

Article 5.

Political Activity of Employees.

§ 126-13. Appropriate political activity of State employees defined.

(a) As an individual, each State employee retains all the rights and obligations of citizenship provided in the Constitution and laws of the State of North Carolina and the Constitution and laws of the United States of America; however, no State employee subject to the North Carolina Human Resources Act or temporary State employee shall:

- (1) 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 is expected to perform services for which he receives compensation from the State;
- (2) 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.

(b) 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 is not performing services for which he receives compensation from the State. A State employee who is or may be expected to perform his duties on a twenty-four 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 is actually performing the duties of his office. The willful violation of this subdivision shall be a Class 1 misdemeanor. (1967, c. 821, s. 1; 1985, c. 469, s. 1; c. 617, s. 5; 1993, c. 539, s. 930; 1994, Ex. Sess., c. 24, s. 14(c); 2013-382, s. 9.1(c).)

§ 126-14. Promise or threat to obtain political contribution or support.

(a) It is unlawful for a State employee or a person appointed to State office, other than elective office or office on a board, commission, committee, or council whose function is advisory only, whether or not subject to the North Carolina Human Resources Act, to coerce:

- (1) a State employee subject to the North Carolina Human Resources Act,
- (2) a probationary State employee,
- (3) a temporary State employee, or
- (4) an applicant for a position subject to the North Carolina Human Resources Act

to support or contribute to a political candidate, political committee as defined in G.S. 163-278.6, or political party or to change the party designation of the individual's voter registration by threatening that change in employment status or discipline or preferential personnel treatment will occur with regard to an individual listed in subdivisions (1) through (4) of this subsection.

(a1) It is unlawful for an individual as defined in G.S. 138A-3(70)a. to coerce a person as described in G.S. 138A-32(d)(1), (2), or (3) to support or contribute to a political candidate, a political committee as defined in G.S. 163-278.6, or a political party by threatening discipline or promising preferential treatment with regard to that person's business with the individual's State office or that person's activities regulated by the individual's State office.

(b) Any person violating this section shall be guilty of a Class 2 misdemeanor.

(c) A State employee subject to the North Carolina Human Resources 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 discipline or change in employment status in accordance with the provisions of G.S. 126-35, 126-37, and 126-38 and may, as otherwise provided by law, be subject to criminal penalties for perjury or civil liability for libel, slander, or malicious prosecution. (1967, c. 821, s. 1; 1985, c. 469, s. 2; 1991, c. 505, s. 1; 1993, c. 539, s. 931; 1994, Ex. Sess., c. 24, s. 14(c); 2010-169, s. 1(a); 2013-382, s. 9.1(c); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 126-14.1. Threat to obtain political contribution or support.

(a) It is unlawful for any person to coerce:

- (1) a State employee subject to the North Carolina Human Resources Act,
- (2) a probationary State employee,
- (3) a temporary State employee, or
- (4) an applicant for a position subject to the North Carolina Human Resources Act

to support or contribute to a political candidate, political committee as defined in G.S. 163-278.6, or political party or to change the party designation of his voter registration by explicitly threatening that change in employment status or discipline or preferential personnel treatment will occur with regard to any person listed in subdivisions (1) through (3) of this subsection.

(b) Any person violating this section shall be guilty of a Class 2 misdemeanor.

(c) A State employee subject to the North Carolina Human Resources Act, probationary State employee, or temporary State employee, who without probable cause falsely accuses a person of violating this section shall be subject to discipline or change in employment status in accordance with the provisions of G.S. 126-34.02 and may, as otherwise provided by law, be subject to criminal penalties for perjury or civil liability for libel, slander, or malicious prosecution. (1985, c. 469, s. 3; 1991, c. 505, s. 2; 1993, c. 539, s. 932; 1994, Ex. Sess., c. 24, s. 14(c); 2013-382, ss. 6.3, 9.1(c); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 126-14.2. Political hirings limited.

(a) It is the policy of this State that State departments, agencies, and institutions select from the pool of the most qualified persons for State government employment based upon job-related qualifications of applicants for employment using fair and valid selection criteria.

(b) All State departments, agencies, and institutions shall select from the pool of the most qualified persons for State government employment without regard to political affiliation or political influence. For the purposes of this section, "qualified persons" shall mean each of the State employees or applicants for initial State employment who:

- (1) Have timely applied for a position in State government;
- (2) Have the essential qualifications for that position; and
- (3) Are determined to be substantially more qualified as compared to other applicants for the position, after applying fair and valid job selection criteria, in accordance with G.S. 126-5(e), G.S. 126-7.1, Articles 6 and 13 of this Chapter, and State personnel policies approved by the State Human Resources Commission.

(c) It is a violation of this section if:

- (1) The complaining State employee or applicant for initial State employment timely applied for the State government position in question;
- (2) The complaining State employee or applicant for initial State employment was not hired into the position;

- (3) The complaining State employee or applicant for initial State employment was among the most qualified persons applying for the position as defined in this Chapter;
 - (4) The successful applicant for the position was not among the most qualified persons applying for the position; and
 - (5) The hiring decision was based upon political affiliation or political influence.
- (d) The provisions of this section shall not apply to positions exempt from this Chapter, except that this section does apply to exempt managerial positions as defined by G.S. 126-5(b)(2). (1997-520, s. 1; 2013-382, s. 9.1(c); 2014-115, s. 55.3(b); 2015-260, s. 5.3; 2017-57, s. 35.18.)

§ 126-14.3. Open and fair competition.

The State Human Resources Commission shall adopt rules or policies to:

- (1) Assure recruitment, selection, and hiring procedures that encourage open and fair competition for positions in State government employment and that encourage the hiring of a diverse State government workforce.
- (2) Assure the proper and thorough advertisement of job openings in State government employment and lengthen, as appropriate, the period for submitting applications for State government employment.
- (3) Require that a closing date shall be posted for each job opening, unless an exception for critical classifications has been approved by the State Human Resources Commission.
- (4) Require that timely written notice shall be provided to each unsuccessful applicant for State employment who is in the pool of the most qualified applicants for a position, as defined by G.S. 126-14.2(b).
- (5) Assure that State departments, agencies, and institutions follow similar selection processes when hiring State employees in accordance with this Chapter.
- (6) Assure that State supervisory and management personnel, and personnel professionals, receive adequate training and continuing education to carry out the State's policy of hiring from among the most qualified persons.
- (7) Establish a monitoring system to measure the effectiveness of State agency personnel procedures to promote fairness and reduce adverse impact on all demographic groups in the State government workforce.
- (8) Otherwise implement the State's policy of nonpolitical hiring practices in accordance with this Chapter. (1997-520, s. 1; 2013-382, s. 9.1(c).)

§ 126-14.4: Repealed by Session Laws 2013-382, s. 7.6, effective August 21, 2013.

§ 126-15. Disciplinary action for violation of Article.

Failure to comply with this Article is grounds for disciplinary action which, in case of deliberate or repeated violation, may include dismissal or removal from office. (1967, c. 821, s. 1.)

§ 126-15.1: Repealed by Session Laws 2013-382, s. 3.2, effective August 21, 2013.