Criminal Justice Standards Division.

After the employee has gone to court and a court disposition has been issued, the work unit will report the disposition to DPS Personnel and DPS Personnel will report the disposition to the Criminal Justice Standards Division. If a certified officer is convicted of a misdemeanor offense while employed as a criminal justice officer, their Criminal Justice certification may be suspended for three (3) years, based on the decision of the Criminal Justice Standards Division. Commission or conviction of a felony while employed as a criminal justice officer will result in the suspension of Criminal Justice certification.

Please note that according to the Criminal Justice Administrative Code, “Convicted” or “Conviction” means and includes:

- Verdict or Finding of Guilty or
- Plea of Guilty or
- Plea of No Contest, Nolo Contendere, or the Equivalent

In addition, if an employee is charged with an offense but it is dismissed in court, the charge still has to be reported to the Criminal Justice Standards Division. Criminal Justice will investigate the offense and if they find that there is reason to believe that the employee committed the offense, regardless of the court disposition, they still may revoke certification.

NOTE: Although DPS Personnel notifies the Criminal Justice Standards Division of certified employee's criminal offenses, ultimately, it is the certified officer's obligation and responsibility to ensure that criminal offenses are reported to Criminal Justice Standards Division.

## **DOMESTIC VIOLENCE ORDERS**

### **Policy**

All employees are required to report within 24 hours to his/her supervisor any domestic violence order. The employee shall be reassigned to a post not requiring the use of a firearm. The granting of any temporary reassignment of duty is subject to the availability of appropriate positions and may be to a different division. Should the order exceed a 12-month period, employment status shall be reevaluated.

NOTE: Employees in positions that may handle firearms are subject to the federal "Domestic Violence Offender Gun Ban" at 18 U.S.C. § 922(g)(9). Criminal offenses that relate to this may result in employee termination. Refer to the section in the Orientation Manual on "Criminal Convictions with Firearms Prohibitions" for more information.

## **PROVIDING CELL PHONES TO INMATES**

Effective December 1, 2014 any person who knowingly gives or sells a mobile telephone or other wireless communications device, or a component of one of those devices, to an inmate in the custody of the Division of Adult Correction of the Department of Public Safety or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any such device or component to a person who is not an inmate for delivery to an inmate, is guilty of a Class H felony.

## **STATE VEHICLE USE**

### **Location**

<http://www.ncmotorfleet.com/documents/mfmregs.pdf>

### **Provisions**

Below is a summary of the provisions set forth by the Department of Administration, Motor Fleet Management division.

State-owned passenger-carrying vehicles shall be driven only by state employees and used for official state business only. It shall be unlawful for any state employee to use a state-owned vehicle for any private purpose whatsoever.

Parking citations are the responsibility of the assigned driver or the driver's agency at the time of issue. If a parking citation is not paid within a two-week period, a notice is sent to MFM and forwarded to the assigned driver. Excessive unpaid parking citations may constitute vehicle abuse.

It is the responsibility of the individual driver to observe all state motor vehicle laws and ordinances. All violations and fines shall be the responsibility of the driver or agency. Abuse of motor vehicle laws and ordinances may result in denial of the use of a State vehicle.

The possession of firearms and weapons, concealed or otherwise, is prohibited in state-owned vehicles except by sworn law enforcement officers.

Under no circumstances may a state employee operate a state-owned vehicle while under the influence of intoxicating beverages, drugs or substances, or transport (except in performance of law enforcement duties) these items in a state owned vehicle.

Hitchhikers are not allowed to ride in any state-owned vehicle.

Spouses and children are permitted to accompany state employees on trips in state-owned vehicles when sufficient space is available and when all travel is strictly for official state business. Family pets are not permitted in state-owned vehicles. Leader dogs for blind persons and other officially certified assistance dogs are excluded from this restriction.

When an employee is required to use a state-owned vehicle for travel while away from his/her work station, the vehicle may be used for travel to obtain meals and other necessities, but not for entertainment or any personal purposes. A state employee may not use a state-owned vehicle for obtaining meals and other necessities unless he/she is in travel status, approved commuter status, or approved office-in-home.

In accordance with the General Statutes of North Carolina and Motor Fleet Management regulations, the driver and all passengers must wear seat belts (lap and shoulder belt even if the vehicle is equipped with an air bag) whenever the vehicle is in motion. The General Statutes of North Carolina also requires children to be protected by safety restraints. All children less than age 8 or who weigh less than 80 pounds, must be in a child restraint system that meet federal standards when riding in passenger vehicles. The law covers all persons, not just parents, who operate a vehicle in which a child is a passenger.

In accordance with North Carolina General Statute; GS130A-493, smoking is prohibited in state-owned vehicles.

In according with North Carolina General Statute GS20-137.3(a)(1), using additional technology (ie, text messaging, etc.) while operating a vehicle. It is unlawful.

## **TRAVEL POLICY**

### **Location**

<https://www2.ncdps.gov/emp/Policies/DPSTravelPolicy1-27-2017.pdf>

### **Provisions**

This policy incorporates state and federal regulations related to travel reimbursement rates and subsistence allowances and shall be consistently applied in conjunction with the Office of State Budget and Management (OSBM) policies. As travel regulations change depending on budgetary restrictions, any employee who may need to travel for work related reasons should consult with their supervisor and the link above for current travel requirements, processes, forms, and restrictions.

## **INTERACTING WITH THE MEDIA**

Responding to news media inquiries promptly is good customer service. In order to provide accurate and comprehensive response, all media inquiries should be handled through coordination with the



DPS Communications Office. DPS staff should always inform their supervisor of media inquiries and work with the appropriate communications officer before responding.

# PERFORMANCE MANAGEMENT

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## PERFORMANCE MANAGEMENT

Valuing Individual Performance (VIP), the North Carolina statewide performance management (PM) process, aligns with the state of North Carolina policy on PM, which is designed to enable employees to develop and enhance individual performance, while contributing to the achievement of organizational mission, goals, and business objectives. Each agency in North Carolina government will implement the statewide policy on PM, as approved by the State Human Resources Commission. VIP applies to all permanent, probationary, trainee, and time-limited employees as well as all exempt policymaking positions, managerial exempt positions, confidential secretary and assistant positions, and all chief deputy positions.

The standard state government performance cycle is from July 1 through June 30. During this timeframe, the Annual Performance Evaluation is to be defined, documented, completed, approved, discussed with employees, and entered into the system of record within 60 calendar days before or after the cycle end date. All career state employees are required to have an interim review at the mid-point of the performance cycle and a final performance evaluation shall be conducted annually, within 60 days of the end of the performance cycle.

In the case of an employee who is probationary, a trainee, a transfer, or is separating from the state or making a change in manager/supervisor, the policy outlines specific expectations for initiating the VIP process. The statewide policy on PM provides more detail. Visit [ncvip.nc.gov](http://ncvip.nc.gov) to read the policy in its entirety.

## THE THREE STAGES OF THE NCVIP PROCESS

### **STAGE ONE – Performance Planning**

Initial stage of the performance cycle in which managers and employees discuss, plan, clarify expectations, and document the Annual Performance Plan, to include strategically aligned individual goals, a description of how goals will be measured, and the level of performance required to meet expectations and values. Goals will be written at the “**Meets Expectation**” level.

### **STAGE TWO – Interim Review**

Ongoing stage throughout the performance cycle in which managers/supervisors and employees have a continuous dialogue and document employee performance results and behaviors, to provide both positive and corrective feedback on a regular and consistent basis. If applicable, employee development plans or performance issues shall be discussed and addressed.

### **STAGE THREE – Annual Performance Evaluation**

Final stage of the performance cycle in which each employee's individual goals and values are evaluated, discussed, and rated, using the standardized rating scale of:

**Exceeds Expectations (3);**

**Meets Expectations (2); and**

**Does Not Meet Expectations (1).**

# **DISCIPLINARY ACTION AND GRIEVANCES**

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## **DISCIPLINARY ACTION AND GRIEVANCES**

### **LOCATION**

[https://www.ncdps.gov/emp/HR/AdministrativeMemos/DPS\\_Disciplinary\\_Policy\\_010115.pdf](https://www.ncdps.gov/emp/HR/AdministrativeMemos/DPS_Disciplinary_Policy_010115.pdf)

### **POLICY**

Any employee, regardless of occupation, position, or profession may be disciplined in accordance with this policy by the Commissioner or designee. The Department of Public Safety (DPS) Disciplinary Process ensures all employees receive fair and consistent treatment relative to addressing job performance and personal conduct issues in the workplace. Adherence to this policy and the procedures will assure compliance with current State Human Resources Commission (SHRC) rules, Office of State Human Resource (OSHR) policies and further ensure that disciplinary actions are administered in a fair and equitable manner.

### **COVERED EMPLOYEES**

This policy applies to State employees who have career status as defined by N.C.G.S. § 126-1.1.

- Is employed in a permanent position; and
- Has been continuously employed by the State of North Carolina or a local entity as provided in N.C.G.S. §126-5(a)(2) in a position subject to the State Human Resources Act for the immediate 12 preceding months.

This policy does not apply to the following employees:

- Non-career state employees.
- Employees occupying positions that have been designated as exempt policymaking, exempt managerial, confidential assistant/secretary or as a chief deputy.
- Employees who are subject to N.C. General Statute 115C-325, System of employment for public school teachers.

### **Reasons for Discipline**

Just cause for disciplinary action falls into two categories:

- Discipline issued based on unsatisfactory or grossly inefficient job performance, and
- Discipline issued based on unacceptable personal conduct.

### **Unsatisfactory Job Performance**

Work-related performance that fails to satisfactorily meet job requirements as set out in the relevant job description, work plan, or as directed by the management of the work unit or DPS.

### **Grossly Inefficient Job Performance**

Failure to satisfactorily perform job requirements as defined in the job description, work plan, or as directed by the management of the work unit or DPS; and, the act or failure to act causes or results in:

- Death or serious bodily injury or creates conditions that increase the chance for death or serious bodily injury to an employee(s) or to members of the public or to a person(s) for whom the employee has responsibility; or,
- The loss of or damage to State property or funds that results in a serious adverse impact on the State and/or work unit.

### **Unacceptable Personal Conduct**

All employees of the DPS shall maintain personal conduct of an acceptable standard as an employee and member of the community. Unacceptable personal conduct includes, but is not limited to:

- Conduct for which no reasonable person should expect to receive prior warning; or
- Job-related conduct which constitutes a violation of State or federal law; or
- Conviction of a felony or an offense involving moral turpitude that is detrimental to or impacts the employee's service to the State; or
- The willful violation of known or written work rules; or
- Conduct unbecoming a State employee that is detrimental to State service; or
- The abuse of client(s), patient(s), student(s) or person(s) over whom the employee has charge or to whom the employee has a responsibility or of an animal owned by the State; or
- Absence from work after all authorized leave credits and benefits have been exhausted; or
- Falsification of a State application or in other employment documentation.

The categories are not mutually exclusive. Some actions by employees may fall into both categories depending upon the facts of each case. No disciplinary action shall be invalid solely because the disciplinary action is labeled incorrectly.

## **TYPES OF DISCIPLINARY ACTION**

When just cause exists, the disciplinary actions that can be issued are:

- Written Warning
- Disciplinary Suspension without Pay
- Demotion or
- Dismissal

## **REQUIREMENTS FOR DISCIPLINARY ACTION FOR UNSATISFACTORY JOB PERFORMANCE**

Before disciplinary action for unsatisfactory job performance may be issued, the following must occur for each respective type of disciplinary action. The employee must have:

### **Written Warning:**

- a current unresolved incident of unsatisfactory job performance.

### **Disciplinary Suspension without Pay:**

- a current unresolved incident of unsatisfactory job performance, and
- at least one (1) active disciplinary action, and
- a Pre-Disciplinary Conference.

**Demotion:**

- a current unresolved incident of unsatisfactory job performance, and
- at least one (1) active disciplinary action, and
- a Pre-Disciplinary Conference.

**Dismissal:**

- a current unresolved incident of unsatisfactory job performance and
- at least two (2) active disciplinary actions, and
- a Pre-Disciplinary Conference.

**REQUIREMENTS FOR DISCIPLINARY ACTION FOR GROSSLY INEFFICIENT JOB PERFORMANCE**

No prior discipline is required to suspend, demote or dismiss an employee for grossly inefficient job performance. Before an employee may be suspended, demoted or dismissed for grossly inefficient job performance, the following must occur:

- a current unresolved incident of grossly inefficient job performance and
- a Pre-Disciplinary Conference.

**REQUIREMENTS FOR DISCIPLINARY ACTION FOR UNACCEPTABLE PERSONAL CONDUCT**

Before disciplinary action for unacceptable personal conduct may be issued, the following must occur for each respective type of disciplinary action:

**Written Warning:**

- Current unresolved incident of unacceptable personal conduct.

**Disciplinary Suspension without Pay:**

- Current unresolved incident of unacceptable personal conduct, and
- Pre-Disciplinary Conference.

**Demotion:**

- Current unresolved incident of unacceptable personal conduct and
- Pre-Disciplinary Conference.

**Dismissal:**

- Current unresolved incident of unacceptable personal conduct, and
- Pre-Disciplinary Conference.

**INVESTIGATORY LEAVE WITH PAY**

An employee may be placed on Investigatory Leave with Pay (ILWP) per approval from the Human Resources Director or designee(s), or in appropriate circumstances, without prior approval, but with notification to the OSHR Director or designee the following business day. Investigatory leave shall be with pay (i.e. no charge to the employee's accrued leave) and may be used to temporarily remove an employee from work status. Investigatory leave does not constitute a disciplinary action, and therefore, may not be appealed.

An employee may be placed on ILWP only:

- To investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action;
- To provide time within which to schedule and conduct a pre-disciplinary conference; or

- To avoid disruption of the work place and/or to protect the safety of persons or property.

### **TEMPORARY PLACEMENT**

In lieu of ILWP, a manager may consider temporarily placing an employee within the work unit or to another work unit if applicable and based on business need. Employees temporarily placed shall be given written notification of the temporary placement when the placement results in a change of work locations or if there are any specific instructions. Such actions are for the benefit of the employee(s) and DPS to ensure a fair and objective investigation. For that reason, temporary placements are not grievable and do not carry appeal rights.

### **INACTIVE DISCIPLINARY ACTION**

A disciplinary action becomes inactive, i.e., cannot be counted towards the number of prior disciplinary actions that must be issued before further disciplinary action can be issued for unsatisfactory job performance when:

- The manager or supervisor notes in the employee's personnel file that the reason(s) for the disciplinary action has/have been resolved or corrected; or
- For performance-related disciplinary actions, the performance evaluation process documents a summary rating that reflects an acceptable level of performance overall and satisfactory performance in the area cited in the warning or other disciplinary action, or
- Eighteen (18) months have passed since issuance of the warning or disciplinary action and the employee does not have another active warning or disciplinary action occurring within the last eighteen (18) months. If a warning, demotion or disciplinary suspension occurs within the eighteen (18) months of prior disciplinary warnings, demotions or suspensions, the disciplinary action will remain active until the end date of the most recent disciplinary action.

### **RIGHT TO APPEAL**

All employees who have attained career status as that term is defined in law may have appeal rights as allowed by the State of North Carolina Employee Grievance Policy. An employee as identified above may appeal the following disciplinary actions:

- Demotion;
- Disciplinary Suspension without Pay;
- Dismissal.

The time for filing an appeal does not start until the employee receives a written notice of any applicable appeal rights. If the employee fails to timely appeal the disciplinary action, the employee is deemed to have waived the right to appeal the disciplinary action.

Refer to the State of North Carolina Employee Grievance Policy for further information.

<https://oshr.nc.gov/policies-forms/discipline-appeals-grievances/employee-grievance-policy>

### **TRANSFER OF DISCIPLINARY ACTION**

When an employee transfers to or from another department or unit, any active disciplinary actions will transfer with the personnel file of the employee and will remain in full force at the new work unit until removed by the new employer or made inactive by operation of this policy.

## GRIEVANCES

### Locations:

<https://oshr.nc.gov/policies-forms/discipline-appeals-grievances/employee-grievance-policy>

### Forms:

<https://www2.ncdps.gov/emp/Forms/HR555-2016-01-21LCRights.pdf>

<https://www2.ncdps.gov/emp/Forms/HR556Step2Hearing020415.pdf>

<https://www2.ncdps.gov/emp/Forms/HR556aWitness20140117LCRights.pdf>

### Purpose

It is the policy of North Carolina State government that a grievance process exist to allow for prompt, fair and orderly resolution of grievances arising out of employment.

### Grievable Issues

Examples of issues that may be grieved are listed below:

- Dismissal, demotion or suspension without pay for lack of just cause
- Denial of promotion due to failure to post
- Failure to give priority reemployment rights after a reduction in force
- Failure to give employees in exempt policy-making or exempt managerial status priority reemployment consideration or reassignment after removal from an exempt position
- Denial of request to remove inaccurate or misleading information from personnel file
- Denial of veteran's preference regarding reduction in force, and other employment events including subsequent hirings, promotions, reassignments, and horizontal transfers
- Any retaliatory personnel action for reporting improper government activities
- Violation of the Fair Labor Standards Act (FLSA), Age Discrimination in Employment Act (ADEA), Family and Medical Leave Act (FMLA), or Americans with Disabilities Act (ADA)
- Unlawful workplace harassment based upon age, sex, race, color, national origin, religion, or disabling condition, including both quid pro quo and hostile work environment.

For a complete list of grievable issues, please use the policy link above.

### Grievance Process for all Grievable Issues

A grievance or compliant must be filed within 15 calendar days of the alleged event or action that is the basis of the grievance. Unlawful discrimination, harassment or retaliation complaints must be filed under the Equal Employment Opportunity (EEO) Informal Inquiry process before proceeding to the formal internal grievance process.

All other grievable issues must first be discussed with the immediate or other appropriate supervisor in the employee's chain of command prior to filing a formal grievance with the exception of disciplinary action grievances.

Disciplinary action grievances shall proceed directly to the formal internal grievance process.

### Informal Discussion with Supervisor

This informal process must be completed within the 15 calendar day timeframe, unless the employee and the agency mutually agree in writing to extend the time due to occurrences that are unavoidable or beyond the control of either party. The employee must clearly declare to the supervisor or other appropriate personnel that the Informal Discussion request is regarding an alleged event or action that is the basis of a potential grievance. The supervisor or other appropriate

personnel shall confirm the intention of the requested Informal Discussion with the employee before beginning discussions. The outcome of the informal discussion must be communicated to the employee and Human Resources by the supervisor in writing. If the informal discussion is unsuccessful in resolving the grievable issue, the employee may choose to file a formal grievance. If no written response is provided by the supervisor within the 15 calendar day timeframe, the employee may proceed by filing a formal grievance. Time spent in the Informal Discussion with Supervisor is not a part of the formal internal grievance process.

### **Formal Grievance Process**

The employee must begin the formal internal grievance process by filing a grievance within the agency in accordance with the Employee Grievance Policy. The employee must complete any of the required informal processes and file within 15 calendar days of the alleged event or action that is the basis of the grievance. Mediation is Step 1 in the internal grievance process.

#### **Step 1: Mediation**

Mediation is the process in which a grievant and an agency respondent use a neutral third party(s) to attempt to resolve a grievance. Mediation provides the grievant and the agency respondent an opportunity to openly discuss the grievance in a neutral environment with the goal of reaching a mutually acceptable resolution. If mediation does not result in a resolution at Step 1, the grievant is entitled to proceed to Step 2 of the internal grievance process.

#### **Step 2: Employee Advisory Committee**

Human Resources will notify the grievant of the opportunity to present the grievance orally to a reviewer(s) outside of the grievant's chain of command, e.g., Employee Advisory Committee. The hearing process shall be concluded within 35 calendar days of filing Step 2 of the grievance process unless the grievant and the agency mutually agree to extend the time due to occurrences that are unavoidable or beyond the control of either party. The agency shall issue the Final Agency Decision to the grievant within 5 calendar days of receipt of the Office of State Human Resources review of the proposed recommendation. The Final Agency Decision shall be issued in writing within 90 calendar days of the initial filing of the grievance. The FAD shall include information about applicable appeal rights. If the FAD is not issued to the grievant within the 90 calendar day timeframe, the grievant may file a Petition for a Contested Case Hearing with Office of Administrative Hearings in cases where the grievable issue may be appealed.

#### **Appeal to Office of Administrative Hearings**

If the grievant has completed the internal grievance process and is not satisfied with the Final Agency Decision, the grievant may file a Petition for Contested Case Hearing in the Office of Administrative Hearings in cases where the grievable issue may be appealed. An Administrative Law Judge will conduct a hearing and render a Final Decision. A Petition for Contested Case Hearing must be filed within 30 calendar days after the grievant receives the FAD. The grievant may file the appeal at:

Office of Administrative Hearings  
1711 New Hope Church Road (Physical Address)  
Raleigh, NC 27609  
6714 Mail Service Center (Mailing Address)  
Raleigh, NC 27699-6714  
(919) 431-3000

Hearing procedure requirements and filing form (OAH Form H-06A) can be obtained from the Office of Administrative Hearings at: <http://www.ncoah.com/hearings/> or by calling (919) 431-3000.

# WORKPLACE SAFETY AND HEALTH

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## **WORKPLACE SAFETY & HEALTH**

### **Location**

<http://oshr.nc.gov/safety-handbook>

### **Provisions**

The Department of Public Safety strives to provide a safe and healthy work environment for its employees and the general public.

The protection of our fellow state employees and the public on state property is a responsibility we all share. If you know of any unsafe working conditions or improperly operating equipment that could result in an accident, injury, illness or property loss, contact your supervisor or agency safety and health coordinator immediately. Inform your supervisor immediately about every accident, injury, or near miss incident on the job.

For certain jobs, personal protective equipment must be worn. A hazard assessment of the workplace and of job duties will identify these positions and the types of personal protective equipment required. If you are required to use personal protective equipment, your supervisor will discuss its proper use, care, maintenance and storage.

## **HIV/AIDS**

### **Location**

<http://www.nctraining.ncgov.com/aids/>

### **Provisions**

Another work environment issue is AIDS. There is concern for employees who may be exposed as a part of their job responsibilities and for employees who may have HIV or AIDS. The employment related rights of all employees must be protected.

HIV and AIDS are considered disabilities under the Americans with Disability Act. Therefore, the state has adopted a policy that guides supervisors and employees in dealing with HIV and AIDS in the workplace. The state recognizes the rights and concerns of employees who may be infected with HIV or AIDS. It wants to ensure that all employees receive confidential, fair and equal treatment.

North Carolina State Government and the Department of Public Safety do not discriminate against applicants or employees who have or are suspected of having the HIV virus or AIDS; however, managers will respond to employees concerned about their own safety.



# INFORMATION TECHNOLOGY/MIS

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## INFORMATION TECHNOLOGY POLICIES

### INTERNET ACCEPTABLE USE

#### Location

<https://www.ncdps.gov/emp/Policies/ITPolicies/InternetAcceptableUse.pdf>

#### Policy

Access to the Internet through the Department of Public Safety (DPS) network and computer systems opens a wide array of new resources and new services for its employees. However, these new opportunities also bring new risks. The Department controls Internet access to safeguard against a multitude of threats and grants access only to those employees who have a legitimate need for it. The ability to surf the web and engage in other Internet activities is not a fringe benefit to which all employees are entitled.

#### Provisions

##### **Personal Use**

Employees are responsible for exercising good judgment regarding the reasonableness of personal use of the Internet. Moderate personal use of the Internet will be tolerated but excessive personal use is prohibited. Department of Public Safety policy does not allow for unrestricted personal use of the Internet. Users must adhere to other Department of Public Safety and State acceptable use policies which prohibits employees from visiting certain web sites at any time.

##### **Prohibited Activities**

With the exception of an authorized task or assignment, Department of Public Safety employees are strictly prohibited from visiting certain types of websites. The items listed below are by no means exhaustive, but attempt to provide a framework for activities which fall into the category of unacceptable use:

- Pornography Sites - Any site containing either graphic or text depicting, describing or otherwise endorsing explicit sexual acts, sex crimes, deviant sexual behavior, rape, sexual products or services, sexually provocative attire and gratuitous or full/partial nudity.
- Adult Sites - Any site containing profane and vulgar language, expletives, revealing attire, nudity, adult situations, or criminal activity.
- Violence Sites. Any site portraying or promoting injury, death or torture of human beings or animals, cult or ritual violence, suicide, malicious property destruction, and any site providing instructions on how to carry out these acts.
- Hate Sites - Any site that contains defamatory speech or activity directed towards a particular group based on race, ethnicity, religion, gender, or social status including sites operated by militant groups.
- Illegal Activity Sites- Under no circumstances is any employee, contractor or consultant authorized to engage in any activity that is illegal under local, state, federal or international law while utilizing Department of Public Safety owned resources

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#### **Unauthorized Downloaded Software**

Bringing software from home or downloading unauthorized software and installing it on a Department of Public Safety personal computer or network is strictly prohibited. However, if a legitimate business need exists for a particular file or piece of software, it must be approved and installed by appropriate IT personnel.

#### **Unauthorized Uploaded Software**

No software shall be uploaded which has been licensed from a third party, or which has been developed by the Department to any other computer via the Internet. If a legitimate business need exists, it must be approved by the department.

#### **Blogging**

Blogging by employees (e.g. Twitter) is also subject to the terms and restrictions set forth in this Policy. Limited and occasional use of department systems to engage in blogging is acceptable, provided that it is done in a professional and responsible manner, does not otherwise violate department policy, is not detrimental to the department's best interests, and does not interfere with an employee's regular work duties. Employees may also not attribute personal statements, opinions or beliefs to the department when engaged in blogging. If an employee is expressing his or her beliefs and/or opinions in blogs, the employee may not, expressly or implicitly, represent themselves as an employee or representative of the department. Employees assume any and all risk associated with blogging. Blogging from department systems is also subject to monitoring.

#### **External Access**

With supervisory authorization and appropriate authentication, Department of Public Safety employees wishing to establish a connection with the Department's network from an outside source such as an Internet Service Provider (ISP) via the Internet is acceptable.

#### **Reporting Problems**

Immediate reporting of Internet security violations or problems to the Information Security Office is essential in order to affect prompt remedial action. Immediate reporting is necessary to limit losses from system penetrations and other potentially serious security problems. Delays in reporting can mean massive additional losses for the Department.

- Should sensitive material or data become lost, stolen, or disclosed to unauthorized parties, or is suspected of being lost, stolen, or disclosed to unauthorized parties, the user must contact the Information Security Office immediately. If passwords or other system access control mechanisms are lost, stolen or disclosed, or are suspected of being lost, stolen, or disclosed, the password must be immediately changed. The Information Security Office shall also be immediately contacted.
- Unusual system behavior, such as missing files, frequent system crashes, misrouted messages or other indications that the system has a computer virus infection shall be reported to the appropriate Helpdesk or the Information Security Office immediately.

#### **Violations**

Violations of this policy may result in revocation of privileges, restricted access to network systems, and/or other appropriate disciplinary action, up to and including dismissal. The Department of Public Safety reserves the right to monitor all network assets, including employee Internet usage.

#### **EMAIL ACCEPTABLE USE**

##### **Location**

### **Policy**

Email is a business communication tool, and users are obligated to use this tool in a responsible, efficient, and lawful manner. Although by nature Email appears to be a less formal means of communication, the same professional standards apply to Email as to other more formal written communication.

### **Provisions**

#### **Email Usage**

Any Department of Public Safety Email System should be used primarily for business purposes only. Employees and the department can be held liable for illegal or improper use.

- Users shall not send or forward Email containing libelous, defamatory, or obscene remarks.
- Users shall not use Department Email to vent negative emotions, or to send harassing, embarrassing, indecent, intimidating, or other unethical, immoral, or unlawful material.
- Users are prohibited from sending or forwarding messages that are likely to offend on the basis of race, gender, religion, national origin, age, or disability.
- Users may not send chain letters, junk mail, or personal files that utilize high bandwidth.
- Users are not allowed to use Email for private business activities.
- DPS managed email systems shall retain email records for a 10 year period.
- Unless authorized by DPS management, users shall not routinely use third party web mail accounts (e.g. Yahoo, Hotmail, Gmail, etc.) or other non-DPS email accounts to conduct DPS business. Users are responsible for retaining any email messages from web mail and/or personal email accounts that are used for state business. Users shall ensure that the aforementioned personal/web email messages are retained for a 10 year period.
- Users shall not attempt to forge or disguise their identity when sending Email.
- Users are prohibited from sending Email messages using another person's Email account unless they are a Proxy for a user that has granted them permission to send Email from their account.
- Users may not utilize an unauthorized method to encrypt an Email message without first obtaining written permission to do so from the IT/ MIS Section. Confidential or sensitive information shall not be transmitted via Email without the proper encryption enabled.
- Confidential or sensitive information shall not be put in the subject line of an Email (e.g. social security numbers). Email users should check with their supervisors if they are unsure about what to put in the subject line.
- Employees shall refrain from selecting unknown/untrusted Email links and /or opening untrusted/unexpected email attachments.
- Employees are reminded that the use of Department resources, including Email, should never create either the appearance or the reality of inappropriate use.

#### **Personal Use**

While minimal personal use of email will be tolerated, excessive personal use of email is prohibited.

#### **Privacy**

All messages distributed by any of the department's email systems shall become the property of the Department of Public Safety. Users expressly waive any right to privacy in anything they create, store, send, or receive via Email.

#### **Violations**

Violations of this policy may result in revocation of privileges, restricted access to network systems, and/or other appropriate disciplinary action, up to and including dismissal. The Department of Public Safety reserves the right to monitor all network assets, including employee Internet usage.

## **LAPTOP AND MOBILE DEVICE USE**

### **Location**

<https://www.ncdps.gov/emp/Policies/ITPolicies/LaptopMobileDevice.pdf>

### **Provisions**

Due to the greater likelihood for theft or loss, users should avoid storing confidential information on laptops or other portable media and devices whenever possible. All Department of Public Safety (DPS) laptops shall have full disk encryption enabled and the encryption feature will be managed by the appropriate MIS personnel.

Backup media which is to be stored offsite shall be encrypted prior to delivery to the offsite storage facility and/or the offsite vendor.

Any mobile device (including a personally owned device such as a smartphone) that contains confidential information, DPS email, or other sensitive data, shall have the device and/or information encrypted using a department approved encryption method. If encryption is not feasible, other access controls (such as PINs, passwords, etc.) must be used. Additionally, mobile devices used to conduct DPS business must adhere to the following measures:

- When using password protection and if feasible, the password should contain a combination of letters, numbers, and special characters and have a minimum length of eight characters.
- Attachments should not be opened from untrusted sources.
- Links from untrusted sources should not be followed, especially from unsolicited email or text messages.
- Bluetooth functionality should be disabled if it is not in use.
- Data shall be removed before disposing of the device. The data removal method shall meet state standards when feasible.

Laptop and mobile device users will adhere to all relevant and applicable desktop security policies which include, but are not limited to, the following:

- Utilizing a timeout period for inactivity
- Logging off when systems are not in use
- Performing periodic backups of critical data
- Using only authorized software and programs (DPS owned devices)
- Complying with the DPS Remote Access policy
- Configuration and maintenance by authorized MIS staff (DPS owned devices)
- Vendor-supplied default and/or blank passwords shall be immediately identified and reset.

Mobile devices that have excessive storage capacity (e.g. external hard drives) shall adhere to the following guidelines:

- Network storage (e.g. SAN) shall be used in lieu of these devices when possible
- The DPS MIS personnel must review/approve the requisition for these devices
- Data encryption must be enabled – no exceptions

Laptop and mobile device users will take reasonable steps to physically secure unattended systems or media. Users will ensure that all laptop systems are updated and patched, at a minimum, on a monthly basis.

The use of wireless devices to access the DPS network must be authorized by the DPS MIS division. Wireless device access must adhere to any state and/or DPS wireless security requirements. Mobile devices such as Blackberries, smartphones, PDAs, etc. that are managed by the DPS MIS division or personal devices that store confidential DPS data will have the following controls enabled when possible:

- A maximum timeout interval of 10 minutes
- Password protection with the syntax rules requiring a combination of letters, numbers, and special characters
- Encryption of stored data
- Device location enabled
- Remote wiping enabled

In the event of theft or loss, DPS employees shall notify their management and the Information Security Office as soon as the theft is detected. Also, employees shall adhere to DPS policy for reporting misuse and/or theft of State property.

Before a thumb/flash drive is connected to a DPS device, employees shall ensure that the appropriate security software (e.g. antivirus, antispysware, etc) is installed and current on the affected DPS device. Thumb/Flash drives with unauthorized/unapproved virtual operating systems are prohibited.

## **COPYRIGHT INFRINGEMENT**

### **Location**

<https://www.ncdps.gov/emp/Policies/ITPolicies/CopyrightInfringement.pdf>

### **Provisions**

Unauthorized use of copyrighted computer software is a violation of federal copyright law, and a likely breach of this Department's license agreement with the software supplier. As a result, employees shall obey licensing agreements and shall not install unauthorized copies of commercial software on agency technology devices.

Copying software for any purpose other than making a back-up or archival copy is strictly prohibited unless prior written authorization has been obtained from the software manufacturer and appropriate Department of Public Safety officials.

Some license agreements restrict the use of software to certain equipment or devices. Unauthorized use of this software will be considered as unauthorized copying.

The department does not require, request or condone unauthorized copying of computer software by its employees and violation of this policy may subject employees to disciplinary and/or legal action.

## SOCIAL MEDIA POLICY

### **Location**

[https://www.ncdps.gov/emp/Policies/Communications/SocialMediaPolicy\\_08132013.pdf](https://www.ncdps.gov/emp/Policies/Communications/SocialMediaPolicy_08132013.pdf)

### **Provisions**

NCDPS recognizes the value of using social media, also known as new media or Web 2.0, as a way to communicate with stakeholders, media, its employees and the public at large. Tools such as Facebook, Twitter, YouTube and others are rapidly changing the way information is exchanged and governments are expected to engage the public using these Internet-based channels.

This policy will establish the following: 1) NCDPS position on the use of social media as part of its communication and customer service strategy; 2) guidelines and expectations for development and use of social media services in an official capacity; and 3) guidelines for employee's personal use of social media. These guidelines are applicable to NCDPS employees or contractors creating or contributing to blogs, microblogs, wikis, social networks, virtual worlds or any other kind of social media housed both on and off state-owned or operated servers. Any employee or contractor who participates in social media in an official capacity on behalf of NCDPS must follow these guidelines. These guidelines will likely evolve as new technologies and social networking tools emerge, so any employee or contractor who participates in social media in an official capacity on behalf of NCDPS must regularly check this policy to ensure compliance with it in its current form.

### **Use of Social Media to Represent Divisions/ Offices/Programs**

NCDPS maintains official departmental social media sites and some of its subsidiary agencies also maintain their own separate social media sites. The Communications Office encourages subsidiary agencies to disseminate information by contributing to existing sites, as opposed to creating new social media sites. A few properly maintained sites that deliver consistently strong content are more effective than a diluted message delivered by a larger number of sites. Subsidiary agencies seeking to create new social media sites must have advance approval from the NCDPS Communications Office before launching a new site.

Creation and maintenance of all authorized social media sites will be conducted as part of a communications plan and strategy, as well as that of NCDPS. The NCDPS Communications Office will:

- I. Oversee decisions regarding social media sites including authorization of new sites;
- II. Verify staff being authorized to use social media tools;
- III. Maintain a list of social media domains, active account logins and passwords for every social media account authorized in NCDPS; and
- IV. Change passwords when an employee is removed as an administrator to maintain agency control.

Once a social media site has been authorized by the NCDPS Communications Office, agency communication officers or PIOs must monitor the site's establishment, content creation and maintenance to ensure that the mission and message are being appropriately articulated. At least two communications officers or PIOs from the communications office staff must have administrator rights on each NCDPS social media site. NCDPS social media sites must allow for public comment on the sites to promote open government, transparency, dialogue between constituents and to take full advantage of the benefits of social media.

### **Professional Use Guidelines**

1. NCDPS related communication through social media outlets should remain professional in nature and should always be conducted in accordance with the agency's policies and expectations.
2. Creators, contributors and bloggers should stick to their area of expertise and provide unique, individual perspectives on what is going on at their divisions, and in other larger contexts.
3. Posts should be meaningful and comments should be respectful.
4. Spam or offensive remarks are not permitted. Communication should not include any forms of profanity, obscenity or copyright violations. Site administrators should remove comments that violate these rules as soon possible after they are noticed.
5. When a response is appropriate, comments will be responded to in a timely manner. A respondent should pause and think before posting a response. Generally, it is not appropriate to post personal opinions or discuss areas outside of one's expertise on a NCDPS social media site. An employee should always consider whether it is appropriate to commit oneself or one's agency to a course of action. If there is any question or hesitation regarding the content of a potential comment or post, it is better not to post.
6. Contact the Communications Office for guidance when responding to a sensitive or controversial post or when responding to comments that are critical of NCDPS.
7. Keep interactions appropriate and polite when it is necessary to disagree with others' opinions on NCDPS social media sites.
8. Proprietary information, content and confidentiality will be respected. Do not share confidential or non-public information.
9. Disclaimers addressing third-party ads and inappropriate content should be clearly visible on official sites where applicable.
10. Employees must not use agency social networking sites for political purposes, to conduct private commercial transactions or to engage in private business activities. Employees should be mindful that inappropriate use of social media can be grounds for disciplinary action. If an account is used for business, the entire account, regardless of any personal views, is subject to these best practices guidelines, including the collection and preservation provisions.

### **Employee Use of Social Media**

NCDPS recognizes that its employees may use social media on a personal basis outside of their professional activities and that such use may include the right to exercise freedom of speech. However, NCDPS encourages its employees to use good judgment when posting to a social media site as a private citizen, especially if the employee refers to anything related to NCDPS business. Employees must be mindful that they could blur their personal and professional lives when using social media. Even when acting away from the office in a private capacity, an employee must remember that he or she may be perceived by the public as representing the agency and state government as a whole when discussing NCDPS activities.

A NCDPS employee who posts work related information on a social media site is still subject to the terms of this policy. Employees must clearly label and distinguish a personal opinion when it is publicly stated about NCDPS related matters.

### **Personal Use Guidelines**

It is recognized that many NCDPS employees have personal social networking sites. These sites should remain personal. Employees should not conduct NCDPS business by way of any personal account. This helps to ensure a distinction between personal and agency views. Employees must not use their state e-mail account or password in conjunction with a personal social networking site. Employees may use personal social networking for limited family or personal communications while at work. Those communications should occur on break times and must not interfere with their work.



# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p><b>I. (a) PLAINTIFFS</b>                  Matthew Hodge, David Holbrook, Philip Kay, Jacob Franckowiak, Brooks Dickerson, and Ralph Brown</p> <p><b>(b) County of Residence of First Listed Plaintiff</b> <u>Rutherford</u>  <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p><b>(c) Attorneys (Firm Name, Address, and Telephone Number)</b>                  Whitfield Bryson &amp; Mason LLP                  900 W. Morgan St.                  Raleigh, NC 27603 Telephone: 919-600-5000</p>	<p><b>DEFENDANTS</b>                  North Carolina Department of Public Safety, and Division of Adult Correction and Juvenile Justice</p> <p>County of Residence of First Listed Defendant <u>Wake</u>  <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;"></td> <td style="width: 10%; text-align: center;">PTF</td> <td style="width: 10%; text-align: center;">DEF</td> <td style="width: 33%;"></td> <td style="width: 10%; text-align: center;">PTF</td> <td style="width: 10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)* Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES		
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p><b>PERSONAL PROPERTY</b></p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC §81 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	
<p><b>REAL PROPERTY</b></p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p><b>CIVIL RIGHTS</b></p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p><b>PRISONER PETITIONS</b></p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p><b>LABOR</b></p> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p><b>PROPERTY RIGHTS</b></p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<p><b>SOCIAL SECURITY</b></p> <input type="checkbox"/> 861 ETA (1395U) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<p><b>FEDERAL TAX SUITS</b></p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** *(Place an "X" in One Box Only)*

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from Another District (specify)     6 Multidistrict Litigation - Transfer     8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. Sec. 201 et seq.

Brief description of cause: unpaid wages owed under FLSA

**VII. REQUESTED IN COMPLAINT:**     CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.    DEMAND \$ \_\_\_\_\_    CHECK YES only if demanded in complaint: JURY DEMAND:  Yes     No

**VIII. RELATED CASE(S) IF ANY** *(See instructions)*    JUDGE \_\_\_\_\_    DOCKET NUMBER \_\_\_\_\_

DATE: 10/28/2019    SIGNATURE OF ATTORNEY OF RECORD: /s/ Daniel K. Bryson

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING FEE \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. FEE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#)
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.