



## JUDICIAL BRANCH POLICY ON WASTE, FRAUD, AND ABUSE

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The North Carolina Judicial Branch is governed by the laws of North Carolina with regard to waste, fraud, and abuse, including the duty to report and protection from retaliation set forth in the North Carolina Human Resources Act, G.S. Chapter 126, Article 14, and the duty to report possible violations of criminal statutes involving State property to the State Bureau of Investigation in G.S. 143B-920, as may be revised from time to time, copies of which appear below. Although G.S. 126-5(c1)(2) generally exempts Judicial Branch officials and employees from the North Carolina Human Resources Act, G.S. 126-5(c5) provides that, “[n]otwithstanding any other provision of this Chapter, Article 14 of this Chapter shall apply to *all State employees*, public school employees, and community college employees.” (Emphasis added.) The Judicial Branch’s policy is that each Judicial Branch official and employee must abide by all provisions in the General Statutes governing waste, abuse, and fraud.

Additionally, Judicial Branch attorneys must abide by the North Carolina Rules of Professional Conduct and Formal Ethics Opinions adopted by the North Carolina State Bar Council; judges must abide with the North Carolina Code of Judicial Conduct; and magistrates must abide by the North Carolina Rules of Conduct for Magistrates.

### Article 14.

#### Protection for Reporting Improper Government Activities.

#### § 126-84. Statement of policy.

(a) It is the policy of this State that State employees shall have a duty to report verbally or in writing to their supervisor, department head, or other appropriate authority, evidence of activity by a State agency or State employee constituting any of the following:

- (1) A violation of State or federal law, rule or regulation.
- (2) Fraud.
- (3) Misappropriation of State resources.
- (4) Substantial and specific danger to the public health and safety.
- (5) Gross mismanagement, a gross waste of monies, or gross abuse of authority.

(b) Further, it is the policy of this State that State employees be free of intimidation or harassment when reporting to public bodies about matters of public concern, including offering testimony to or testifying before appropriate legislative panels, or providing statements or

testimony to agents and employees of legislative panels duly appointed by the President Pro Tempore and/or the Speaker of the House designated to conduct inquiries on behalf of such legislative panels. (1989, c. 236, s. 1; 1997-520, s. 5; 2018-41, s. 7; 2019-80, s. 1.)

#### **§ 126-85. Protection from retaliation.**

(a) No head of any State department, agency or institution or other State employee exercising supervisory authority shall discharge, threaten or otherwise discriminate against a State employee regarding the State employee's compensation, terms, conditions, location, or privileges of employment because the State employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, any activity described in G.S. 126-84, unless the State employee knows or has reason to believe that the report is inaccurate.

(a1) No State employee shall retaliate against another State employee because the employee, or a person acting on behalf of the employee, reports or is about to report, verbally or in writing, any activity described in G.S. 126-84.

(b) No head of any State department, agency or institution or other State employee exercising supervisory authority shall discharge, threaten or otherwise discriminate against a State employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the State employee has refused to carry out a directive which in fact constitutes a violation of State or federal law, rule or regulation or poses a substantial and specific danger to the public health and safety.

(b1) No State employee shall retaliate against another State employee because the employee has refused to carry out a directive which may constitute a violation of State or federal law, rule or regulation, or poses a substantial and specific danger to the public health and safety.

(c) The protections of this Article shall include State employees who report any activity described in G.S. 126-84 to the State Auditor as authorized by G.S. 147-64.6B, to the Joint Legislative Commission on Governmental Operations as authorized by G.S. 120-76, or to a legislative committee as required by G.S. 120-19. (1989, c. 236, s. 1; 1997-520, s. 6; 2008-196, s. 2(b); 2008-215, s. 8; 2019-80, s. 2; 2021-180, s. 27.2(e); 2022-6, s. 15.1.(b).)

#### **§ 126-86. Civil actions for injunctive relief or other remedies.**

Any State employee injured by a violation of G.S. 126-85 who is not subject to Article 8 of this Chapter may maintain an action in superior court for damages, an injunction, or other remedies provided in this Article against the person or agency who committed the violation within one year after the occurrence of the alleged violation of this Article; provided, however, any claim arising under Article 21 of Chapter 95 of the General Statutes may be maintained pursuant to the provisions of that Article only and may be redressed only by the remedies and relief available under that Article. (1989, c. 236, s. 1; 1991 (Reg. Sess., 1992), c. 1021, s. 6; 2013-382, s. 7.10.)

#### **§ 126-87. Remedies.**

A court, in rendering a judgment in an action brought pursuant to this Article, may order an injunction, damages, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, costs, reasonable attorney's fees or any

combination of these. If an application for a permanent injunction is granted, the employee shall be awarded costs and reasonable attorney's fees. If in an action for damages the court finds that the employee was injured by a willful violation of G.S. 126-85, the court shall award as damages three times the amount of actual damages plus costs and reasonable attorney's fees against the individual or individuals found to be in violation of G.S. 126-84. (1989, c. 236, s.1)

**§ 126-88. Notice of employee protections and obligations.**

It shall be the duty of an employer of a State employee to post notice in accordance with G.S. 95-9 or use other appropriate means to keep his employees informed of their protections and obligations under this Article. (1989, c. 236, s. 1.)

**§ 126-89:** Reserved for future codification purposes.

**§ 143-748. Confidentiality of internal audit work papers.**

Internal audit work papers are confidential except as otherwise provided in this section or upon subpoena issued by a duly authorized court. A published internal audit report is a public record as defined in G.S. 132-1 to the extent it does not include information which is confidential under State or federal law or would compromise the security of a State agency. An internal auditor shall maintain for 10 years a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews conducted under the internal auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of the internal auditor's office shall be retained in accordance with Chapter 132 of the General Statutes. Unless otherwise prohibited by law and to promote intergovernmental cooperation and avoid unnecessary duplication of audit effort, audit work papers related to released audit reports shall be made available for inspection by duly authorized representatives of the State and federal government in connection with some matter officially before them.

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**§ 143B-920. Department heads to report possible violations of criminal statutes involving misuse of State property to State Bureau of Investigation.**

Any person employed by the State of North Carolina, its agencies or institutions, who receives any information or evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement of, or misuse of, any state-owned personal property, buildings or other real property, shall as soon as possible, but not later than three days from receipt of the information or evidence, report such information or evidence to his immediate supervisor, who shall in turn report such information or evidence to the head of the respective department, agency, or institution. The head of any department, agency, or institution receiving such information or evidence shall, within a reasonable time but no later than 10 days from receipt thereof, report such information, excluding damage or loss resulting from motor vehicle accidents or unintentional loss of property, in writing to the Director of the State Bureau of

Investigation. Upon receipt of notification and information as provided for in this section, the State Bureau of Investigation shall, if appropriate, conduct an investigation. The employees of all State departments, agencies and institutions are hereby required to cooperate with the State Bureau of Investigation, its officers and agents, as far as may be possible, in aid of such investigation. If such investigation reveals a possible violation of the criminal laws, the results thereof shall be reported by the State Bureau of Investigation to the district attorney of any district if the same concerns persons or offenses in his district.