



CHAPTER 126

ARTICLE 8 - EMPLOYEE APPEALS OF GRIEVANCES AND DISCIPLINARY ACTION

N.C.G.S. § 126-34.02.

Grievance appeal process; grounds.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT No amendment history on record	RETRIEVED 21 September 2026, 04:20 UTC	SOURCE FINGERPRINT bd3084c97d2809d94ed649cb - 914784e023c7c5e3a0bedaa7 - 333a1a1fc41b21c7
--	---	---	--

§ 126-34.02(a)

Once a final agency decision has been issued in accordance with G.S. 126-34.01, an applicant for State employment, a State employee, or former State employee may file a contested case in the Office of Administrative Hearings under Article 3 of Chapter 150B of the General Statutes. The contested case must be filed within 30 days of receipt of the final agency decision. Except for cases of extraordinary cause shown, the Office of Administrative Hearings shall hear and issue a final decision in accordance with G.S. 150B-34 within 180 days from the commencement of the case. In deciding cases under this section, the Office of Administrative Hearings may grant the following relief:

- (1) Reinstate any employee to the position from which the employee has been removed.
- (2) Order the employment, promotion, transfer, or salary adjustment of any individual to whom it has been wrongfully denied.
- (3) Direct other suitable action to correct the abuse which may include the requirement of payment for any loss of salary which has resulted from the improper action of the appointing authority.

An aggrieved party in a contested case under this section shall be entitled to judicial review of a final decision by appeal to the Court of Appeals as provided in G.S. 7A-29(a). The procedure for the appeal shall be as provided by the rules of appellate procedure. The appeal shall be taken within 30 days of receipt of the written notice of final decision. A notice of appeal shall be filed with the Office of Administrative Hearings and served on all parties to the contested case hearing.

§ 126-34.02(b)

The following issues may be heard as contested cases after completion of the agency grievance procedure and the Office of State Human Resources review:

- (1) Discrimination or harassment. - An applicant for State employment, a State employee, or former State employee may allege discrimination or harassment based on race, religion, color, national origin, sex, age, disability, genetic information, or political affiliation if the employee believes that he or she has been discriminated against in his or her application for employment or in the terms and conditions of the employee's employment, or in the termination of his or her employment.
- (2) Retaliation. - An applicant for State employment, a State employee, or former State employee may allege retaliation for protesting discrimination based on race, religion, color, national origin, sex, age, disability, political affiliation, or genetic information if the employee believes that he or she has been retaliated against in his or her application for employment or in the terms and conditions of the employee's employment, or in the termination of the employee's employment.
- (3) Just cause for dismissal, demotion, or suspension. - A career State employee may allege that he or she was dismissed, demoted, or suspended for disciplinary reasons without just cause. A dismissal, demotion, or suspension which is not imposed for disciplinary reasons shall not be considered a disciplinary action within the meaning of this section. However, in contested cases conducted pursuant to this section, an employee may appeal an involuntary nondisciplinary separation due to an employee's unavailability in the same fashion as if it were a disciplinary action, but the agency shall only have the burden to prove that the employee was unavailable. In cases of such disciplinary action the employee shall, before the action is taken, be furnished with a statement in writing setting forth the specific acts or omissions that are the reasons for the disciplinary action and the employee's appeal rights. The employee shall be permitted 15 days from the date the statement is delivered to appeal under the agency grievance procedure. However, an employee may be suspended without warning pending the giving of written reasons in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons.
- (4) Veteran's and National Guard preference. - An applicant for State employment or a State employee may allege that he or she was denied veteran's preference or National Guard preference in violation of the law.

- (5) Failure to post or give priority consideration. - An applicant for State employment or a State employee may allege that he or she was denied hiring or promotion because a position was not posted in accordance with this Chapter; or a career State employee may allege that he or she was denied a promotion as a result of a failure to give priority consideration for promotion as required by G.S. 126-7.1; or a career State employee may allege that he or she was denied hiring as a result of the failure to give him or her a reduction-in-force priority.
- (6) Whistleblower. - A whistleblower grievance as provided for in this Chapter.

§ 126-34.02(c)

Any issue for which an appeal to the Office of Administrative Hearings has not been specifically authorized by this section shall not be grounds for a contested case hearing.

§ 126-34.02(d)

BURDEN OF PROOF

In contested cases conducted pursuant to this section, the burden of showing that a career State employee was discharged, demoted, or suspended for just cause rests with the employer. In all other contested cases, the burden of proof rests on the employee.

§ 126-34.02(e)

The Office of Administrative Hearings may award attorneys' fees to an employee where reinstatement or back pay is ordered or where an employee prevails in a whistleblower grievance. The remedies provided in this subsection in a whistleblower appeal shall be the same as those provided in G.S. 126-87.

§ 126-34.02(f)

The Office of Administrative Hearings shall report to the Office of State Human Resources and the Joint Legislative Administrative Procedure Oversight Committee on the number of cases filed under this section and on the number of days between filing and closing of each case. The report shall be filed on a semiannual basis. (2013-382, ss. 6.1, 9.1(c); 2014-115, s. 55.3(d); 2024-23, s. 8.)

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS II
5 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 126-34.01	(a)	"has been issued in accordance with"

G.S. 150B-34	(a)	"a final decision in accordance with"
G.S. 7A-29(a)	(a)	"Court of Appeals as provided in"
G.S. 126-7.1	(b)(5)	"consideration for promotion as required by"
G.S. 126-87	(e)	"the same as those provided in"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 126-34.02 (2026).

PINPOINT

N.C. Gen. Stat. § 126-34.02(a) (2026).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

This document reproduces the text of one section of the General Statutes of North Carolina from a source file whose SHA-256 digest is printed on every page. The digest fixes the bytes this export was made from; if the State's file changes, the digest will not match.

The text of the section is unaltered. Subsection designators have been moved from the run of text into the margin. The amendment history and the table of authorities are derived from the section by mechanical extraction — they add no characterization of the law.

This is not the official text. The official text is published by the General Assembly of North Carolina.

