

1 of local departments of social services, local health departments, area mental health
2 programs, and local emergency management programs. If approved by the State
3 Personnel Commission, the local school employees covered shall be exempt from all
4 provisions of this Chapter except Article 6."

5 **SECTION 4.** G.S. 126-37(b1) reads as rewritten:

6 "(b1) In appeals involving local government employees subject to this Chapter
7 pursuant to ~~G.S. 126-5(a)(2)~~, G.S.126-5(a)(2) or G.S. 126-5(a)(4), except in appeals in
8 which discrimination prohibited by Article 6 of this Chapter is found or in any case
9 where a binding decision is required by applicable federal standards, the decision of the
10 State Personnel Commission shall be advisory to the local appointing authority. The
11 State Personnel Commission shall comply with all requirements of G.S. 150B-44 in
12 making an advisory decision. The local appointing authority shall, within 90 days of
13 receipt of the advisory decision of the State Personnel Commission, issue a written,
14 final decision either accepting, rejecting, or modifying the decision of the State
15 Personnel Commission. If the local appointing authority rejects or modifies the advisory
16 decision, the local appointing authority ~~must state the specific reasons why it did not~~
17 ~~adopt the advisory decision.~~ shall comply with all the requirements of G.S. 150B-36 in
18 making its decision. A copy of the final decision shall be served on each party
19 personally or by certified mail, and on each party's attorney of record."

20 **SECTION 5.** G.S. 150B-23(a) reads as rewritten:

21 "(a) A contested case shall be commenced by filing a petition with the Office of
22 Administrative Hearings and, except as provided in Article 3A of this Chapter, shall be
23 conducted by that Office. The party who files the petition shall serve a copy of the
24 petition on all other parties and, if the dispute concerns a license, the person who holds
25 the license. A party who files a petition shall file a certificate of service together with
26 the petition. A petition shall be signed by a party or a representative of the party and, if
27 filed by a party other than an agency, shall state facts tending to establish that the
28 agency named as the respondent has deprived the petitioner of property, has ordered the
29 petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced the
30 petitioner's rights and that the agency:

- 31 (1) Exceeded its authority or jurisdiction;
- 32 (2) Acted erroneously;
- 33 (3) Failed to use proper procedure;
- 34 (4) Acted arbitrarily or capriciously; or
- 35 (5) Failed to act as required by law or rule.

36 The parties in a contested case shall be given an opportunity for a hearing without
37 undue delay. Any person aggrieved may commence a contested case hereunder.

38 A local government employee, applicant for employment, or former employee to
39 whom Chapter 126 of the General Statutes applies pursuant to G.S. 126-5(a)(2) may
40 commence a contested case under this Article in the same manner as any other
41 petitioner. A local employee whose case comes before the Office of Administrative
42 Hearings under G.S. 126-5(a)(4) may appeal only as to personnel actions or issues listed
43 in G.S. 126-34.1(a)(1). The case shall be conducted in the same manner as other
44 contested cases under this Article, except that the State Personnel Commission shall

1 enter final decisions only in cases in which it is found that the employee, applicant, or
2 former employee has been subjected to discrimination prohibited by Article 6 of
3 Chapter 126 of the General Statutes or in any case where a binding decision is required
4 by applicable federal standards. In these cases, the State Personnel Commission's
5 decision shall be binding on the local appointing authority. In all other cases, the final
6 decision shall be made by the applicable appointing authority."

7 **SECTION 6.** This act is effective when it becomes law.