

**25 NCAC 01J .1304 SETTLEMENTS/CONSENT AGREEMENTS IN GRIEVANCES, CONTESTED CASES**

(a) Any mediation agreement, settlement agreement, or consent agreement in a grievance or contested case that requires the entering of data into human resources and payroll information system used by agencies with employees subject to G.S. 126, shall be approved by the Office of State Human Resources for compliance with all rules contained in Subchapters 1C (Personnel Administration), 1D (Compensation), 1E (Employee Benefits), 1H (Recruitment and Selection), and 1J (Employee Relations) in Title 25 of the North Carolina Administrative Code before the agency enters the data.

(b) Data shall be entered into the human resources and payroll information system by an agency when it determines that an action shall be taken that affects classification, salary, leave, demotion, reassignment, transfer, or for any other human resources action, except where the only personnel action taken as a result of the settlement is the substitution of a resignation for a dismissal.

(c) Approval by the Office of State Human Resources shall be indicated by the signature of the State Human Resources Director or his or her designee in an appropriate place on the settlement or consent agreement to the Office of State Human Resources Director. This provision shall not be construed to require Office of State Human Resources' approval of a settlement in which the only portion requiring approval is the awarding of attorney's fees to the employee's attorney by the Office of Administrative Hearings.

(d) This provision shall also not be construed to require approval of any settlement the terms of which allow an employee to substitute a resignation for a dismissal and to withdraw a grievance or a contested case action.

(e) The provisions of 25 NCAC 01A .0104 (EXCEPTIONS AND VARIANCES) shall be complied with when any provision of a settlement or consent agreement in a grievance or contested case requires an exception to or variance from the rules in this Chapter contained in Subchapters 1C (Personnel Administration), 1D (Compensation), 1E (Employee Benefits), 1H (Recruitment and Selection), and 1J (Employee Relations). This compliance shall be in addition to the requirements of this Rule. Any settlement or consent agreement that contains a provision that requires an exception to or variance from existing human resources policy shall be reviewed and approved by the Office of State Human Resources Director prior to the processing of any human resources action forms by the Office of State Human Resources or the university human resources and payroll system.

(f) Requests to enter data into the State's human resources and payroll system that are required by the provisions of any settlement or consent agreement that has not been approved by the Office of State Human Resources as required by this Rule shall not be processed by the human resources and payroll information system used by agencies with employees subject to G.S. 126, and shall be returned to the agency without action.

(g) No agency shall agree to any mediation agreement, settlement agreement, or consent agreement entered under G.S. 126 that does not comply with the rules in this Subchapter. However, no rules in this Subchapter shall constrain the authority of any agency to request an exception from these rules; nor shall any provision of these rules restrict the discretion and authority of any decision maker applying these Rules to apply the rules consistent with the decision maker's discretion and authority.

*History Note: Authority. 126-4; 126-34.01;  
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 20, 2016.*