

- 1 expression, or handicapping condition as defined by Chapter
2 168A of the General Statutes.
- 3 b. Demotion, reduction in force, or termination of an employee in
4 retaliation for the employee's opposition to alleged
5 discrimination on account of the employee's age, sex, race,
6 color, national origin, religion, creed, political affiliation, sexual
7 orientation, gender identity, gender expression, or handicapping
8 condition as defined by Chapter 168A of the General Statutes.
- 9 (3) Retaliation against an employee, as proscribed by G.S 126-17, for
10 protesting an alleged violation of G.S. 126-16.
- 11 (4) Denial of the veteran's preference granted in accordance with Article
12 13 of this Chapter in initial State employment or in connection with a
13 reduction in force, for an eligible veteran as defined by G.S. 126-81.
- 14 (5) Denial of promotion for failure to post or failure to give priority
15 consideration for promotion or reemployment, to a career State
16 employee as required by G.S. 126-7.1 and G.S. 126-36.2.
- 17 (6) Denial of an employee's request for removal of allegedly inaccurate or
18 misleading information from the employee's personnel file as provided
19 by G.S. 126-25.
- 20 (7) Any retaliatory personnel action that violates G.S. 126-85.
- 21 (8) Denial of promotion in violation of G.S. 126-14.2, where an initial
22 determination found probable cause to believe there has been a
23 violation of G.S. 126-14.2.
- 24 (9) Denial of employment in violation of G.S. 126-14.2, where an initial
25 determination found probable cause to believe that there has been a
26 violation of G.S. 126-14.2.
- 27 (10) Harassment in the workplace based upon age, sex, race, color, national
28 origin, religion, creed, sexual orientation, gender identity, gender
29 expression, or handicapping condition, whether the harassment is
30 based upon the creation of a hostile work environment or upon a quid
31 pro quo.
- 32 (11) Violation of any of the following federal statutes as applied to the
33 employee:
- 34 a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.
- 35 b. The Age Discrimination in Employment Act, 29 U.S.C. § 621,
36 et seq.
- 37 c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.
- 38 d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.
- 39 (b) An applicant for initial State employment may file in the Office of
40 Administrative Hearings a contested case under Article 3 of Chapter 150B of the
41 General Statutes based upon:
- 42 (1) Alleged denial of employment in violation of G.S. 126-16.

- 1 (2) Denial of the applicant's request for removal of allegedly inaccurate or
2 misleading information from the personnel file as provided by G.S.
3 126-25.
- 4 (3) Denial of equal opportunity for employment and compensation on
5 account of the employee's age, sex, race, color, national origin,
6 religion, creed, political affiliation, sexual orientation, gender identity,
7 gender expression, or handicapping condition as defined by Chapter
8 168A of the General Statutes. This subsection with respect to equal
9 opportunity as to age shall be limited to persons who are at least 40
10 years of age. An applicant may not, however, file a contested case
11 where political affiliation was the reason for the person's nonselection
12 for (i) an exempt policymaking position as defined in G.S. 126-5(b)(3),
13 (ii) a chief deputy or chief administrative assistant position under G.S.
14 126-5(c)(4), or (iii) a confidential assistant or confidential secretary
15 position under G.S. 126-5(c)(2).
- 16 (4) Denial of the veteran's preference in initial State employment provided
17 by Article 13 of this Chapter, for an eligible veteran as defined by G.S.
18 126-81.
- 19 (5) Denial of employment in violation of G.S. 126-14.2, where an initial
20 determination found probable cause to believe that there has been a
21 violation of G.S. 126-14.2.

22 (c) In the case of a dispute as to whether a State employee's position is properly
23 exempted from the State Personnel Act under G.S. 126-5, the employee may file in the
24 Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of
25 the General Statutes.

26 (d) A State employee or applicant for State employment may file in the Office of
27 Administrative Hearings a contested case under Article 3 of Chapter 150B of the
28 General Statutes based upon a false accusation regarding, or disciplinary action relating
29 to, the employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.

30 (e) Any issue for which appeal to the State Personnel Commission through the
31 filing of a contested case under Article 3 of Chapter 150B of the General Statutes has
32 not been specifically authorized by this section shall not be grounds for a contested case
33 under Chapter 126."

34 **SECTION 3.** G.S. 126-36 reads as rewritten:

35 "**§ 126-36. Appeal of unlawful State employment practice.**

36 (a) Any State employee or former State employee who has reason to believe that
37 employment, promotion, training, or transfer was denied the employee or that demotion,
38 layoff, transfer, or termination of employment was forced upon the employee in
39 retaliation for opposition to alleged discrimination or because of the employee's age,
40 sex, race, color, national origin, religion, creed, political affiliation, sexual orientation,
41 gender identity, gender expression, or handicapping condition as defined by G.S.
42 168A-3 except where specific age, sex or physical requirements constitute a bona fide
43 occupational qualification necessary to proper and efficient administration, shall have
44 the right to appeal directly to the State Personnel Commission.

1 (b) Subject to the requirements of G.S. 126-34, any State employee or former
2 State employee who has reason to believe that the employee has been subjected to any
3 of the following shall have the right to appeal directly to the State Personnel
4 Commission:

5 (1) Harassment in the workplace based upon age, sex, race, color, national
6 origin, religion, creed, sexual orientation, gender identity, gender
7 expression, or handicapping condition, whether the harassment is
8 based upon the creation of a hostile work environment or upon a quid
9 pro quo.

10 (2) Retaliation for opposition to harassment in the workplace based upon
11 age, sex, race, color, national origin, religion, creed, sexual orientation,
12 gender identity, gender expression, or handicapping condition, whether
13 the harassment is based upon the creation of a hostile work
14 environment or upon a quid pro quo."

15 **SECTION 4.** This act is effective when it becomes law.