

§ 126-7.1. Posting requirement; State employees receive priority consideration; reduction-in-force; Work First hiring; reorganization through reduction.

(a) All vacancies for which any State agency, department, or institution openly recruit shall be posted in a place readily accessible to employees within at least the following:

- (1) The personnel office of the agency, department, or institution having the vacancy; and
- (2) The particular work unit of the agency, department, or institution having the vacancy.

If the decision is made, initially or at any time while the vacancy remains open, to receive applicants from outside the recruiting agency, department, or institution, the vacancy shall also be listed on a website maintained by the Office of State Human Resources for the purpose of informing current State employees and the public of such vacancy. The State agency, department, or institution may not receive approval from the Office of State Human Resources to fill a job vacancy if the agency, department, or institution cannot prove to the satisfaction of the Office of State Human Resources that it complied with these posting requirements. The agency, department, or institution which hires any person in violation of these posting requirements shall pay such person when employment is discontinued as a result of such violation for the work performed during the period of time between his initial employment and separation.

(b) No loss of funds shall be required as a precondition for a reduction in force. State employees to be affected by a reduction in force shall be notified of the reduction in force as soon as practicable, and in any event, no less than 30 days prior to the effective date of the reduction in force.

(c) The State Human Resources Commission shall adopt rules governing the priority and salary rights of State employees separated from State employment as the result of reductions in force who accept a position in State government to provide that the employee shall be paid a salary no higher than the maximum of the salary grade of the position accepted.

(d) Subsection (a) of this section does not apply to vacancies which must be filled immediately to prevent work stoppage or the protection of the public health, safety, or security.

(e) If a State employee subject to this section:

- (1) Applies for another position of State employment that would constitute a promotion; and
- (2) Has substantially equal qualifications as an applicant who is not a State employee;

then the State employee shall receive priority consideration over the applicant who is not a State employee. This priority consideration shall not apply when the only applicants considered for the vacancy are current State employees.

(f) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force:

- (1) Applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and
- (2) Has substantially equal qualifications as any other applicant;

then within all State agencies, the State employee who has been notified of or separated due to a reduction in force shall receive priority consideration over all other applicants. This priority shall remain in effect for a period of 12 months from the date the employee receives notification of separation by reduction in force. State employees separated due to reduction in force shall receive higher priority than other applicants with employment or reemployment priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be considered as equal.

(f1) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force accepts or rejects an offer for a

position of State employment that is equal to or higher than the position held or equal to or higher than the salary earned by the employee at the time of separation or notification, then the employee's acceptance or rejection of that offer shall satisfy and terminate the one-time, 12-month priority granted by subsection (f) of this section.

(f2) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force and who applies for a position equal to or higher than the position held by the employee at the time of separation or notification, but declines an interview for the position for which the employee applied, then the employee's rejection of an offer of the interview for the position shall satisfy and terminate the one-time, 12-month priority granted by subsection (f) of this section. The State Human Resources Commission shall adopt a policy to carry out this subsection.

(g) "Qualifications" within the meaning of subsection (e) of this section shall consist of:

- (1) Training or education;
- (2) Years of experience; and
- (3) Other skills, knowledge, and abilities that bear a reasonable functional relationship to the abilities and skills required in the job vacancy applied for.

(h) Each State agency, department, and institution is encouraged to hire into State government employment qualified applicants who are current or former Work First Program participants.

(i) Each State agency, department, institution, university, community college, and local education agency shall verify, in accordance with the Basic Pilot Program administered by the United States Department of Homeland Security pursuant to 8 U.S.C. § 1101, et seq, each individual's legal status or authorization to work in the United States after hiring the individual as an employee to work in the United States.

(j) Any department or office listed in G.S. 126-5(d)(1) or (2) and The University of North Carolina and its constituent institutions may reorganize and restructure its positions through a voluntary separation process, in accordance with a policy approved by the State Human Resources Commission and subject to funding and approval by the Office of State Budget and Management. (1987, c. 689, s. 2; 1991, c. 65, s. 4; c. 474, s. 1; 1995, c. 141, s. 9; c. 507, s. 7.20(a); 1997-443, s. 12.7(d); 2006-259, s. 23.1(a); 2011-145, s. 29.21A(a); 2011-391, s. 59(a), (b); 2013-382, ss. 5.1, 9.1(c); 2015-260, s. 5.1; 2018-5, s. 35.24.)