

13 NCAC 17 .0202 ACTIVITIES OF BUSINESS CONSIDERED TO BE A PRIVATE PERSONNEL SERVICE

(a) A business that engages in the activities below, and is not covered by G.S. 95-47.1(16)a (16)f; shall be considered to be a private personnel service if it:

- (1) operates in North Carolina;
- (2) operates for profit or is a nonprofit business that charges a fee;
- (3) holds, or may hold, the applicant liable for a direct or indirect fee to the business; and
- (4) performs one of the following:
 - (A) secures employment for the applicant with any employer other than itself; or
 - (B) by any form of advertising, holds itself out to applicants as able to:
 - (i) secure employment with any employer other than itself; or
 - (ii) provide information or service of any kind purporting to promote, lead to, or result in employment for the applicant with an employer other than the business itself.

(b) "Secure [or secures] employment for the applicant," as used in Items (a)(4)(A) and (a)(4)(B)(i) of this Rule means find work or a job in any location or for any duration. Examples of a business that secures employment for an applicant may include: employment agency; staffing service; model or talent agency; job listing service; escort service; computer consultant; nurses pool; nurses service; medical care service such as respiratory therapist or home health care agency; companion care service; home, pet, or baby sitting service; nanny or au pair agency; outplacement service; head hunter; retained search business; contingency search business; employee leasing service; career coach; career consultant; or temporary service.

(c) Examples of activities that "provide information or service of any kind purporting to promote, lead to, or result in employment for the applicant with an employer other than the business itself" as used in Subpart (a)(4)(B)(ii) of this Rule shall include, but not be limited to, the following:

- (1) recommending a specific potential employer to an applicant;
- (2) preparing a résumé or cover letters to be sent to an employer suggested or recommended by the business;
- (3) setting up an appointment on behalf of an applicant, or otherwise making contact with a prospective employer on behalf of an applicant;
- (4) counseling an applicant on techniques for job search, interview, salary or benefits negotiations, or any other job seeking methodology to be used with a potential employer suggested or recommended by the business;
- (5) advertising to applicants that the business can help the applicant find employment. Examples of such advertising include: "job hunting?" "help people find a job;" "open the floodgates to employment opportunity;" "take care of the pragmatic details of career research" or "take care of creation of a client's personal marketing materials" where the business suggests specific potential employers; provides access to "inside job leads," "unpublished information," or the "hidden job market;" or provides "outplacement;" or
- (6) conducting industry research for an applicant in order to determine specific potential employers.

(d) The name of the business, or description of services the business offers, does not control whether the Commissioner finds the service to be a private personnel service.

*History Note: Authority G.S. 95-47.1; 95-47.4; 95-47.6;
Eff. April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*