

Selection

Policy

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

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

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

Selection procedures and methods shall be validly related to the duties and responsibilities of the vacancy to be filled. The Office of State Personnel will provide technical assistance, upon request, to agencies wishing to design or review selection procedures.

**Written
Notification to
Applicants**

After making the selection decision, the agency shall provide timely written notice of non-selection to all unsuccessful candidates in the most qualified pool. Non-selected candidates in the most qualified pool have 30 days from the date of receipt of the written notice to contest the selection decision. In making the determination of minimally qualified and most qualified, policies regarding priority consideration must be applied. (See Priority Reemployment Consideration Policy in this section.)

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Complaint/ Contested Case Procedures

A state employee or applicant for initial State employment may complain directly through the Civil Rights Division of the Office of Administrative Hearings (OAH) if all the following conditions apply:

- the person alleging the violation applied for the position in question during the open application period;
- the person alleging the violation was not hired into the position in question;
- the person alleging the violation was among the pool of the most qualified applicants;
- the successful applicant for the position was not among the pool of the most qualified applicants; and
- the hiring decision was in violation of G.S. 126-14.2 because of political affiliation or political influence.

The complaining State employee or applicant must file the complaint with the Civil Rights Division of OAH within thirty (30) days after the complainant receives written notice that the position in question has been filled.

Upon an initial determination that there is probable cause to believe there has been a violation of G.S. 126-14.2, the complainant may file a petition for a contested case pursuant to G.S. 126-34.1 and Article 3 of Chapter 150B of the General Statutes within 15 days.

The administrative law judge shall issue a recommended decision to the State Personnel Commission. The State Personnel Commission shall make a final written decision in accordance with the law. If the initial determination is that there is not probable cause to believe there has been a violation, that determination shall be conclusive of any rights under that section but shall not be admissible or binding in any separate or subsequent civil action or proceeding.

Advisory Note: This does not prohibit any applicant from the right to file a contested case issue under other aspects of G.S. 126.

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**Applicant
Information**

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

- (1) When an agency discovers, prior to employment, that an applicant provided false or misleading information in order to meet position qualifications, the applicant shall be disqualified from consideration for the position in question.
- (2) When an agency discovers, after employment, that an employee provided false or misleading information or concealed employment history or other required information significantly related to job responsibilities, but not used to meet minimum qualifications, disciplinary action is required and shall be administered in accordance with the following criteria:
 - Disciplinary action, up to and including dismissal, shall be taken, but the severity of such action shall be at the discretion of the agency head.
 - The agency head's decision, while discretionary, shall consider: the effect of the false, misleading or concealed information on the hiring decision, the advantage gained by the employee over other applicants, the effect of the false information on the starting salary, and the advantage gained by employee in subsequent promotion and salary increases. Job performance shall not be considered in such cases, nor can decisions be made on the basis of race, creed, color, religion, national origin, sex, age, disability or political affiliation.
- (3) When an agency discovers that an employee was selected based on false or misleading work experience, education, registration, licensure or certification information in order to meet position qualifications, the employee shall be dismissed, regardless of length of service.

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Verification of Credentials The employing authority shall verify the validity of academic and professional credentials and the accuracy of data contained in the application information and documentation provided by each new employee within 90 days from the date of the employee's initial employment. The agency shall inform applicants in writing at the time of selection that credentials must be verified within 90 days of initial employment and prior to the granting of a permanent or time-limited permanent appointment.

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

EMPLOYMENT LIMITATIONS

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

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

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

Maximum Age - There is no maximum age for employment.

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**Employment of
Relatives
(Nepotism)**

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

**Employment of
Aliens**

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

At the time of hire or no later than the third working day, all State agencies shall:

- verify the employment eligibility of all new employees,
 - complete Federal Form I-9,
 - update the Form I-9 if an employee's work authorization expires,
 - discontinue the employee's employment if an authorization renewal cannot be obtained,
 - update and verify eligibility if a prior employee is reemployed within three years of the initial completion of Form I-9,
 - provide a copy of the Form I-9 to the employee or agency in case of transfer, and
 - retain the original I-9 for three years after the employee's hiring date, or one year after the employee's separation, whichever is later.
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Employment of Aliens The employee shall:**(continued)**

- present verification documents to the employing agency at the time of hire or no later than the third working day, OR
- present a receipt validating the application for the required documents and provide the actual documents within 90 days.

An employee whose original work authorization has expired must present proof of an authorization renewal in order to remain employed.

Advisory Note: INS has approved a number of documents, which the employee can provide to meet the requirements and it is not permissible for agencies to specify a certain document type. Please refer to your INS Handbook for Employers (Rev. 11/21/91) for a list of acceptable documents.

Federal Military Selective Service Act

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

SPECIAL EMPLOYMENT AND REEMPLOYMENT CONSIDERATIONS

Priorities

Priority for vacant positions shall be given to:

- employees separated from exempt policy-making/confidential positions or exempt managerial positions for reasons other than just cause (See Priority Reemployment for Exempt Policy-Making/Confidential and Exempt Managerial Employees),
 - employees separated from exempt managerial positions as a result of a violation of G.S. 126-14.2 (See Priority Reemployment for Exempt Managerial Employees Removed from Positions for Violations of G.S. 126-14.2),
 - employees notified of or separated by reduction in force (See Priority Reemployment Consideration for Reduction-in-Force Employees),
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**Priorities
(continued)**

- employees returning from workers' compensation leave (See Workers' Compensation Policy),
- career State employees seeking promotions (See Promotional Priority), and
- * eligible veterans (See Veterans' Preference Policy).

Advisory Note: Refer to policies regarding return to work from leave without pay.

The Office of State Personnel provides a monthly Priority Reemployment Inventory for reduction-in-force employees and employees separated from exempt policy making/confidential and exempt managerial positions. (See Priority Referral System.) The agency shall be responsible for assuring that these priorities, as well as the other priorities, are appropriately administered. If priority reemployment applicants are available, the appropriate priority must be afforded.
