

CHAPTER 4-07-02
SALARY ADMINISTRATION PROCEDURES

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4-07-02-01. Definitions.

The terms used throughout this title have the same meaning as in North Dakota Century Code chapter 54-44.3, and sections 54-06-30 and 54-06-31, except:

1. "Appointing authority" has the same meaning as provided in North Dakota Century Code section 54-44.3-02.
2. "Class" or "classification" means a group of positions, regardless of location, which are enough alike in duties and responsibilities to be called by the same descriptive title, to be given the same pay range under similar conditions, and to require substantially the same qualifications.
3. "Classification plan" means the listing of all the classes that have been established, the description for those classes, and the process and procedures developed to maintain the plan.
4. "Equity increase" means a salary increase provided to a classified employee to mitigate either a serious internal agency inequity or a documented external market condition.
5. "General salary increase" means a salary increase provided to classified employees by specific legislative appropriation.
6. "Hiring rate" means the salary level assigned to an employee upon initial employment with an agency.
7. "Job evaluation committee" is the committee responsible to evaluate, maintain, and ensure the consistency of job evaluations of the North Dakota classification system. The job evaluation committee shall be made up of professional human resource staff from human resource management services and state agencies designated by the director of human resource management services.

8. "Pay grade" means the number assigned to a classification which corresponds with one specific range of pay rates.
9. "Performance increase" means a salary increase provided to a classified employee in recognition of documented performance which is consistently superior or which consistently exceeds performance standards.
10. "Probationary increase" means a salary increase provided to a classified employee upon the successful completion of their applicable probationary period.
11. "Promotional increase" means a salary increase provided to a classified employee when the employee is assigned to a position in a different class which has a higher pay grade than the employee's previous position, and the assignment is not a result of a reclassification of the employee's position.
12. "Reclassification adjustment" means a salary change applied to a classified employee when the employee's position is reallocated to a different classification that has a different pay grade.
13. "Responsibility level or workload increase" means a salary increase provided to a classified employee when either of the following conditions are met:
 - a. The level of duties and responsibilities assigned to the employee is permanently changed, is documented, and is independent of any change in classification.
 - b. A substantial, documented, increase in workload is assigned to a position.
14. "Salary range" means the range of pay rates, from minimum to maximum that are assigned to a pay grade, and which are often divided into quartiles for reference.
15. "Temporary increase" means a salary increase provided to a classified employee when the employee is assigned temporarily to perform a higher level of responsibilities on an acting or interim basis.

History: Effective March 1, 1991; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(1), 54-44.3-12(7)

4-07-02-02. Scope of chapter.

This chapter applies to all state agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services, except those agencies headed by an elected official, and except those institutions in the university system. Elected officials and institutions in the university system may, at their option, agree to the application of chapter 4-07-02 to their specific agency. Sections 4-07-02-05, 4-07-02-06, 4-07-02-12, and 4-07-02-17 apply to local government agencies that employ individuals in positions classified by human resource management services.

History: Effective March 1, 1991; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(1), 54-44.3-12(7)

4-07-02-03. Purpose of chapter.

The purpose of this chapter is to ensure that the salaries of classified employees are paid in a manner consistent with the state's classification plan, its compensation plan, and its salary administration policy.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(1), 54-44.3-12(7)

4-07-02-04. Relationship to available funds.

All salary actions under this chapter are subject to the availability of appropriated funds. No person may take a salary action under this chapter if it were to cause an agency to exceed its budget authorization.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(1), 54-44.3-12(7), 54-44.3-12.1, 54-44.3-15

4-07-02-05. Salaries must be within the assigned salary range.

Human resource management services shall assign a pay grade and a salary range to each approved class in the classification plan. Unless otherwise provided by human resource management services, the salary level of a classified employee must be within the assigned salary range.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(1), 54-44.3-12(7), 54-44.3-15

4-07-02-06. Exceptions.

Exceptions to the requirements of chapter 4-07-02 normally require prior written approval from the director of human resource management services. In emergency situations exceptions may be provided verbally. Appointing authorities shall describe their justification for the exception and the impact that denying the exception would have on the agency or the state. Written documentation in justification of the exception must be provided by the appointing authority at the earliest practical time following a verbal approval.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12(1), 54-44.3-12(7)

4-07-02-07. General salary increase.

A general salary increase must be provided in accordance with any specific guidelines or requirements as appropriated by the legislative assembly.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-08. Hiring rate.

~~The hiring rate for a newly hired employee must be within the first half of the salary range.~~ When establishing an entry salary, an appointing authority should consider the employee's job-related qualifications, the agency's ability to recruit qualified employees, the overall relationship of state employees' salaries to market salaries, and internal equity with existing employees' salaries. In determining a starting salary for an applicant who is a current employee of another state agency, an appointing authority should also consider equity between the state agencies.

History: Effective March 1, 1991; amended effective July 1, 2004, amended April 1, 2020.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-09. Documents needed for hiring rate above the first quartile.

Repealed effective July 1, 2004.

4-07-02-10. Probationary increase.

An appointing authority may grant an increase of up to five percent upon an employee's successful completion of a probationary period. The size of the increase may vary depending on factors that include performance, internal equity, and budget appropriations.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-11. Responsibility level or workload increase.

An appointing authority may grant a responsibility level or workload salary increase if all of the following requirements are met:

1. The increase does not exceed twenty percent per biennium for an employee.
2. Consideration is given to the effect granting the increase would have on internal equity.
3. The change in workload or responsibility is documented and on file within the agency.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-12. Reclassification adjustment.

An appointing authority may make an adjustment to a salary as a result of a reclassification according to the following:

1. If the pay grade is higher following a reclassification action, then an increase up to five percent above the minimum of the new salary range may be provided. The salary must be at least equivalent to the minimum of the new salary range.
2. If the pay grade is lower following a reclassification action, then either of the following apply:
 - a. The employee's salary may remain the same if it is within the lower salary range.
 - b. The employee's salary may be reduced to within the lower range to equitably relate to the salaries of other employees in the same or related classes.
3. If the employee's salary is above the maximum of the salary range for the new job grade, then either of the following apply:
 - a. The salary of the employee may remain above the new maximum when the reclassification is a result of a program change, a reorganization, or is a result of a management need not associated with the employee's performance. The salary may remain above the maximum as long as the employee remains in the classification. No further increases in salary may be granted the employee as long as the salary remains above the maximum, except those legislatively authorized.
 - b. The salary must be reduced at least to the maximum of the new range if the lower classification results from the removal of duties and responsibilities from the employee as a result of substandard performance or for disciplinary reasons.

4. If the pay grade is not changed, no salary adjustment shall be made.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-07, 54-44.3-12(7)

4-07-02-13. Promotional increase.

An appointing authority may grant a salary increase when an employee is promoted, if all of the following requirements are met:

1. The employee must be paid at least the minimum of the new salary range.
2. Consideration must be given to the internal salary relationships that would exist in the agency if the increase were to be given.
3. The magnitude of the change in jobs is considered.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-14. Performance increase.

An appointing authority may grant an increase for performance if all of the following requirements are met:

1. A proper performance appraisal process is used by the agency pursuant to chapter 4-07-10.
2. The increase does not exceed five percent in any twelve-month period for an employee.
3. Consideration is given to internal salary equity of other agency employees.

History: Effective March 1, 1991; amended effective November 1, 1996.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-15. Equity increase.

An appointing authority may grant an equity increase if all of the following requirements are met:

1. The increase does not exceed twenty percent per biennium for an employee.
2. At the time the increase is granted, documentation must be submitted to human resource management services that includes all of the following:
 - a. A definition of the inequity.
 - b. An explanation of what created the inequity.
 - c. A statement that an additional inequity will not result.
 - d. The relevant available market data in cases of external equity.
3. The agency must consider the overall relationship of state employees' salaries to market salaries and avoid creating internal inequities.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-16. Temporary increase.

An appointing authority may grant a temporary increase if all of the following requirements are met:

1. An increase may not be given for a temporary situation of less than thirty days.
2. An employee may not continue to receive a temporary increase for more than thirty days after the special circumstances ceased to exist.
3. Consideration is given to the magnitude of the change in responsibility level.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-17. Adjustment following assignment to a lower pay grade.

When an employee is assigned to a position at a lower pay grade, and the employee's salary is above the maximum of the new grade, then either of the following may result:

1. The salary may remain above the new maximum when the assignment results from a program change, reorganization, or other management need not associated with the employee's performance. No further increases may be granted as long as the salary remains above the maximum.
2. The salary may be reduced to at least the maximum of the new range if the assignment resulted from substandard performance or other disciplinary reasons.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-18. Bonuses.

A recruitment, retention, or performance bonus may be provided according to North Dakota Century Code chapters 54-06-30 and 54-06-31.

History: Effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-06-31, 54-44.3-12(1)

4-07-02-19. Recruitment bonus.

A recruitment bonus may be provided by an agency if the employee receiving the bonus was not employed by a state agency immediately preceding employment with the hiring agency, except when a recruitment bonus is provided to an employee for a referral program outlined in the agency's recruitment policy. If application of this rule would result in significant impact on the agency or negative fiscal consequences to the state, an exception may be sought under section 4-07-02-06.

History: Effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-06-31, 54-44.3-12(1)

4-07-02-20. Retention bonus.

A retention bonus may be given as an incentive to retain an employee in state government unless the employee is leaving to work for another state agency. If application of this rule would result in significant impact on the agency or negative fiscal consequences to the state, an exception may be sought under section 4-07-02-06.

History: Effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-06-31, 54-44.3-12(1)

4-07-02-21. Performance bonus.

~~Repealed effective April 1, 2020. Human resource management services may approve performance bonuses above the [twenty-five percent limitation](#) in subsection 4 of North Dakota Century Code section 54-06-30 upon a showing of special circumstances. Agencies must request, in writing, approval from the director or designee of human resource management services by documenting the special circumstances, which may include:-~~

- ~~1.—Instances of exceptional performance by employees in the face of a major disaster;~~
- ~~2.—Instances of exceptional performance by employees as a result of federal or state program initiatives; or~~
- ~~3.—Instances of exceptional performance by a team of employees.~~

~~History: Effective July 1, 2010.~~

~~General Authority: NDCC 54-44.3-12~~

~~Law Implemented: NDCC 54-06-30~~

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4-07-02-10	Probationary Increase
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4-07-02-19	Recruitment Bonus
4-07-02-20	Retention Bonus
4-07-02-21	Performance Bonus [Repealed]

4-07-02-01. Definitions.

The terms used throughout this title have the same meaning as in North Dakota Century Code chapter 54-44.3, and sections 54-06-30 and 54-06-31, except:

1. "Appointing authority" has the same meaning as provided in North Dakota Century Code section 54-44.3-02.
2. "Class" or "classification" means a group of positions, regardless of location, which are enough alike in duties and responsibilities to be called by the same descriptive title, to be given the same pay range under similar conditions, and to require substantially the same qualifications.
3. "Classification plan" means the listing of all the classes that have been established, the description for those classes, and the process and procedures developed to maintain the plan.
4. "Equity increase" means a salary increase provided to a classified employee to mitigate either a serious internal agency inequity or a documented external market condition.
5. "General salary increase" means a salary increase provided to classified employees by specific legislative appropriation.
6. "Hiring rate" means the salary level assigned to an employee upon initial employment with an agency.
7. "Job evaluation committee" is the committee responsible to evaluate, maintain, and ensure the consistency of job evaluations of the North Dakota classification system. The job evaluation committee shall be made up of professional human resource staff from human resource management services and state agencies designated by the director of human resource management services.

8. "Pay grade" means the number assigned to a classification which corresponds with one specific range of pay rates.
9. "Performance increase" means a salary increase provided to a classified employee in recognition of documented performance which is consistently superior or which consistently exceeds performance standards.
10. "Probationary increase" means a salary increase provided to a classified employee upon the successful completion of their applicable probationary period.
11. "Promotional increase" means a salary increase provided to a classified employee when the employee is assigned to a position in a different class which has a higher pay grade than the employee's previous position, and the assignment is not a result of a reclassification of the employee's position.
12. "Reclassification adjustment" means a salary change applied to a classified employee when the employee's position is reallocated to a different classification that has a different pay grade.
13. "Responsibility level or workload increase" means a salary increase provided to a classified employee when either of the following conditions are met:
 - a. The level of duties and responsibilities assigned to the employee is permanently changed, is documented, and is independent of any change in classification.
 - b. A substantial, documented, increase in workload is assigned to a position.
14. "Salary range" means the range of pay rates, from minimum to maximum that are assigned to a pay grade, and which are often divided into quartiles for reference.
15. "Temporary increase" means a salary increase provided to a classified employee when the employee is assigned temporarily to perform a higher level of responsibilities on an acting or interim basis.

History: Effective March 1, 1991; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(1), 54-44.3-12(7)

4-07-02-02. Scope of chapter.

This chapter applies to all state agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services, except those agencies headed by an elected official, and except those institutions in the university system. Elected officials and institutions in the university system may, at their option, agree to the application of chapter 4-07-02 to their specific agency. Sections 4-07-02-05, 4-07-02-06, 4-07-02-12, and 4-07-02-17 apply to local government agencies that employ individuals in positions classified by human resource management services.

History: Effective March 1, 1991; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(1), 54-44.3-12(7)

4-07-02-03. Purpose of chapter.

The purpose of this chapter is to ensure that the salaries of classified employees are paid in a manner consistent with the state's classification plan, its compensation plan, and its salary administration policy.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(1), 54-44.3-12(7)

4-07-02-04. Relationship to available funds.

All salary actions under this chapter are subject to the availability of appropriated funds. No person may take a salary action under this chapter if it were to cause an agency to exceed its budget authorization.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(1), 54-44.3-12(7), 54-44.3-12.1, 54-44.3-15

4-07-02-05. Salaries must be within the assigned salary range.

Human resource management services shall assign a pay grade and a salary range to each approved class in the classification plan. Unless otherwise provided by human resource management services, the salary level of a classified employee must be within the assigned salary range.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(1), 54-44.3-12(7), 54-44.3-15

4-07-02-06. Exceptions.

Exceptions to the requirements of chapter 4-07-02 normally require prior written approval from the director of human resource management services. In emergency situations exceptions may be provided verbally. Appointing authorities shall describe their justification for the exception and the impact that denying the exception would have on the agency or the state. Written documentation in justification of the exception must be provided by the appointing authority at the earliest practical time following a verbal approval.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12(1), 54-44.3-12(7)

4-07-02-07. General salary increase.

A general salary increase must be provided in accordance with any specific guidelines or requirements as appropriated by the legislative assembly.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-08. Hiring rate.

When establishing an entry salary, an appointing authority should consider the employee's job-related qualifications, the agency's ability to recruit qualified employees, the overall relationship of state employees' salaries to market salaries, and internal equity with existing employees' salaries. In determining a starting salary for an applicant who is a current employee of another state agency, an appointing authority should also consider equity between state agencies.

History: Effective March 1, 1991; amended effective July 1, 2004, amended April 1, 2020.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-09. Documents needed for hiring rate above the first quartile.

Repealed effective July 1, 2004.

4-07-02-10. Probationary increase.

An appointing authority may grant an increase of up to five percent upon an employee's successful completion of a probationary period. The size of the increase may vary depending on factors that include performance, internal equity, and budget appropriations.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-11. Responsibility level or workload increase.

An appointing authority may grant a responsibility level or workload salary increase if all of the following requirements are met:

1. The increase does not exceed twenty percent per biennium for an employee.
2. Consideration is given to the effect granting the increase would have on internal equity.
3. The change in workload or responsibility is documented and on file within the agency.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-12. Reclassification adjustment.

An appointing authority may make an adjustment to a salary as a result of a reclassification according to the following:

1. If the pay grade is higher following a reclassification action, then an increase up to five percent above the minimum of the new salary range may be provided. The salary must be at least equivalent to the minimum of the new salary range.
2. If the pay grade is lower following a reclassification action, then either of the following apply:
 - a. The employee's salary may remain the same if it is within the lower salary range.
 - b. The employee's salary may be reduced to within the lower range to equitably relate to the salaries of other employees in the same or related classes.
3. If the employee's salary is above the maximum of the salary range for the new job grade, then either of the following apply:
 - a. The salary of the employee may remain above the new maximum when the reclassification is a result of a program change, a reorganization, or is a result of a management need not associated with the employee's performance. The salary may remain above the maximum as long as the employee remains in the classification. No further increases in salary may be granted the employee as long as the salary remains above the maximum, except those legislatively authorized.
 - b. The salary must be reduced at least to the maximum of the new range if the lower classification results from the removal of duties and responsibilities from the employee as a result of substandard performance or for disciplinary reasons.

4. If the pay grade is not changed, no salary adjustment shall be made.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-07, 54-44.3-12(7)

4-07-02-13. Promotional increase.

An appointing authority may grant a salary increase when an employee is promoted, if all of the following requirements are met:

1. The employee must be paid at least the minimum of the new salary range.
2. Consideration must be given to the internal salary relationships that would exist in the agency if the increase were to be given.
3. The magnitude of the change in jobs is considered.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-14. Performance increase.

An appointing authority may grant an increase for performance if all of the following requirements are met:

1. A proper performance appraisal process is used by the agency pursuant to chapter 4-07-10.
2. The increase does not exceed five percent in any twelve-month period for an employee.
3. Consideration is given to internal salary equity of other agency employees.

History: Effective March 1, 1991; amended effective November 1, 1996.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-15. Equity increase.

An appointing authority may grant an equity increase if all of the following requirements are met:

1. The increase does not exceed twenty percent per biennium for an employee.
2. At the time the increase is granted, documentation must be submitted to human resource management services that includes all of the following:
 - a. A definition of the inequity.
 - b. An explanation of what created the inequity.
 - c. A statement that an additional inequity will not result.
 - d. The relevant available market data in cases of external equity.
3. The agency must consider the overall relationship of state employees' salaries to market salaries and avoid creating internal inequities.

History: Effective March 1, 1991; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-16. Temporary increase.

An appointing authority may grant a temporary increase if all of the following requirements are met:

1. An increase may not be given for a temporary situation of less than thirty days.
2. An employee may not continue to receive a temporary increase for more than thirty days after the special circumstances ceased to exist.
3. Consideration is given to the magnitude of the change in responsibility level.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-17. Adjustment following assignment to a lower pay grade.

When an employee is assigned to a position at a lower pay grade, and the employee's salary is above the maximum of the new grade, then either of the following may result:

1. The salary may remain above the new maximum when the assignment results from a program change, reorganization, or other management need not associated with the employee's performance. No further increases may be granted as long as the salary remains above the maximum.
2. The salary may be reduced to at least the maximum of the new range if the assignment resulted from substandard performance or other disciplinary reasons.

History: Effective March 1, 1991.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-01, 54-44.3-12(7)

4-07-02-18. Bonuses.

A recruitment, retention, or performance bonus may be provided according to North Dakota Century Code chapters 54-06-30 and 54-06-31.

History: Effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-06-31, 54-44.3-12(1)

4-07-02-19. Recruitment bonus.

A recruitment bonus may be provided by an agency if the employee receiving the bonus was not employed by a state agency immediately preceding employment with the hiring agency, except when a recruitment bonus is provided to an employee for a referral program outlined in the agency's recruitment policy. If application of this rule would result in significant impact on the agency or negative fiscal consequences to the state, an exception may be sought under section 4-07-02-06.

History: Effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-06-31, 54-44.3-12(1)

4-07-02-20. Retention bonus.

A retention bonus may be given as an incentive to retain an employee in state government unless the employee is leaving to work for another state agency. If application of this rule would result in significant impact on the agency or negative fiscal consequences to the state, an exception may be sought under section 4-07-02-06.

History: Effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-06-31, 54-44.3-12(1)

4-07-02-21. Performance bonus.

Repealed effective April 1, 2020.

CHAPTER 4-07-03
CLASSIFICATION PLAN

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4-07-03-08	An Appointing Authority Shall Consider an Employee's Request [Repealed]
4-07-03-09	A Request for a Classification Review Must Be Submitted for All Positions Affected by a Reassignment [Superseded]
4-07-03-09.1	Human Resource Management Services May Initiate a Classification Review
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4-07-03-10.2	Employee in a Reclassified Position Shall Meet Minimum Qualifications
4-07-03-11	Request for Reconsideration of Classification Decision [Repealed]
4-07-03-12	Grandfathering

4-07-03-01. Scope of chapter.

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12, 54-44.3-20

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3 and section 4-07-02-01.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-03. Official class title.

The official class title must be used to designate positions or employees when entering such information on payroll and personnel records, or in other communications related to human resource administration processes. However, any suitable or working title to designate persons or positions may be used.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-04. Interpretation of class descriptions.

Class descriptions represent the duties typical of the class. Neither an appointing authority nor an employee may interpret class descriptions as restrictive, except for the specified minimum qualification

requirements. The inclusion of particular phrases in the descriptions that list the duties performed may not be interpreted to exclude other duties of a similar kind and quality. An appointing authority may, at any time, require an employee to perform any of the duties that are in the class descriptions or any other appropriate duties.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-05. Classification or reclassification request.

A request to have a position reviewed for classification or reclassification must be submitted by the appointing authority to human resource management services for review, if at least one of the following reasons apply:

1. A new position has been authorized.
2. A significant amount of responsibilities are newly assigned, reassigned, or changed for a position.
3. A position is classified in a class or class series that has been revised and the duties and responsibilities assigned to the position are no longer appropriate to the assigned class or class series.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-06. Information and forms required.

A classification or reclassification request must be submitted to human resource management services using the designated forms with all required information and supplemental documents attached.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-06.1. Certain classification decisions may be delegated.

Human resource management services may delegate to an agency the responsibility for decisions on certain position classification assignments. Decisions are limited to those classes as specified by the division.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12

4-07-03-07. An employee may request a review.

An employee may request that an appointing authority submit the employee's position to human resource management services for review if the employee demonstrates that one of the reasons in section 4-07-03-05 applies to the employee's position. An appointing authority shall consider an employee's request to submit the employee's position to human resource management services for review. The appointing authority shall, within sixty calendar days, determine if any of the reasons in

section 4-07-03-05 apply. If none of the reasons apply, the appointing authority shall notify the employee the request will not be submitted to human resource management services.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-08. An appointing authority shall consider an employee's request.

Repealed effective July 1, 2014.

4-07-03-09. A request for a classification review must be submitted for all positions affected by a reassignment.

Superseded by subsection 2 of section 4-07-03-05 effective November 1, 1996.

4-07-03-09.1. Human resource management services may initiate a classification review.

If human resource management services becomes aware of a potentially inappropriate classification assignment, the division may initiate a classification review and request updated documentation of the position.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12

4-07-03-09.2. Correcting class evaluation interpretation in inconsistencies.

Human resource management services may correct inconsistencies in class evaluations as related evaluation interpretations occur. If revisions result in grade changes, human resource management services shall notify affected employees and appointing authorities of the proposed change and provide an opportunity to submit related documentation. After review of any documentation received, human resource management services shall provide notification as provided in section 4-07-04-09.

History: Effective July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-10. Classification process and notifications.

Upon receipt of a classification or reclassification request, human resource management services shall initiate a review of the position and provide the agency with a classification decision/determination within thirty calendar days, or an additional thirty calendar days if referred to the job evaluation committee is appropriate within sixty calendar days. If human resource management services concurs with the agency request, the classification or reclassification shall be implemented. Human resource management services may also determine that another classification other than the one requested is more appropriate for the position or that none of the existing classifications are appropriate for the position. If human resource management services determines that no none of the existing classifications are appropriate classification currently exists for the position, human resources management services it shall draft an appropriate classification description for evaluation by the job evaluation committee. If the agency or an incumbent employee does not concur with the decision of determination made by either human resource management services or the agency does not concur, human resource management services shall ensure that complete job information is gathered and prepared for presentation to the job evaluation committee for a determination. If the review is not completed within thirty calendar days, or an additional thirty-sixty calendar days if referral to the job evaluation committee is appropriate, the authorized time period, human resource management services shall notify the appointing authority of the reasons for an extension and the anticipated schedule for completion of the review. Human resource management services shall notify the appointing authority and employee in writing of the job evaluation committee's decision within fifteen calendar working days. If either the employee or appointing authority disagrees with the job evaluation committee's decision, an appeal may be made as provided in chapter 59.5-03-02.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1,

2014; April 1, 2020.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-10.1. Effective date of classification assignment.

The effective date of a classification assignment is the date specified by the appointing authority. However, the effective date may not be earlier than the month that in which the reclassification request is approved as provided in pursuant to Section chapter 4-07-03-10 of this chapter. An earlier effective date may be applied with written approval from the director of human resource management services.

History: Effective November 1, 1996; amended April 1, 2020.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-10.2. Employee in a reclassified position shall meet minimum qualifications.

When reclassification of a position is requested, the appointing authority shall ensure that the position incumbent meets the minimum qualifications for the position's new classification. If the employee does not meet the minimum qualifications, the appointing authority shall do one of the following:

1. Assist the employee in attaining the necessary education, training, or experience to meet the qualifications. The employee must meet the qualifications within one year from the effective date of the reclassification.
2. Reassign the employee to a position for which the employee qualifies.
3. Restructure the duties and responsibilities of the reclassified position to return it to a classification for which the employee qualifies.
4. Request review of the class.
5. Take other action to ensure compliance with the minimum qualifications.

History: Effective November 1, 1996.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-11. Request for reconsideration of classification decision.

Repealed effective July 1, 2014.

4-07-03-12. Grandfathering.

When a current employee affected by a class or class series review does not meet new or revised qualifications as stated on the class description, the employee may be grandfathered into that employee's current position at the appropriate job class level without loss of pay or status. The employee must meet minimum qualifications as stated on the class descriptions of subsequent position reclassification actions in accordance with section 4-07-03-10.2.

History: Effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-03 CLASSIFICATION PLAN

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4-07-03-06.1	Certain Classification Decisions May Be Delegated
4-07-03-07	An Employee May Request a Review
4-07-03-08	An Appointing Authority Shall Consider an Employee's Request [Repealed]
4-07-03-09	A Request for a Classification Review Must Be Submitted for All Positions Affected by a Reassignment [Superseded]
4-07-03-09.1	Human Resource Management Services May Initiate a Classification Review
4-07-03-09.2	Correcting Class Evaluation Interpretation Inconsistencies
4-07-03-10	Classification Process and Notifications
4-07-03-10.1	Effective Date of Classification Assignment
4-07-03-10.2	Employee in a Reclassified Position Shall Meet Minimum Qualifications
4-07-03-11	Request for Reconsideration of Classification Decision [Repealed]
4-07-03-12	Grandfathering

4-07-03-01. Scope of chapter.

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12, 54-44.3-20

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3 and section 4-07-02-01.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-03. Official class title.

The official class title must be used to designate positions or employees when entering such information on payroll and personnel records, or in other communications related to human resource administration processes. However, any suitable or working title to designate persons or positions may be used.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-04. Interpretation of class descriptions.

Class descriptions represent the duties typical of the class. Neither an appointing authority nor an employee may interpret class descriptions as restrictive, except for the specified minimum qualification

requirements. The inclusion of particular phrases in the descriptions that list the duties performed may not be interpreted to exclude other duties of a similar kind and quality. An appointing authority may, at any time, require an employee to perform any of the duties that are in the class descriptions or any other appropriate duties.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-05. Classification or reclassification request.

A request to have a position reviewed for classification or reclassification must be submitted by the appointing authority to human resource management services for review, if at least one of the following reasons apply:

1. A new position has been authorized.
2. A significant amount of responsibilities are newly assigned, reassigned, or changed for a position.
3. A position is classified in a class or class series that has been revised and the duties and responsibilities assigned to the position are no longer appropriate to the assigned class or class series.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-06. Information and forms required.

A classification or reclassification request must be submitted to human resource management services using the designated forms with all required information and supplemental documents attached.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-06.1. Certain classification decisions may be delegated.

Human resource management services may delegate to an agency the responsibility for decisions on certain position classification assignments. Decisions are limited to those classes as specified by the division.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12

4-07-03-07. An employee may request a review.

An employee may request that an appointing authority submit the employee's position to human resource management services for review if the employee demonstrates that one of the reasons in section 4-07-03-05 applies to the employee's position. An appointing authority shall consider an employee's request to submit the employee's position to human resource management services for review. The appointing authority shall, within sixty calendar days, determine if any of the reasons in

section 4-07-03-05 apply. If none of the reasons apply, the appointing authority shall notify the employee the request will not be submitted to human resource management services.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-08. An appointing authority shall consider an employee's request.

Repealed effective July 1, 2014.

4-07-03-09. A request for a classification review must be submitted for all positions affected by a reassignment.

Superseded by subsection 2 of section 4-07-03-05 effective November 1, 1996.

4-07-03-09.1. Human resource management services may initiate a classification review.

If human resource management services becomes aware of a potentially inappropriate classification assignment, the division may initiate a classification review and request updated documentation of the position.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12

4-07-03-09.2. Correcting class evaluation interpretation in inconsistencies.

Human resource management services may correct inconsistencies in class evaluations as related evaluation interpretations occur. If revisions result in grade changes, human resource management services shall notify affected employees and appointing authorities of the proposed change and provide an opportunity to submit related documentation. After review of any documentation received, human resource management services shall provide notification as provided in section 4-07-04-09.

History: Effective July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-10. Classification process and notifications.

Upon receipt of a classification or reclassification request, human resource management services shall initiate a review of the position and provide the agency with a determination within thirty calendar days or if referred to the job evaluation committee within sixty calendar days. If human resource management services concurs with the agency request, the classification or reclassification shall be implemented. Human resource management services may also determine that another classification is more appropriate for the position or that none of the existing classifications are appropriate for the position. If human resource management services determines that none of the existing classifications are appropriate for the position, human resource management services shall draft an appropriate classification description for evaluation by the job evaluation committee. If the agency or employee does not agree with the determination made by human resource management services, human resource management services shall ensure the complete job information is gathered and prepared for presentation to the job evaluation committee for a determination. If the review is not completed within the authorized time period, human resource management services shall notify the appointing authority of the reasons for an extension and the anticipated schedule for completion of the review. Human resource management services shall notify the appointing authority and employee in writing of the job evaluation committee's decision within fifteen calendar days. If either the employee or appointing authority disagrees with the job evaluation committee's decision, an appeal may be made as provided

in chapter 59.5-03-02.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014; April 1, 2020

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-10.1. Effective date of classification assignment.

The effective date of a classification assignment is the date specified by the appointing authority. However, the effective date may not be earlier than the month in which the reclassification request is approved pursuant to Section 10 of this chapter. An earlier effective date may be applied with written approval from the director of human resource management services.

History: Effective November 1, 1996; amended April 1, 2020

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-10.2. Employee in a reclassified position shall meet minimum qualifications.

When reclassification of a position is requested, the appointing authority shall ensure that the position incumbent meets the minimum qualifications for the position's new classification. If the employee does not meet the minimum qualifications, the appointing authority shall do one of the following:

1. Assist the employee in attaining the necessary education, training, or experience to meet the qualifications. The employee must meet the qualifications within one year from the effective date of the reclassification.
2. Reassign the employee to a position for which the employee qualifies.
3. Restructure the duties and responsibilities of the reclassified position to return it to a classification for which the employee qualifies.
4. Request review of the class.
5. Take other action to ensure compliance with the minimum qualifications.

History: Effective November 1, 1996.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12(1)

4-07-03-11. Request for reconsideration of classification decision.

Repealed effective July 1, 2014.

4-07-03-12. Grandfathering.

When a current employee affected by a class or class series review does not meet new or revised qualifications as stated on the class description, the employee may be grandfathered into that employee's current position at the appropriate job class level without loss of pay or status. The employee must meet minimum qualifications as stated on the class descriptions of subsequent position reclassification actions in accordance with section 4-07-03-10.2.

History: Effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-04 COMPENSATION PLAN

Section	
4-07-04-01	Scope of Chapter
4-07-04-02	Definitions
4-07-04-03	Class Evaluation Process
4-07-04-03.1	Correcting Class Evaluation Interpretation Inconsistencies [Repealed]
4-07-04-04	A Written Request to Review a Pay Grade
4-07-04-05	Additional Information Required
4-07-04-06	Information and Forms Required [Repealed]
4-07-04-07	An Employee May Request a Review
4-07-04-08	An Appointing Authority Shall Consider an Employee's Request [Repealed]
4-07-04-09	Pay Grade Review Process, Pay Grade Exceptions, and Notification
4-07-04-09.1	Effective Date of Pay Grade Assignment
4-07-04-09.2	Request for Reconsideration of Pay Grade Assignment [Repealed]
4-07-04-10	Pay Grade Appeal to the Director [Superseded]
4-07-04-11	Pay Grade Exception [Repealed]
4-07-04-12	Periodic Review

4-07-04-01. Scope of chapter.

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

4-07-04-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3 and section 4-07-02-01, except "compensation plan" means the listing of all the pay grades used in the classified service and the pay ranges assigned to each grade.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-04-03. Class evaluation process.

The director, human resource management services, shall develop, implement, and maintain a class evaluation process to evaluate and assign an appropriate pay grade to all classes in the classification plan.

History: Effective September 1, 1992; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-04-03.1. Correcting class evaluation interpretation inconsistencies.

Repealed effective July 1, 2014.

4-07-04-04. A written request to review a pay grade.

A written request to review a pay grade may be submitted to human resource management services by the appointing authority only if one of the following reasons apply:

1. The appointing authority is experiencing recruiting problems due to the assigned pay grade.
2. The appointing authority is experiencing retention problems due to the assigned pay grade.
3. The appointing authority can provide employment market data that shows an extreme variance between market pay and the classified salary range.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-04-05. Additional information required.

An appointing authority requesting a pay grade review shall furnish additional information to human resource management services at the time the request is made. The additional information must include:

1. A statement of the problem.
2. Up-to-date job description questionnaires.
3. Any available statistical data that relates to the problem encountered, i.e., turnover rate, recruiting costs, training costs, etc.
4. Details of efforts to resolve the problem through alternative methods.
5. Any available analysis of the current use of the salary range assigned to the existing pay grade.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-04-06. Information and forms required.

Repealed effective July 1, 2004.

4-07-04-07. An employee may request a review.

An employee may request that an appointing authority submit the pay grade assigned to the employee's class to human resource management services for review if the employee demonstrates that one of the reasons in section 4-07-04-04 applies to the employee's classification. An appointing authority shall consider an employee's request to submit the pay grade assigned to the employee's class to human resource management services for review. The appointing authority shall, within sixty calendar days, determine if any of the reasons in section 4-07-04-04 apply and if the information required in section 4-07-04-05 is available. If any of the reasons apply and if the information is available, the appointing authority shall submit the request to human resource management services for review. If none of the reasons apply, the appointing authority shall notify the employee the request will not be submitted to human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12(1)

4-07-04-08. An appointing authority shall consider an employee's request.

Repealed effective July 1, 2014.

4-07-04-09. Pay grade review process, pay grade exceptions, and notifications.

Upon receipt of a pay grade review request, human resource management services will initiate review of the pay grade or classification as appropriate. Human resource management services will ensure that complete job and statistical information is gathered and prepared for presentation to the job evaluation committee for determination. Human resource management services and the job evaluation committee may assign a pay grade that is higher than that determined by the application of the class evaluation system. This may be done when the pay grade assigned to a class has not resolved significant problems in the recruiting or retention of qualified individuals for a class. When a pay grade exception is assigned to a class, the grade must be identified as such and the appointing authority and all employees in the class must be notified. If the review is not completed within sixty calendar days, human resource management services will notify the appointing authority of the reasons for an extension and the anticipated schedule for completion of the review. If either the employee or appointing authority disagree with the job evaluation committee's decision, an appeal may be made as provided in chapter 59.5-03-02.1.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014; April 1, 2020.

General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12(1)

4-07-04-09.1. Effective date of pay grade assignment.

The effective date of a pay grade assignment is the date specified by the appointing authority. However, the date may not be earlier than the month that in which the change is approved as provided in pursuant to Section 9 of this chapter chapter 4-07-04-09. An earlier effective date may be applied with written approval from the director of human resource management services.

History: Effective November 1, 1996; amended April 1, 2020.

General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12(1)

4-07-04-09.2. Request for reconsideration of pay grade assignment.

Repealed effective July 1, 2014.

4-07-04-10. Pay grade appeal to the director.

Superseded by section 4-07-04-09.2 effective November 1, 1996.

4-07-04-11. Pay grade exception.

Repealed effective July 1, 2014.

4-07-04-12. Periodic review.

Classes assigned a pay grade exception are subject to periodic review by human resource management services. Such classes shall be reviewed no less than once every five years to verify the appropriateness of the assigned pay grade. The director, human resource management services, shall notify the respective appointing authorities and all employees in the class that a review is being conducted. The appointing authority and employees may submit information for the review.

History: Effective May 1, 1994; amended effective July 1, 2004.
General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-04 COMPENSATION PLAN

Section

4-07-04-01	Scope of Chapter
4-07-04-02	Definitions
4-07-04-03	Class Evaluation Process
4-07-04-03.1	Correcting Class Evaluation Interpretation Inconsistencies [Repealed]
4-07-04-04	A Written Request to Review a Pay Grade
4-07-04-05	Additional Information Required
4-07-04-06	Information and Forms Required [Repealed]
4-07-04-07	An Employee May Request a Review
4-07-04-08	An Appointing Authority Shall Consider an Employee's Request [Repealed]
4-07-04-09	Pay Grade Review Process, Pay Grade Exceptions, and Notification
4-07-04-09.1	Effective Date of Pay Grade Assignment
4-07-04-09.2	Request for Reconsideration of Pay Grade Assignment[Repealed]
4-07-04-10	Pay Grade Appeal to the Director [Superseded]
4-07-04-11	Pay Grade Exception [Repealed]
4-07-04-12	Periodic Review

4-07-04-01. Scope of chapter.

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

4-07-04-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3 and section 4-07-02-01, except "compensation plan" means the listing of all the pay grades used in the classified service and the pay ranges assigned to each grade.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-04-03. Class evaluation process.

The director, human resource management services, shall develop, implement, and maintain a class evaluation process to evaluate and assign an appropriate pay grade to all classes in the classification plan.

History: Effective September 1, 1992; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-04-03.1. Correcting class evaluation interpretation inconsistencies.

Repealed effective July 1, 2014.

4-07-04-04. A written request to review a pay grade.

A written request to review a pay grade may be submitted to human resource management services by the appointing authority only if one of the following reasons apply:

1. The appointing authority is experiencing recruiting problems due to the assigned pay grade.
2. The appointing authority is experiencing retention problems due to the assigned pay grade.
3. The appointing authority can provide employment market data that shows an extreme variance between market pay and the classified salary range.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-04-05. Additional information required.

An appointing authority requesting a pay grade review shall furnish additional information to human resource management services at the time the request is made. The additional information must include:

1. A statement of the problem.
2. Up-to-date job description questionnaires.
3. Any available statistical data that relates to the problem encountered, i.e., turnover rate, recruiting costs, training costs, etc.
4. Details of efforts to resolve the problem through alternative methods.
5. Any available analysis of the current use of the salary range assigned to the existing pay grade.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-04-06. Information and forms required.

Repealed effective July 1, 2004.

4-07-04-07. An employee may request a review.

An employee may request that an appointing authority submit the pay grade assigned to the employee's class to human resource management services for review if the employee demonstrates that one of the reasons in section 4-07-04-04 applies to the employee's classification. An appointing authority shall consider an employee's request to submit the pay grade assigned to the employee's class to human resource management services for review. The appointing authority shall, within sixty calendar days, determine if any of the reasons in section 4-07-04-04 apply and if the information required in section 4-07-04-05 is available. If any of the reasons apply and if the information is available, the appointing authority shall submit the request to human resource management services for review. If none of the reasons apply, the appointing authority shall notify the employee the request will not be submitted to human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12(1)

4-07-04-08. An appointing authority shall consider an employee's request.

Repealed effective July 1, 2014.

4-07-04-09. Pay grade review process, pay grade exceptions, and notifications.

Upon receipt of a pay grade review request, human resource management services will initiate review of the pay grade or classification as appropriate. Human resource management services will ensure that complete job and statistical information is gathered and prepared for presentation to the job evaluation committee for determination. Human resource management services and the job evaluation committee may assign a pay grade that is higher than that determined by the application of the class evaluation system. This may be done when the pay grade assigned to a class has not resolved significant problems in the recruiting or retention of qualified individuals for a class. When a pay grade exception is assigned to a class, the grade must be identified as such and the appointing authority and all employees in the class must be notified. If the review is not completed within sixty calendar days, human resource management services will notify the appointing authority of the reasons for an extension and the anticipated schedule for completion of the review. If either the employee or appointing authority disagree with the job evaluation committee's decision, an appeal may be made as provided in chapter 59.5-03-02.1.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004; July 1, 2014; April 1, 2020

General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12(1)

4-07-04-09.1. Effective date of pay grade assignment.

The effective date of a pay grade assignment is the date specified by the appointing authority. However, the date may not be earlier than the month in which the change is approved pursuant to Section 9 of this chapter. An earlier effective date may be applied with written approval from the director of human resource management services.

History: Effective November 1, 1996; amended April 1, 2020

General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12(1)

4-07-04-09.2. Request for reconsideration of pay grade assignment.

Repealed effective July 1, 2014.

4-07-04-10. Pay grade appeal to the director.

Superseded by section 4-07-04-09.2 effective November 1, 1996.

4-07-04-11. Pay grade exception.

Repealed effective July 1, 2014.

4-07-04-12. Periodic review.

Classes assigned a pay grade exception are subject to periodic review by human resource management services. Such classes shall be reviewed no less than once every five years to verify the appropriateness of the assigned pay grade. The director, human resource management services, shall notify the respective appointing authorities and all employees in the class that a review is being

conducted. The appointing authority and employees may submit information for the review.

History: Effective May 1, 1994; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-05
RECRUITMENT AND SELECTION

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4-07-05-09	Vacancy Announcement Requirements

4-07-05-01. Scope of chapter.

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-01.1. Definitions.

The terms used throughout this chapter have the same meaning as those in North Dakota Century Code chapter 54-44.3, except:

1. "Closing date" means a date by which applications must be received or postmarked as specified.
2. "External recruiting" means that applications for filling a vacant position under an appointing authority shall be accepted from current employees of the appointing authority and persons not employed by the appointing authority.
3. "Internal recruiting" means that applications for filling a vacant position under an appointing authority shall only be accepted from current employees of the appointing authority and employees eligible for reinstatement by the appointing authority.
4. "Promotion" means a personnel action that results in the advancement of an employee to a position in a different class that has a higher pay grade than the employee's previous position.
5. "Regular employee" means a person who has completed the probationary period and who is or was in a position classified by human resource management services at the time the personnel action occurs.
6. "Reinstatement" means a personnel action that involves the reemployment of a previous employee of the appointing authority, who resigned or was separated while in good standing in a classified position.

7. "Transfer" means a personnel action that results in the reassignment of an employee from one position to a different position that has the same pay grade as the employee's previous position and that does not result in a break in service.
8. ~~"Underfill" means to fill a classified position by employing, promoting, reinstating, or transferring an individual into a classified position at a lower class than originally announced.~~
9. "Vacancy announcement" means an announcement that a particular position is vacant and that the appointing authority intends to recruit to fill it.

History: Effective July 1, 1995; amended effective November 1, 1996; July 1, 2004; April 1, 2020.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-02. Promotion.

An appointing authority may promote a regular or probationary employee to fill a vacant classified position in accordance with section 4-07-05-05.1.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-02.1. Reinstatement.

An appointing authority may reinstate a former employee who was hired through a competitive process and who has successfully completed a required probationary period to fill a vacant position. The reinstatement must be effective within three years from the date of the employee's separation.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-02.2. Transfer.

An appointing authority may transfer a regular or probationary employee from one classified position to another classified position in accordance with section 4-07-05-05.1.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-03. Minimum qualifications.

Except as provided in section 4-07-05-06, an appointing authority may employ, promote, reinstate, or transfer a person into or to a position in the classified service provided that person possesses qualifications that at least meet the minimum qualifications for that class as stated in the class descriptions and successfully completes any examination requirement specified by the appointing authority.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-04. Notifying human resource management services.

An appointing authority shall notify human resource management services of each vacant classified, nontemporary position that the appointing authority intends to fill through external

recruitment. The notification must be submitted prior to beginning the recruiting effort and may be in the form of a completed vacancy announcement, letter, or memo and transmitted electronically or by mail. An appointing authority that lists vacancies with job service North Dakota need not provide notification to human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-05. External recruiting.

When an appointing authority proceeds to fill a vacant classified, nontemporary position through external recruiting, the appointing authority shall ensure that the public has the opportunity to know of and apply for the position. Additionally, the appointing authority shall select the applicant for appointment on the basis of the applicant's job-related qualifications for the position.

History: Effective September 1, 1992; amended effective November 1, 1996.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-05.1. Internal recruiting.

When an appointing authority proceeds to fill a vacant classified, nontemporary position by recruiting within its agency, the appointing authority shall ensure that all employees occupying classified positions of the appointing authority or within the specified work units have the opportunity to know of and apply for the position. An appointing authority may specify a work unit or work units within the agency from which applicants may be considered. However, there is no requirement for a vacancy announcement when the transfer of an employee to a vacant position is necessary to provide a reasonable accommodation for an employee under the Americans with Disabilities Act, or to avoid a reduction-in-force during a reorganization.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-05.2. Temporary employees and interns.

An appointing authority may consider a current temporary employee or individual who has completed an approved internship with the agency as an internal applicant provided the applicant meets the following requirements:

1. A temporary employee must have been selected on an open and competitive basis at the time of employment to the current temporary position with the agency.
2. An intern must have completed a documented internship with the agency within a two-year period immediately prior to the employment date.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

4-07-05-06. ~~Underfill~~ Alternative classification.

When no fully qualified candidates are available after an internal or external recruiting effort, an appointing authority may apply an alternative classification when filling~~underfill~~ a position if each of the following requirements are met:

1. The hiring authority must include clear language in the position announcement that an alternative classification may be considered and explaining what circumstances will justify an alternative classification.~~duration of the underfill does not exceed two years. If special circumstances require a period exceeding two years, an appointing authority shall request written approval from human resource management services.~~
2. The alternative classification must be one for which human resource management services has either granted specific prior approval for use in the position announcement or has given provided delegated authority for position classification assignments to the agency as provided in section pursuant to 4-07-03-06.1.
3. The applicant selected possesses the appropriate license or meets other applicable statutory requirements.

History: Effective July 1, 1995; amended effective November 1, 1996; July 1, 2004; April 1, 2020.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

4-07-05-07. Veterans' preference.

Veterans' preference must be applied in the recruitment and selection of employees in accordance with North Dakota Century Code chapter 37-19.1.

History: Effective November 1, 1996; amended January 1, 2012.

General Authority: NDCC 54-44.3

Law Implemented: NDCC 37-19.1, 54-44.3-23

4-07-05-08. Vacancy announcement contents.

Each vacancy announcement must include the following information:

1. Class or working title.
2. Position number for (internal use only).
3. Salary or projected hiring range.
4. Closing date.
5. Duty location of position (city).
6. Procedures for applying.
7. Summary of work.
8. Minimum qualifications and special requirements.
9. Whether recruitment is internal or external.
10. Status:
 - a. Full time or part time; and
 - b. Regular or temporary.
11. If a position is exempt from veterans' preference, the advertisement must state that veterans' preference does not apply to the position being advertised.

Additional preferred qualifications may be listed on the vacancy announcement at the discretion of the appointing authority, or a reference to the position description may be made.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008; January 1, 2012.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 37-19.1-02(4), 54-44.3-12

4-07-05-09. Vacancy announcement requirements.

1. A vacancy announcement may not contain minimum qualifications that are less than the established minimum qualifications on the class description, but it may contain more specific requirements.
2. When advertising for required education on a vacancy announcement, an appointing authority may:
 - a. Narrow the range of appropriate degrees.
 - b. Specify the additional training or experience needed for working in an upper level of a class series.
3. An appointing authority shall define the type and length of experience that substitutes for a college degree, if a substitution statement is used in the minimum qualifications of the class description.
4. An appointing authority wishing to consider applicants for an alternative classification~~underfill~~ in the initial vacancy announcement shall indicate such and state the required minimum qualifications for the alternative classification~~underfill~~.

History: Effective November 1, 1996; amended effective July 1, 2004; April 1, 2020.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

CHAPTER 4-07-05 RECRUITMENT AND SELECTION

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4-07-05-09	Vacancy Announcement Requirements

4-07-05-01. Scope of chapter.

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-01.1. Definitions.

The terms used throughout this chapter have the same meaning as those in North Dakota Century Code chapter 54-44.3, except:

1. "Closing date" means a date by which applications must be received or postmarked as specified.
2. "External recruiting" means that applications for filling a vacant position under an appointing authority shall be accepted from current employees of the appointing authority and persons not employed by the appointing authority.
3. "Internal recruiting" means that applications for filling a vacant position under an appointing authority shall only be accepted from current employees of the appointing authority and employees eligible for reinstatement by the appointing authority.
4. "Promotion" means a personnel action that results in the advancement of an employee to a position in a different class that has a higher pay grade than the employee's previous position.
5. "Regular employee" means a person who has completed the probationary period and who is or was in a position classified by human resource management services at the time the personnel action occurs.
6. "Reinstatement" means a personnel action that involves the reemployment of a previous employee of the appointing authority, who resigned or was separated while in good standing in a classified position.

7. "Transfer" means a personnel action that results in the reassignment of an employee from one position to a different position that has the same pay grade as the employee's previous position and that does not result in a break in service.
8. "Vacancy announcement" means an announcement that a particular position is vacant and that the appointing authority intends to recruit to fill it.

History: Effective July 1, 1995; amended effective November 1, 1996; July 1, 2004; April 1, 2020

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-02. Promotion.

An appointing authority may promote a regular or probationary employee to fill a vacant classified position in accordance with section 4-07-05-05.1.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-02.1. Reinstatement.

An appointing authority may reinstate a former employee who was hired through a competitive process and who has successfully completed a required probationary period to fill a vacant position. The reinstatement must be effective within three years from the date of the employee's separation.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-02.2. Transfer.

An appointing authority may transfer a regular or probationary employee from one classified position to another classified position in accordance with section 4-07-05-05.1.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-03. Minimum qualifications.

Except as provided in section 4-07-05-06, an appointing authority may employ, promote, reinstate, or transfer a person into or to a position in the classified service provided that person possesses qualifications that at least meet the minimum qualifications for that class as stated in the class descriptions and successfully completes any examination requirement specified by the appointing authority.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-04. Notifying human resource management services.

An appointing authority shall notify human resource management services of each vacant classified, nontemporary position that the appointing authority intends to fill through external

recruitment. The notification must be submitted prior to beginning the recruiting effort and may be in the form of a completed vacancy announcement, letter, or memo and transmitted electronically or by mail. An appointing authority that lists vacancies with job service North Dakota need not provide notification to human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-05. External recruiting.

When an appointing authority proceeds to fill a vacant classified, nontemporary position through external recruiting, the appointing authority shall ensure that the public has the opportunity to know of and apply for the position. Additionally, the appointing authority shall select the applicant for appointment on the basis of the applicant's job-related qualifications for the position.

History: Effective September 1, 1992; amended effective November 1, 1996.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-05.1. Internal recruiting.

When an appointing authority proceeds to fill a vacant classified, nontemporary position by recruiting within its agency, the appointing authority shall ensure that all employees occupying classified positions of the appointing authority or within the specified work units have the opportunity to know of and apply for the position. An appointing authority may specify a work unit or work units within the agency from which applicants may be considered. However, there is no requirement for a vacancy announcement when the transfer of an employee to a vacant position is necessary to provide a reasonable accommodation for an employee under the Americans with Disabilities Act, or to avoid a reduction-in-force during a reorganization.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-05-05.2. Temporary employees and interns.

An appointing authority may consider a current temporary employee or individual who has completed an approved internship with the agency as an internal applicant provided the applicant meets the following requirements:

1. A temporary employee must have been selected on an open and competitive basis at the time of employment to the current temporary position with the agency.
2. An intern must have completed a documented internship with the agency within a two-year period immediately prior to the employment date.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

4-07-05-06. Alternative classification.

When no fully qualified candidates are available after an internal or external recruiting effort, an appointing authority may apply an alternative classification when filling a position if each of the following requirements are met:

1. The hiring authority must include clear language in the position announcement that an alternative classification may be considered and explaining what circumstances will justify an alternative classification.
2. The alternative classification must be one for which human resource management services has either granted specific prior approval for use in the position announcement or has provided delegated authority for position classification assignments to the agency as pursuant to 4-07-03-06.1.
3. The applicant selected possesses the appropriate license or meets other applicable statutory requirements.

History: Effective July 1, 1995; amended effective November 1, 1996; July 1, 2004; April 1, 2020.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

4-07-05-07. Veterans' preference.

Veterans' preference must be applied in the recruitment and selection of employees in accordance with North Dakota Century Code chapter 37-19.1.

History: Effective November 1, 1996; amended January 1, 2012.

General Authority: NDCC 54-44.3

Law Implemented: NDCC 37-19.1, 54-44.3-23

4-07-05-08. Vacancy announcement contents.

Each vacancy announcement must include the following information:

1. Class or working title.
2. Position number (for internal use only.)
3. Salary or projected hiring range.
4. Closing date.
5. Duty location of position (city).
6. Procedures for applying.
7. Summary of work.
8. Minimum qualifications and special requirements.
9. Whether recruitment is internal or external.
10. Status:
 - a. Full time or part time; and
 - b. Regular or temporary.
11. If a position is exempt from veterans' preference, the advertisement must state that veterans' preference does not apply to the position being advertised.

Additional preferred qualifications may be listed on the vacancy announcement at the discretion of the appointing authority, or a reference to the position description may be made.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008; January 1, 2012.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 37-19.1-02(4), 54-44.3-12

4-07-05-09. Vacancy announcement requirements.

1. A vacancy announcement may not contain minimum qualifications that are less than the established minimum qualifications on the class description, but it may contain more specific requirements.
2. When advertising for required education on a vacancy announcement, an appointing authority may:
 - a. Narrow the range of appropriate degrees.
 - b. Specify the additional training or experience needed for working in an upper level of a class series.
3. An appointing authority shall define the type and length of experience that substitutes for a college degree, if a substitution statement is used in the minimum qualifications of the class description.
4. An appointing authority wishing to consider applicants for an alternative classification in the initial vacancy announcement shall indicate such and state the required minimum qualifications for the alternative classification.

History: Effective November 1, 1996; amended effective July 1, 2004; April 1, 2020.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

CHAPTER 4-07-13
SICK LEAVE

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4-07-13-10	Temporary Employment
4-07-13-11	Sick Leave and Reemployment
4-07-13-12	Assumption of Accrued Sick Leave

4-07-13-01. Scope of chapter.

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapters 54-06, 54-44.3, and 54-52.4, except:

1. "Eligible family member" means the employee's spouse, parent (natural, adoptive, foster, and stepparent), child (natural, adoptive, foster, and stepchild), or any other family member who is financially or legally dependent upon the employee or who resides with the employee for the purpose of the employee providing care to the family member.
2. "Sick leave" means an approved absence from work, with pay, for use in accordance with section 4-07-13-07.

History: Effective September 1, 1992; amended effective November 1, 1996.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-03. Sick leave accrual.

Employees eligible for sick leave begin to accrue leave from the day of hire.

History: Effective September 1, 1992; amended effective November 1, 1996.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-04. Sick leave accrual rate.

State agencies are advised that the following sick leave accrual schedule is required for use by each state agency subject to this chapter:

Years of Service

Hours Earned Per Month

Zero to all

Eight

A local government agency subject to the North Dakota merit system adopting or using a different accrual schedule shall promptly file a copy of that schedule with human resource management services.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-13-05. Accrual for fractional months.

An employee accrues sick leave for employment for a fraction of a month. The number of sick leave hours earned by an employee for employment for a fraction of a month must be in proportion to the total number of straight time hours the employee actually worked compared to the total number of working hours in a month.

History: Effective September 1, 1992.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-06. No limit on sick leave carryover.

An employee may not be limited in the number of unused earned sick leave hours that may be carried over from one calendar year to another.

History: Effective September 1, 1992.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-07. Uses of sick leave.

Sick leave may be used by an employee when:

1. The employee is ill or injured and is unable to work.
2. The employee has an appointment for the diagnosis or treatment of a medically related condition.
3. The employee wishes to attend to the needs of the employee's eligible family members who are ill or to assist them in obtaining other services related to their health or well-being.
 - a. Sick leave used for these purposes may not exceed eighty hours per calendar year.
 - b. The employee may, per calendar year, take up to an additional four hundred eighty hours of the employee's accrued sick leave to care for the employee's child, spouse, or parent with a serious health condition. The employer may require the employee to provide written verification of the serious health condition by a health care provider.
4. During the first six months following the birth or placement of a child, an employee may use up to six weeks of the employee's accrued sick leave for the employee's newborn child or to care for a child placed with the employee for adoption or placed with the employee as a precondition to adoption. This does not prevent an employee from using sick leave for the employee's illness, medical needs, or health needs following the birth of a child or from using leave under North Dakota Century Code section 54-52.4-03.

5. The employee is seeking services or assisting the employee's spouse, parent, child, or sibling in obtaining services, relating to domestic violence, a sex offense, stalking, or terrorizing. At the discretion of the employee's supervisor, the sick leave hours used for this purpose may be limited to forty hours per calendar year.
6. The employee requests leave to bereave the death of a child. Sick leave for this purpose is limited to one hundred sixty hours and must be taken within six months following the death of the child.
7. It is appropriate as a participant in an employee assistance program.

History: Effective September 1, 1992; amended effective January 1, 2012; January 1, 2017; April 1, 2020.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1), 54-52.4-03

4-07-13-08. Sick leave taken in increments.

Repealed effective January 1, 1993.

4-07-13-09. Sick leave and pregnancy.

Repealed effective November 1, 1996.

4-07-13-10. Temporary employment.

A temporary employee may not be credited with any accrued sick leave hours.

History: Effective September 1, 1992; amended effective July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-11. Sick leave and reemployment.

An employee who leaves his or her employment and who is rehired within one year must be credited with the amount of sick leave hours the employee had accumulated at the time of departure, less any amount for which the employee had subsequently been paid. An employee affected by a reduction in force and rehired within two years must be credited with the amount of sick leave hours the employee had accumulated at the time of departure, less any amount for which the employee had subsequently been paid.

History: Effective September 1, 1992.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-12. Assumption of accrued sick leave.

A state agency appointing authority employing an individual from another state agency shall accept all of the employee's accrued sick leave hours. State agencies covered by the North Dakota merit system shall accept all accrued sick leave hours of a county social service employee in a position classified by human resource management services.

A county social service board may accept all of accrued sick leave hours an employee requests to transfer from another county social service board or a state agency, if the employee occupies a position classified by human resource management services.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-13 SICK LEAVE

Section	
4-07-13-01	Scope of Chapter
4-07-13-02	Definitions
4-07-13-03	Sick Leave Accrual
4-07-13-04	Sick Leave Accrual Rate
4-07-13-05	Accrual for Fractional Months
4-07-13-06	No Limit on Sick Leave Carryover
4-07-13-07	Uses of Sick Leave
4-07-13-08	Sick Leave Taken in Increments [Repealed]
4-07-13-09	Sick Leave and Pregnancy [Repealed]
4-07-13-10	Temporary Employment
4-07-13-11	Sick Leave and Reemployment
4-07-13-12	Assumption of Accrued Sick Leave

4-07-13-01. Scope of chapter.

This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective September 1, 1992; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapters 54-06, 54-44.3, and 54-52.4, except:

1. "Eligible family member" means the employee's spouse, parent (natural, adoptive, foster, and stepparent), child (natural, adoptive, foster, and stepchild), or any other family member who is financially or legally dependent upon the employee or who resides with the employee for the purpose of the employee providing care to the family member.
2. "Sick leave" means an approved absence from work, with pay, for use in accordance with section 4-07-13-07.

History: Effective September 1, 1992; amended effective November 1, 1996.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-03. Sick leave accrual.

Employees eligible for sick leave begin to accrue leave from the day of hire.

History: Effective September 1, 1992; amended effective November 1, 1996.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-04. Sick leave accrual rate.

State agencies are advised that the following sick leave accrual schedule is required for use by each state agency subject to this chapter:

Years of Service	Hours Earned Per Month
Zero to all	Eight

A local government agency subject to the North Dakota merit system adopting or using a different accrual schedule shall promptly file a copy of that schedule with human resource management services.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-13-05. Accrual for fractional months.

An employee accrues sick leave for employment for a fraction of a month. The number of sick leave hours earned by an employee for employment for a fraction of a month must be in proportion to the total number of straight time hours the employee actually worked compared to the total number of working hours in a month.

History: Effective September 1, 1992.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-06. No limit on sick leave carryover.

An employee may not be limited in the number of unused earned sick leave hours that may be carried over from one calendar year to another.

History: Effective September 1, 1992.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-07. Uses of sick leave.

Sick leave may be used by an employee when:

1. The employee is ill or injured and is unable to work.
2. The employee has an appointment for the diagnosis or treatment of a medically related condition.
3. The employee wishes to attend to the needs of the employee's eligible family members who are ill or to assist them in obtaining other services related to their health or well-being.
 - a. Sick leave used for these purposes may not exceed eighty hours per calendar year.
 - b. The employee may, per calendar year, take up to an additional four hundred eighty hours of the employee's accrued sick leave to care for the employee's child, spouse, or parent with a serious health condition. The employer may require the employee to provide written verification of the serious health condition by a health care provider.
4. During the first six months following the birth or placement of a child, an employee may use up to six weeks of the employee's accrued sick leave for the employee's newborn child or to care for a child placed with the employee for adoption or placed with the employee as a precondition to adoption. This does not prevent an employee from using sick leave for the employee's illness, medical needs, or health needs following the birth of a child or from using leave under North Dakota Century Code section 54-52.4-03.

5. The employee is seeking services or assisting the employee's spouse, parent, child, or sibling in obtaining services, relating to domestic violence, a sex offense, stalking, or terrorizing. At the discretion of the employee's supervisor, the sick leave hours used for this purpose may be limited to forty hours per calendar year.
6. The employee requests leave to bereave the death of a child. Sick leave for this purpose is limited to one hundred sixty hours and must be taken within six months following the death of the child.
7. It is appropriate as a participant in an employee assistance program.

History: Effective September 1, 1992; amended effective January 1, 2012; January 1, 2017; April 1, 2020

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1), 54-52.4-03

4-07-13-08. Sick leave taken in increments.

Repealed effective January 1, 1993.

4-07-13-09. Sick leave and pregnancy.

Repealed effective November 1, 1996.

4-07-13-10. Temporary employment.

A temporary employee may not be credited with any accrued sick leave hours.

History: Effective September 1, 1992; amended effective July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-11. Sick leave and reemployment.

An employee who leaves his or her employment and who is rehired within one year must be credited with the amount of sick leave hours the employee had accumulated at the time of departure, less any amount for which the employee had subsequently been paid. An employee affected by a reduction in force and rehired within two years must be credited with the amount of sick leave hours the employee had accumulated at the time of departure, less any amount for which the employee had subsequently been paid.

History: Effective September 1, 1992.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-12. Assumption of accrued sick leave.

A state agency appointing authority employing an individual from another state agency shall accept all of the employee's accrued sick leave hours. State agencies covered by the North Dakota merit system shall accept all accrued sick leave hours of a county social service employee in a position classified by human resource management services.

A county social service board may accept all of accrued sick leave hours an employee requests to transfer from another county social service board or a state agency, if the employee occupies a position classified by human resource management services.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 59.5-03-02
CLASSIFICATION AND PAY GRADE APPEALS

Section

- 59.5-03-02-01 Scope of Chapter
- 59.5-03-02-01.1 Definitions
- 59.5-03-02-02 Classification Appeal Procedure
- 59.5-03-02-03 Pay Grade Appeals [Repealed]

59.5-03-02-01. Scope of chapter.

This chapter applies to all employees who have satisfactorily completed their probationary period and who are in positions classified by human resource management services. Additionally, this chapter applies to state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective December 1, 1985; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02-01.1. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3, except that:

1. "Regular employee" means a person who has completed the probationary period and who is in a position classified by human resource management services.
2. "Working days" means Monday through Friday exclusive of holidays.

History: Effective May 1, 1994; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02-02. Classification appeal procedure.

1. A regular employee or an appointing authority may appeal a classification decision made by human resource management services if one of the following is alleged:
 - a. Human resource management services did not give due consideration to information presented.
 - b. Human resource management services did not follow chapter 4-07-03.
 - c. The decision of human resource management services was made in a discriminatory manner as defined in North Dakota Century Code section 14-02.4-01.

The appeal to the state personnel board must be received by human resource management services staff by the close of business fifteen working days from the date of the written decision of the division. The appeal must be in writing and state the reason for the appeal.

2. Upon receipt of a written appeal, the director, human resource management services, as secretary to the board, shall schedule the appeal for hearing before the board. The director, on behalf of the state personnel board, shall notify the employee and appointing authority in writing of the board hearing date at least ten working days prior to the board hearing date.
3. Human resource management services shall provide each member of the state personnel board, the employee, and the agency appointing authority with a copy of each document to become a part of the appeal file. The appeal file must consist of, but is not limited to, copies of the following:
 - a. The original classification/reclassification request under appeal and all attachments and responses.
 - b. The appeal form and all attachments.
 - c. All written correspondence relating to the original classification request and appeal, including written requests for extension and notices of extensions granted or

denied.

- d. The written appeal commencing the appeal before the state personnel board.
 - e. Other directly relevant and significant documents submitted by the employee, appointing authority, or human resource management services.
4. Human resource management services shall disseminate the appeal file to all participating parties at least ten working days prior to the board hearing date. Documents submitted by any participant after the appeal file is disseminated may cause the board to delay the hearing, generally to the next scheduled board meeting date.
 5. The employee, appointing authority, and their representatives may appear at the board meeting for the hearing of their classification appeal. The employee, appointing authority, or their representatives shall first make an oral presentation relative to the matter under appeal followed by human resource management services. The board chairperson shall ensure that all parties have ample opportunity to present their views relating to the classification appeal. New information presented at the hearing may delay the decision of the board.
 6. If the board determines by a preponderance of the evidence that the appeal has merit based on reasons stated in subsection 1, the board shall:
 - a. Remand the appeal to human resource management services for further review; or
 - b. Uphold the decision of human resource management services; ~~or~~
 - c. ~~Change the classification of the subject position based on the record and information before it.~~
 7. Human resource management services shall notify the employee and appointing authority in writing of the board's decision within five working days following the date the board makes its decision regarding the appeal. Decisions which result in a classification either higher or lower than that previously established by human resource management services are effective on the date specified by the appointing authority, though not earlier than the month of human resource management services approval. An earlier effective date may be applied with written approval from the director of human resource management services. The board's decision regarding a classification appeal is final.
 8. The employee's agency shall reimburse the appealing employee for the required time, travel, meals, and lodging expenses to appear before the board. The reimbursement may not exceed the amounts allowed state employees.

History: Effective December 1, 1985; amended effective May 1, 1994; November 1, 1996; July 1, 2004; April 1, 2020.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02-03. Pay grade appeals.

Repealed effective November 1, 1996.

CHAPTER 59.5-03-02.1 PAY GRADE APPEALS

Section

59.5-03-02.1-01 Scope of Chapter

59.5-03-02.1-02 Definitions

59.5-03-02.1-03 Pay Grade Appeal Procedure

59.5-03-02.1-01. Scope of chapter.

This chapter applies to all employees who have satisfactorily completed their probationary period and who are in positions classified by human resource management services. Additionally, this chapter applies to state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02.1-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3, except that:

1. "Regular employee" means a person who has completed the probationary period and who is in a position classified by human resource management services.
2. "Working days" means Monday through Friday exclusive of holidays.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02.1-03. Pay grade appeal procedure.

1. A regular employee or an appointing authority may appeal to the state personnel board the pay grade assigned to a class by human resource management services if one of the following is alleged:
 - a. Human resource management services did not give due consideration to information presented.
 - b. Human resource management services did not follow chapter 4-07-03.
 - c. The decision of human resource management services was made in a discriminatory manner as defined in North Dakota Century Code section 14-02.4-01.

The appeal to the state personnel board must be received by human resource management services staff by the close of business fifteen working days from the date of the written decision of the division. The appeal must be in writing and state the reason for the appeal.

2. Upon receipt of a written appeal, the director, human resource management services, as secretary to the board, shall schedule the appeal for hearing before the board. The director, on behalf of the state personnel board, shall notify the employee and appointing authority in writing of the board hearing date at least ten working days prior to the board hearing date.
3. Human resource management services shall provide each member of the state personnel board, the employee, and the agency appointing authority a copy of each document to become a part of the appeal file. The appeal file must include copies of the following:
 - a. The original pay grade review request under appeal and all attachments and responses.
 - b. The written appeal and all attachments.
 - c. All written correspondence relating to the original request and appeal, including written requests for extension and notices of extensions granted or denied.
 - d. The written appeal commencing the appeal before the state personnel board.

- e. Other directly relevant and significant documents submitted by the employee, appointing authority, or human resource management services.
4. Human resource management services shall disseminate the appeal file to all participating parties at least ten working days prior to the board hearing date. Documents submitted by any participant after the appeal file is disseminated may cause the board to delay the hearing, generally to the next scheduled board meeting date.
5. The employee, appointing authority, and their representatives may appear at the board meeting for the hearing of the pay grade appeal. The employee, appointing authority, or their representatives shall first make an oral presentation relative to the matter under appeal, followed by human resource management services. The board chairperson shall ensure that all parties have ample opportunity to present their views relating to the pay grade appeal. New information presented at the hearing may delay the decision of the board.
6. If the board determines by a preponderance of the evidence that the appeal has merit based on reasons stated in subsection 1, the board shall:
 - a. Remand the appeal to human resource management services for further review; or
 - b. Uphold the decision of human resource management services; ~~or~~
 - c. ~~Change the pay grade of the subject class based on the record and information before it.~~
7. Human resource management services shall notify the employee and appointing authority in writing of the board's decision within five working days following the date the board makes its decision regarding the appeal. A decision that results in a pay grade either higher or lower than that previously established by human resource management services is effective on the date specified by the appointing authority, though not earlier than the month of human resource management approval. An earlier effective date may be applied with written approval from the director of human resource management services. The board's decision regarding a pay grade appeal is final.
8. The employee's agency shall reimburse the appealing employee for the required time, travel, meals, and lodging expenses to appear before the board. The reimbursement may not exceed the amounts allowed state employees.

History: Effective November 1, 1996; amended effective July 1, 2004; April 1, 2020.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3), 54-44.3-12

CHAPTER 59.5-03-02.1 PAY GRADE APPEALS

Section

59.5-03-02.1-01 Scope of Chapter

59.5-03-02.1-02 Definitions

59.5-03-02.1-03 Pay Grade Appeal Procedure

59.5-03-02.1-01. Scope of chapter.

This chapter applies to all employees who have satisfactorily completed their probationary period and who are in positions classified by human resource management services. Additionally, this chapter applies to state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02.1-02. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3, except that:

1. "Regular employee" means a person who has completed the probationary period and who is in a position classified by human resource management services.
2. "Working days" means Monday through Friday exclusive of holidays.

History: Effective November 1, 1996; amended effective July 1, 2004.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02.1-03. Pay grade appeal procedure.

1. A regular employee or an appointing authority may appeal to the state personnel board the pay grade assigned to a class by human resource management services if one of the following is alleged:
 - a. Human resource management services did not give due consideration to information presented.
 - b. Human resource management services did not follow chapter 4-07-03.
 - c. The decision of human resource management services was made in a discriminatory manner as defined in North Dakota Century Code section 14-02.4-01.

The appeal to the state personnel board must be received by human resource management services staff by the close of business fifteen working days from the date of the written decision of the division. The appeal must be in writing and state the reason for the appeal.

2. Upon receipt of a written appeal, the director, human resource management services, as secretary to the board, shall schedule the appeal for hearing before the board. The director, on behalf of the state personnel board, shall notify the employee and appointing authority in writing of the board hearing date at least ten working days prior to the board hearing date.

3. Human resource management services shall provide each member of the state personnel board, the employee, and the agency appointing authority a copy of each document to become a part of the appeal file. The appeal file must include copies of the following:
 - a. The original pay grade review request under appeal and all attachments and responses.
 - b. The written appeal and all attachments.
 - c. All written correspondence relating to the original request and appeal, including written requests for extension and notices of extensions granted or denied.
 - d. The written appeal commencing the appeal before the state personnel board.
 - e. Other directly relevant and significant documents submitted by the employee, appointing authority, or human resource management services.
4. Human resource management services shall disseminate the appeal file to all participating parties at least ten working days prior to the board hearing date. Documents submitted by any participant after the appeal file is disseminated may cause the board to delay the hearing, generally to the next scheduled board meeting date.
5. The employee, appointing authority, and their representatives may appear at the board meeting for the hearing of the pay grade appeal. The employee, appointing authority, or their representatives shall first make an oral presentation relative to the matter under appeal, followed by human resource management services. The board chairperson shall ensure that all parties have ample opportunity to present their views relating to the pay grade appeal. New information presented at the hearing may delay the decision of the board.
6. If the board determines by a preponderance of the evidence that the appeal has merit based on reasons stated in subsection 1, the board shall:
 - a. Remand the appeal to human resource management services for further review; or
 - b. Uphold the decision of human resource management services.
7. Human resource management services shall notify the employee and appointing authority in writing of the board's decision within five working days following the date the board makes its decision regarding the appeal. A decision that results in a pay grade either higher or lower than that previously established by human resource management services is effective on the date specified by the appointing authority, though not earlier than the month of human resource management services' approval. An earlier effective date may be applied with written approval from the director of human resource management services. The board's decision regarding a pay grade appeal is final.
8. The employee's agency shall reimburse the appealing employee for the required time, travel, meals, and lodging expenses to appear before the board. The reimbursement may not exceed the amounts allowed state employees.

History: Effective November 1, 1996; amended effective July 1, 2004; April 1, 2020.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3), 54-44.3-12

CHAPTER 59.5-03-02 CLASSIFICATION AND PAY GRADE APPEALS

Section

- 59.5-03-02-01 Scope of Chapter
- 59.5-03-02-01.1 Definitions
- 59.5-03-02-02 Classification Appeal Procedure
- 59.5-03-02-03 Pay Grade Appeals [Repealed]

59.5-03-02-01. Scope of chapter.

This chapter applies to all employees who have satisfactorily completed their probationary period and who are in positions classified by human resource management services. Additionally, this chapter applies to state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective December 1, 1985; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02-01.1. Definitions.

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3, except that:

1. "Regular employee" means a person who has completed the probationary period and who is in a position classified by human resource management services.
2. "Working days" means Monday through Friday exclusive of holidays.

History: Effective May 1, 1994; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02-02. Classification appeal procedure.

1. A regular employee or an appointing authority may appeal a classification decision made by human resource management services if one of the following is alleged:
 - a. Human resource management services did not give due consideration to information presented.
 - b. Human resource management services did not follow chapter 4-07-03.
 - c. The decision of human resource management services was made in a discriminatory manner as defined in North Dakota Century Code section 14-02.4-01.

The appeal to the state personnel board must be received by human resource management services staff by the close of business fifteen working days from the date of the written decision of the division. The appeal must be in writing and state the reason for the appeal.

2. Upon receipt of a written appeal, the director, human resource management services, as secretary to the board, shall schedule the appeal for hearing before the board. The director, on behalf of the state personnel board, shall notify the employee and appointing authority in writing of the board hearing date at least ten working days prior to the board hearing date.
3. Human resource management services shall provide each member of the state personnel board, the employee, and the agency appointing authority with a copy of each document to

become a part of the appeal file. The appeal file must consist of, but is not limited to, copies of the following:

- a. The original classification/reclassification request under appeal and all attachments and responses.
 - b. The appeal form and all attachments.
 - c. All written correspondence relating to the original classification request and appeal, including written requests for extension and notices of extensions granted or denied.
 - d. The written appeal commencing the appeal before the state personnel board.
 - e. Other directly relevant and significant documents submitted by the employee, appointing authority, or human resource management services.
4. Human resource management services shall disseminate the appeal file to all participating parties at least ten working days prior to the board hearing date. Documents submitted by any participant after the appeal file is disseminated may cause the board to delay the hearing, generally to the next scheduled board meeting date.
 5. The employee, appointing authority, and their representatives may appear at the board meeting for the hearing of their classification appeal. The employee, appointing authority, or their representatives shall first make an oral presentation relative to the matter under appeal followed by human resource management services. The board chairperson shall ensure that all parties have ample opportunity to present their views relating to the classification appeal. New information presented at the hearing may delay the decision of the board.
 6. If the board determines by a preponderance of the evidence that the appeal has merit based on reasons stated in subsection 1, the board shall:
 - a. Remand the appeal to human resource management services for further review; or
 - b. Uphold the decision of human resource management services.
 7. Human resource management services shall notify the employee and appointing authority in writing of the board's decision within five working days following the date the board makes its decision regarding the appeal. Decisions which result in a classification either higher or lower than that previously established by human resource management services are effective on the date specified by the appointing authority, though not earlier than the month of human resource management services' approval. An earlier effective date may be applied with written approval from the director of human resource management services. The board's decision regarding a classification appeal is final.
 8. The employee's agency shall reimburse the appealing employee for the required time, travel, meals, and lodging expenses to appear before the board. The reimbursement may not exceed the amounts allowed state employees.

History: Effective December 1, 1985; amended effective May 1, 1994; November 1, 1996; July 1, 2004; April 1, 2020

General Authority: NDCC 54-44.3-07(1)

Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02-03. Pay grade appeals.

Repealed effective November 1, 1996.