NORTH DAKOTA ADMINISTRATIVE CODE

Supplement 390

October 2023

Prepared by the Legislative Council staff
for the
Administrative Rules Committee

TABLE OF CONTENTS

Management and Budget, Office of.....1
State Department of Health.....15
Public Instruction, Superintendent of.....21

TITLE 4

MANAGEMENT AND BUDGET, OFFICE OF

OCTOBER 2023

CHAPTER 4-01-01

4-01-01-01. Organization and functions of the office of management and budget.

1. **Organization of office.**

   a. History. The 1941 legislative assembly appointed a governmental survey commission to study the field of governmental reorganization and make recommendations. Among the recommendations was a single agency to handle the state's fiscal affairs. That study was reviewed by directive of the 1957 legislative assembly. The 1959 legislative assembly established the department of accounts and purchases to become operative in 1961. In 1981 the agency became the office of management and budget. The director is appointed by and serves at the will of the governor. As agency head, the director is vested with control and supervision of the fiscal administration of the executive branch of state government.

   b. Divisions. Within the office of management and budget are ~~seven~~six divisions:

      (1) Administration.

      (2) Fiscal management.

      (3) Human resource management services.

      (4) Central services.

      (5) Facility management.

      (6) Risk management.

      ~~(7) State radio communications.~~

2. **Functions of office divisions.**

   a. The administration division provides management and support to the divisions within the office of management and budget. Other duties include review of state agency management and organizational structure, and frequent comparison of projected and actual state revenues and expenditures. The director of each division is appointed by and serves at the pleasure of the director of the office of management and budget.

   b. The fiscal management division is responsible for budget preparation and the monitoring of spending after legislative appropriations are made, preparation of the revenue forecasts, processing state financial transactions, including agency payrolls, and

preparing the statewide comprehensive annual financial report (CAFR). The fiscal management director and budget analysts prepare the governor's executive recommendation for submission to the legislative assembly. As the sole financial plan for providing state services, the executive budget recommendation is presented to the legislative assembly prior to the convening of each session. Part of the budget process involves fiscal management staff appearing at hearings for each agency budget request, onsite visits, and comparative analyses. Once the executive budget recommendation has been submitted, the office works closely with the legislative assembly and its committees by explaining the budget or by providing information on other fiscal concerns. During both the legislative session and the legislative council's interim study period, the office of management and budget assists legislators and other key policymakers in resolving budget-related issues. ~~Telephone: (701) 328-2680; web site: http://www.state.nd.us/fiscal.~~

c. The human resource management services division provides services relating to establishing and maintaining a unified system of human resource management for the classified service. The division and the state personnel board were created by executive order in 1974 and by the legislative assembly in 1975. The 2003 legislative assembly changed the name of the central personnel division to human resource management services. The division establishes and maintains classification and compensation plans as well as general policies and rules which are binding on the agencies with employees in the classified service. In 1995 the administration of the merit system function was decentralized to those agencies required to have a merit system of personnel administration. The human resource management services division maintains the merit system auditing function and provides consultative services to agencies on a multitude of issues including recruitment, screening, and selection of applicants; performance management; classification; salary administration; discipline; grievances; investigations; appeals; and federal and state employment requirements. In addition, the division develops, coordinates, and conducts training programs; provides mediation services; and administers a cooperative education and internship program. ~~Telephone: (701) 328-3290; TDD: 800-366-6888; web site: http://www.state.nd.us/hrms.~~

d. The central services division operates a central purchasing service, maintains a central supply section, serves as the state's distribution point for federal surplus property and clearinghouse for state-owned surplus property, and operates a central printing service. The central services division works with state agencies and vendors to provide the state with the best possible prices for goods and services. ~~Telephone: (701) 328-2780; web site: http://www.state.nd.us/csd.~~

e. The facility management division was created July 1, 1991, with the elimination of the director of institutions office. The division manages the physical plant operations, provides capitol tours, operates the central mail bureau, and coordinates event scheduling for all of the buildings located on the one hundred thirty-two-acre capitol complex. It also is responsible for providing space management services for the state agencies located on the capitol complex through its state planner. ~~Telephone: (701) 328-2471; web site: http://www.state.nd.us/fac.~~

f. The risk management division was established in 1995 in response to a North Dakota supreme court decision that eliminated the state's sovereign immunity for tort claims. The division's objectives are to implement proactive loss control practices to address the state's exposures to loss, and to appropriately administer claims and lawsuits. The 2001 legislature established the risk management workers' compensation program and assigned the division the duty of administering the single workers' compensation account that consolidated one hundred forty-three state agency accounts, and authorized a one

hundred thousand dollar deductible per claim and a cross agency return-to-work program. ~~Telephone: (701) 328-7584; web site: http://www.state.nd.us/risk.~~

~~g. State radio was created by an emergency act of the legislative assembly in 1951 to provide coordination, direction, control, development, and implementation of public safety communications systems, as well as the operation and maintenance of those systems through modern state-of-the-art technology. State radio is dedicated to providing efficient voice and data communication systems that are operated twenty-four hours a day, three hundred sixty-five days a year, in the interest of public safety. Telephone: (701) 328-8154; web site: http://www.state.nd.us/radio.~~

3. **Inquiries.** General inquiries regarding the office of management and budget may be addressed to the director of the office. Specific inquiries regarding the functions of each division may be addressed to the director of that division.

4. **Personnel roster.** All correspondence to the below-listed persons should be addressed as follows:

Director
Office of Management and Budget
600 East Boulevard Avenue, Dept. 110
Bismarck, North Dakota 58505-0400
(701) 328-4606

Director
Fiscal Management Division
600 East Boulevard Avenue, Dept. 110
Bismarck, North Dakota 58505-0400
(701) 328-4905

Director
Human Resource Management Services Division
600 East Boulevard Avenue, Dept. 113
Bismarck, North Dakota 58505-0120
(701) 328-4735

Director
Central Services Division
600 East Boulevard Avenue, Dept. 118
Bismarck, North Dakota 58505-0420
(701) 328-3494

Director
Facility Management Division
600 East Boulevard Avenue, Dept. 130
Bismarck, North Dakota 58505-0130
(701) 328-4002

Director
Risk Management Division
1600 East Century Avenue, Suite 4
Bismarck, North Dakota 58503-0649
(701) 328-7580

~~Director~~
~~State Radio Communications~~

~~P.O. Box 5511~~
~~Bismarck, North Dakota 58502-5511~~
~~(701) 328-8154~~

History: Amended effective March 1, 1982; October 1, 1983; November 1, 1985; October 1, 1987; September 1, 1989; May 1, 1992; February 1, 1993; April 1, 1994; December 1, 1998; August 1, 2004; October 1, 2023.
General Authority: NDCC ~~28-32-02.1~~28-32-02
Law Implemented: NDCC ~~28-32-02.1~~28-32-02

CHAPTER 4-07-01

4-07-01-01. History, functions, organization of human resource management services.

1. **History of human resource management services.**

   a. The 1975 legislative assembly passed a Central Personnel System Act, codified as North Dakota Century Code chapter 54-44.3. The Act created the central personnel division as well as the state personnel board. The division was to establish and maintain classification and compensation plans as well as establish general policies and rules, which were to be binding on the affected agencies, relating to a unified system of personnel administration for the employees in the classified service of the state.

   b. From its beginning in 1975, the central personnel division developed general personnel policies in response to the requirements for a unified system of personnel administration, requests from the state personnel board, requests from agencies or other officials in the executive branch, changed requirements in state or federal laws, and various decisions of the courts. These policies were discussed at meetings of the state personnel board. If a particular policy was approved by the board, the division would then act to include it within the North Dakota personnel policies manual. Policies approved and adopted in this way were then distributed to all state agencies.

   c. The policies included in the North Dakota personnel policies manual were to be followed by all agencies with classified employees. More specifically, merit system agencies were to strictly follow the policies, but nonmerit system agencies were advised that the policies formed a "base" for the development of the agencies own policies and procedures.

   d. In July of 1981 then Governor Allen Olson issued executive order number 1981-10. That executive order portrayed the North Dakota personnel policies manual as providing the assurance that classified employees would be treated fairly and uniformly if the policies were followed. The executive order identified the state personnel board as the agency that would hold public meetings to receive comments and approve revisions to the policies. Governor Olson also ordered that agencies headed by a gubernatorial appointee adhere to and follow the policies, including the statewide appeal mechanism.

   e. However, by late 1986 that manner of personnel policy implementation and its "legality" and effect on various agencies had been challenged before the North Dakota supreme court. By 1990 in order for the division to carry out its statutory purpose of establishing a unified system of personnel administration for the classified service of the state, it was apparent that certain policies had to be adopted as rules in accordance with North Dakota Century Code section 28-32-02.

   f. In 2003 the legislative assembly approved changing the name of the central personnel division to human resource management services.

2. **Functions of human resource management services.** ~~The division establishes, maintains, and revises classification and compensation plans. It assigns position classifications and pay grades and establishes and maintains required records for all employees in the classified service. The division certifies appeals on employee grievances relating to demotion, suspension without pay, reduction-in-force, forced relocation, reprisal action, discrimination, merit system qualification, and dismissal. It also certifies appeals from applicants for positions in the classified service who allege discrimination. It assists appointing authorities and agencies with selection and grievance procedures. The division coordinates and conducts training programs. It ensures salaries are paid consistent with the state's classification system, compensation plan, and salary administration policy, and consults with state agencies regarding salary administration. It establishes and administers a cooperative education or~~

~~internship program open to college students. The division provides information, consultative advice, tools and methodology, and other services to promote the development of a unified system of human resource administration.~~The human resource management services division provides consultative services to agencies on a multitude of human resource areas of focus: talent acquisition, total rewards, talent management and development, operations and digital services, and human resource business partners. Through these areas of focus, the division collaborates with agencies to address a variety of functions, including recruitment, performance management, classification, salary administration, discipline, grievances, investigations, appeals, and federal and state employment requirements. In addition, the division develops, coordinates, and conducts training and leadership development programs; plans, coordinates, and leads activities for the statewide human resource information system; and administers a cooperative education and internship program. The division provides services related to establishing and maintaining a unified system of human resource management for the classified service. The division also serves as secretariat to the state personnel board.

3. **Organization of human resource management services.**

   a. Human resource management services is a division of the office of management and budget. The division is separate from the state personnel board, although the division and board work closely together on classification and pay grade issues. The division and the board each adopts its own rules.

   b. Human resource management services has a director and a staff. The director is appointed by and serves at the pleasure of the director of the office of management and budget. The director is responsible for the performance of the division as it exercises its duties and functions. A staff of professional and administrative employees assists the director. ~~The staff are assigned to one of the following areas: administration, classification and compensation, employment services, and training and development.~~

History: Effective March 1, 1991; amended effective July 1, 1995; November 1, 1996; July 1, 2004; October 1, 2023.
General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-01, 54-44.3-11, 54-44.3-12

4-07-01-03. Methods the public may use to obtain information.

The public may obtain information, furnish information, or make requests to human resource management services concerning any of its functions or rules by writing to~~:~~

~~Human Resource Management Services~~
~~Capitol Building 14th Floor~~
~~600 East Boulevard Avenue, Dept. 113~~
~~Bismarck, ND 58505-0120~~

~~Telephone~~ hrms@nd.gov or telephone inquiries may be made by calling 701-328-3290 between eight a.m. and five p.m. Monday through Friday.

History: Effective March 1, 1991; amended effective July 1, 1995; November 1, 1996; July 1, 2004; October 1, 2023.
General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-01, 54-44.3-12

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; October 1, 2023.
General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-08
WORKING AND INCLEMENT WEATHER CONDITIONS

Section
4-07-08-01 Scope of Chapter
4-07-08-02 Reporting to Work
4-07-08-03 Reporting Late or Leaving Early
4-07-08-04 Key Positions
4-07-08-05 No Pay Reduced
4-07-08-06 Employee Not Scheduled to Work [Repealed]

4-07-08-02. Reporting to work.

During inclement weather conditions unless otherwise notified by an authorized official, each employee shall report to work as scheduled at the appointed time. Employees who are authorized and ~~able to work remotely~~telework enabled (the ability to do all or part of their job from home or a remote location) are expected to follow a normal work schedule.

History: Effective September 1, 1992; amended effective July 1, 2022; October 1, 2023.
General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12(1)

4-07-08-06. Employee not scheduled to work.

Repealed effective October 1, 2023.

~~An employee not scheduled to report for work at an agency closed due to emergency or inclement weather conditions may not be provided additional compensation or time off due to the agency closing. However, an employee who had previously been granted leave for time off on a day when an agency is subsequently closed due to emergency or inclement weather conditions may not be charged leave for that day.~~

~~**History:** Effective September 1, 1992.~~
~~**General Authority:** NDCC 54-44.3-12~~
~~**Law Implemented:** NDCC 54-44.3-12(1)~~

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

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

A ~~county social service~~human service zone board may accept all or a part of accrued annual leave hours an employee requests to transfer from another ~~county social service~~human service zone 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; October 1, 2023.
General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-20.1

4-07-20.1-08. Procedure for appeals of employer actions to human resource management services.

1. The employee shall file the properly completed prescribed appeal form with the director, human resource management services. The appeal form must be ~~delivered, mailed, or~~ transmitted by electronic means and must be received in the human resource management services office by five p.m. within fifteen working days of service of the notice of results of the agency grievance procedure or within fifteen working days from the date of the waiver. An additional fifteen working days is not available if the requested waiver is denied. The date of service of the notice shall be considered to be ~~the date the notice was mailed or~~ the date transmitted or delivered by electronic means~~, or absent proof of the date of mailing or delivery through electronic means, the date of actual delivery~~. The agency shall prepare a certificate of service or provide reliable means, to show proof of the date ~~of mailing, transmittal~~transmitted or delivered by electronic means~~, or hand delivery~~.

2. The director, human resource management services, shall within two working days submit a written request by electronic means to the director, office of administrative hearings, to conduct a hearing on behalf of the division and shall forward a copy of the appeal form to the appointing authority.

3. The administrative law judge shall initially consider whether the appeal was filed within required time limitations. If the administrative law judge determines the time limitations have not been met, the administrative law judge shall prepare an appropriate order dismissing the appeal, which shall be final, and provide a copy of it to the parties. The administrative law judge may, for good cause shown, waive the time limitations for filing an appeal. Good cause means those circumstances that reasonably and without any fault on the part of the appellant prevented the filing of an appeal in a timely fashion. In no event may an appeal be deemed timely after sixty days have elapsed from the date of the employer action.

4. The administrative law judge shall consider whether human resource management services has jurisdiction over the subject matter of the appeal and whether all rules and regulations were followed in the internal agency grievance process. If the administrative law judge is unable to establish whether human resource management services has jurisdiction over the subject matter of the appeal or whether the appropriate rules were followed, a hearing may be conducted to ascertain the facts related to those issues.

5. If the administrative law judge determines that human resource management services does not have jurisdiction in the matter of the appeal, the administrative law judge shall prepare findings of fact and conclusions of law, if appropriate; issue a final decision dismissing the appeal; and provide a copy of them to the parties.

6. If it is determined that human resource management services has jurisdiction over the appeal, the administrative law judge shall schedule a hearing. The administrative law judge shall conduct the hearing and related proceedings, receive evidence related to the issues, prepare findings of fact and conclusions of law, and issue a final decision.

7. The administrative law judge shall notify the employee and the appointing authority of the final decision by sending each of them a copy of the findings of fact, conclusions of law, and final decision. Notification shall be accomplished in the same manner as for notification of final orders required by subsection 3 of North Dakota Century Code section 28-32-39. The parties shall implement the final decision within any time periods specified by the administrative law judge.

8. The administrative law judge shall return the completed appeal file to human resource management services by electronic means.

9. Any party to the appeal may review the recordings of the hearing by making a request to human resource management services by electronic means.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008; July 1, 2010; October 1, 2023.
General Authority: NDCC 54-44.3-12(1)
Law Implemented: NDCC 54-44.3-12.2

TITLE 33

STATE DEPARTMENT OF HEALTH

OCTOBER 2023

CHAPTER 33-44-01
MEDICAL MARIJUANA

Section	
33-44-01-01	Definitions
33-44-01-02	Cardholder Notification of Change
33-44-01-03	Fees for Failure to Provide Notice
33-44-01-03.1	Minor Application
33-44-01-03.2	Application Fees for Registry Identification Cards
33-44-01-03.3	Replacement Fees for Registry Identification Cards
33-44-01-04	Cardholder Disposal of Usable Marijuana
33-44-01-05	Expiration of Registry Identification Cards
33-44-01-06	Compassion Center Application Process
33-44-01-07	Establishing Additional Compassion Centers
33-44-01-07.1	Additional Categories of Registered Medical Marijuana Establishments
33-44-01-07.2	Compassion Center Application Fees
33-44-01-07.3	Compassion Center Certification Fees
33-44-01-07.4	Compassion Center Additional Certification Fees
33-44-01-08	Compassion Center Inventory Limits
33-44-01-09	Use of Pesticides Prohibited
33-44-01-10	Pesticide Presence
33-44-01-11	Operations Manual
33-44-01-12	Restricted Access Areas
33-44-01-13	Dispensary Display Areas
33-44-01-14	Usable Marijuana Take Back
33-44-01-15	Medical Marijuana Waste Disposal
33-44-01-16	Recall Procedures
33-44-01-17	Surveillance Requirements
33-44-01-18	Alarm System Requirements
33-44-01-19	Inventory Control Measures
33-44-01-20	Conducting Inventory
33-44-01-21	Personnel Record Retention
33-04-01-22	Compassion Center and Laboratory Incidents
33-44-01-23	Advertising and Marketing
33-44-01-24	Strain or Brand Names
33-44-01-24.1	Medical Cannabinoid Product Formulation
33-44-01-25	Usable Marijuana Packaging
33-44-01-26	Manufacturing Facility Labeling
33-44-01-27	Dispensary Labeling
33-44-01-28	Removal of Product Labels

33-44-01-29 Transportation Authorization
33-44-01-30 Transportation Requirements
33-44-01-31 Compassion Center Inspections and Compliance
33-44-01-32 Plan of Correction
33-04-01-33 Data Reporting
33-44-01-34 Law Enforcement Reportable Incidents
33-44-01-35 Reporting Adverse Reactions
33-44-01-36 Laboratory Procurement Process
33-44-01-37 Laboratory Authority
33-44-01-38 Laboratory Agent Registry Identification Cards
33-44-01-39 Laboratory Inspection
33-44-01-40 Usable Marijuana Testing
33-44-01-41 Ordering Tests
33-44-01-42 Compliance Testing Requirements for Dried Leaves and Flowers
33-44-01-43 Compliance Testing Requirements for Cannabinoid Concentrates
33-44-01-44 Compliance Testing Requirements for Medical Cannabinoid Products
33-44-01-44.1 Terpene Analysis
33-44-01-45 Batch Requirements for Compliance Testing
33-44-01-46 Manufacturing Facility Requirements for Labeling, Storing, and Securing Usable Marijuana Batches
33-44-01-47 Standards for Pesticides and Degradation Compounds Compliance Testing
33-44-01-48 Standards for Microbiological Contaminants and Mycotoxin Compliance Testing
33-44-01-48.1 Standards for Heavy Metals Compliance Testing
33-44-01-49 Standards for Solvents Compliance Testing
33-44-01-50 Standards for Water Activity and Moisture Content Compliance Testing
33-44-01-51 Standards for Concentration Compliance Testing
33-44-01-52 Failed Test Samples
33-44-01-53 Tentative Identification of Compounds
33-44-01-54 Random Testing
33-44-01-55 Manufacturing Facility Quality Control and Quality Assurance Program

33-44-01-07.2. Compassion center application fees.

The department shall collect nonrefundable application fees for compassion centers as follows:

1. For a manufacturing facility, ~~five~~three thousand dollars.

2. For a dispensary, ~~five~~two thousand dollars.

History: Effective October 1, 2022; amended effective October 1, 2023.
General Authority: NDCC 19-24.1-14
Law Implemented: NDCC 19-24.1-14

33-44-01-07.3. Compassion center certification fees.

The department shall collect certification fees for compassion center registrations as follows:

1. For a manufacturing facility, ~~one hundred ten~~seventy-five thousand dollars.

2. For a dispensary ~~located in a city with a population of more than ten thousand~~, ~~ninety~~sixty thousand dollars.

3. ~~For a dispensary located in a city with a population of ten thousand or less, thirty thousand dollars.~~

~~4.~~ For a production only authorized manufacturing facility, ~~seventy~~forty thousand dollars.

~~5.~~4. For a medical marijuana product processor only authorized manufacturing facility, ~~thirty~~twenty thousand dollars.

History: Effective October 1, 2022; amended effective October 1, 2023.
General Authority: NDCC 19-24.1-15
Law Implemented: NDCC 19-24.1-15

33-44-01-07.4. Compassion center additional certification fees.

The department shall collect an additional certification fee of five thousand dollars for every five hundred plants in excess of one thousand plants a manufacturing facility possesses.

History: Effective October 1, 2023.
General Authority: NDCC 19-24.1-15
Law Implemented: NDCC 19-24.1-15

TITLE 67

PUBLIC INSTRUCTION, SUPERINTENDENT OF

OCTOBER 2023

ARTICLE 67-04
MILITARY INSTALLATIONS

Chapter
67-04-01 Appointment of School Board Members [Repealed]
67-04-02 Appointment of School Board Members

CHAPTER 67-04-02
APPOINTMENT OF SCHOOL BOARD MEMBERS

Section
67-04-02-01 Appointment of School Board Members on Military Installation School District

67-04-02-01. Appointment of school board members on military installation school district.

1. The superintendent of public instruction shall invite the following persons to submit applications for appointment of school board members prior to March first of each year:

   a. Active members of the military installation;

   b. Spouses of active members of the military installation;

   c. Retired members of the military installation whose permanent residence is located within the state and is no greater than twenty miles from the military installation; or

   d. Spouses of retired members of the military installation whose permanent residence is located within the state and is no greater than twenty miles from the military installation.

2. The superintendent of public instruction shall ask applicants to provide information about their qualifications for and interest in an appointment to the school board, and such other information as the state board of public school education may require, in or attached to a letter of application. The information may be used by the superintendent of public instruction and the state board of public school education in their deliberations for appointment of school board members.

3. The superintendent of public instruction shall forward copies of the letters of application and any attachments to representatives of parent groups on the military installation and to the commander of the military installation for their review.

4. The representatives of parent groups shall submit recommendations regarding applicants for school board membership to the superintendent of public instruction and the commander of the military installation prior to April first.

5. After consulting with the commander of the military installation which has formed the school district about the appointments to be made that year, the superintendent of public instruction shall submit a list of recommended applicants, along with a list of all the applicants, and information obtained from the applicants and the commander of the military installation, to the state board of public school education.

6. The state board of public school education shall meet prior to May first of each year to consider approval of applicants for appointment of school board members from school districts formed on military installations.

7. Within fifteen days of the approval of applicants by the state board of public school education, the superintendent of public instruction shall announce the appointment of school board members for that year and the terms of the appointment for each member. The announcement of appointments must be made prior to May first of each year.

8. In making the initial appointment of school board members from newly formed school districts formed on military installations, if complying with the procedures in accordance with the date limitations of this section is an impossibility, the superintendent of public instruction and the state board of public school education shall comply with all of the procedures provided by this section in a reasonable manner, in spite of the date limitations.

9. An individual who serves on the board of a school district where they reside may not simultaneously be appointed to the board of a military installation.

History: Effective October 1, 2023.
General Authority: NDCC 28-32-02, 15.1-08-02
Law Implemented: NDCC 15.1-08-02

CHAPTER 67-11-20

67-11-20-02. Certificate of completion required.

Individuals providing speech-language pathology paraprofessional services in school settings from early childhood through grade twelve must hold the North Dakota certificate of completion for speech-language pathology paraprofessional or hold a current restricted educator's professional license for speech-language pathology at the master's degree level issued by the North Dakota education standards and practices board or a current speech-language pathology license issued by the North Dakota state board of examiners on audiology and speech-language pathology.

History: Effective December 1, 2003; amended effective October 1, 2023.
General Authority: NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09, 43-37-03(4)
Law Implemented: NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09, 43-37-03(4); 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

67-11-20-03. Issuing agency.

The North Dakota certificate of completion for speech-language pathology paraprofessional is issued by the:

Superintendent of Public Instruction
Department of Public Instruction
600 East Boulevard Avenue, Dept. 201
Bismarck, ND 58505-0440

History: Effective December 1, 2003; amended effective October 1, 2023.
General Authority: NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09
Law Implemented: NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

67-11-20-04. Certificate of completion standards.

To obtain a certificate of completion for speech-language pathology, an individual must submit a completed application form and ~~either~~qualify under one of the following levels:

1. ~~Have been employed as a speech-language pathology paraprofessional on or before October 1, 2003, and have both a bachelor's degree in speech-language pathology or communication disorders and at least one hundred clock-hours of supervised field experience; or~~Speech-language pathology paraprofessionals receiving a level 1 certificate must have one of the following:

~~2.~~ a. ~~Have completed an~~An associate's ~~or bachelor's~~ degree which incorporates:

~~a.~~ (1) Thirty hours of general college education including oral and written communication skills, mathematics, psychology, and the biological and health sciences;

~~b.~~ (2) Thirty hours of college education in the area of speech-language pathology, including classes in anatomy, physiology of speech, language, swallowing and hearing mechanisms, communication development, introduction of clinical processes, and fundamentals of human behavior management; and

~~c.~~ (3) A minimum of one hundred clock-hours of fieldwork experience which is supervised by a qualified speech-language pathologist;

b. Currently hold a certification or licensure:

(1) As a speech-language pathology assistant issued by the American speech-language-hearing association; or

(2) Equivalent to the requirements in subdivision a issued by another state.

2. Speech-language pathology paraprofessionals receiving a level 2 certificate must have one of the following:

a. A bachelor's degree in communication sciences and disorders or its equivalency. In addition, a transcribable practicum minimum of one hundred clock-hours of fieldwork experience that is supervised by a licensed speech-language pathologist; or

b. Currently hold a license from the North Dakota state board of examiners on audiology and speech-language pathology as a speech-language pathology licensed assistant or equivalent certification or licensure that meets the requirements of subdivision a issued by another state.

All speech-language pathology paraprofessional certificates that are valid on October 1, 2023, will be converted to a level 1 certificate. Individuals wishing to upgrade to a level 2 certificate must complete an application form as described in this section.

History: Effective December 1, 2003; amended effective October 1, 2023.
General Authority: NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09
Law Implemented: NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

67-11-20-05. Speech-language pathology paraprofessional services.

1. Speech-language pathology paraprofessionals may only provide speech-language pathology paraprofessional services under the direct control of a supervising speech-language pathologist.

2. A level 1 speech-language pathology paraprofessional may:

a. Provide speech-language screenings, without interpretation, following specified screening protocols developed by the supervising speech-language pathologist;

b. Perform documented tasks developed by the supervising speech-language pathologist;

c. Document students' progress toward meeting objectives and report this information to the supervising speech-language pathologist; and

d. Prepare materials, perform scheduling, and maintain space or equipment.

3. A level 2 speech-language pathology paraprofessional may:

a. Provide all services that a level 1 speech-language pathology paraprofessional may provide, as described in subsection 2;

b. Assist the supervising speech-language pathologist with regulatory paperwork as directed.

4. A level 1 or 2 speech-language pathology paraprofessional may not:

a. Make independent decisions regarding changes on the student's individual program;

b. Perform standardized or nonstandardized diagnostic tests, formal or informal evaluations, or interpret test results;

c. Take referrals or dismiss students from a caseload;

d. Participate in conferences or other multidisciplinary team meetings without the presence of the supervising speech-language pathologist;

e. Disclose confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist;

f. Provide counseling to the student or family regarding a communication disorder;

g. Prepare or sign any formal documentation, including an individualized education program or an assessment plan as a supervising speech-language pathologist; or

h. Maintain the person's own caseload.

History: Effective December 1, 2003; amended effective October 1, 2023.
General Authority: NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09
Law Implemented: NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

67-11-20-06. Reconsideration.

If an application for a certificate of completion for speech-language pathology ~~certificate of completion~~paraprofessional is denied, the applicant ~~will~~must be notified of the opportunity for reconsideration. Upon receipt of a written denial, the applicant may request a reconsideration of the denial. A request for reconsideration must be in writing and must be received by the superintendent of public instruction within twenty-one days of the date the denial was mailed to the applicant by the superintendent of public instruction. Untimely requests ~~will~~may not be considered. The request for reconsideration must discuss:

1. The fact, law, or rule the applicant believes was erroneously interpreted or applied; and

2. The applicant's arguments on how the fact, law, or rule should have been applied, giving specific reasons and a thorough analysis.

The superintendent of public instruction will issue a final written response on the reconsideration request within twenty-one days after receiving a complete and timely reconsideration request. If the superintendent's written response denies the reconsideration request, the superintendent's written response must notify the applicant of the applicant's right to a hearing conducted pursuant to North Dakota Century Code chapter 28-32. The applicant shall request the hearing within thirty days.

History: Effective December 1, 2003; amended effective October 1, 2023.
General Authority: NDCC 15.1-02-11, 15.1-02-16, 15.1-32-02, 15.1-32-09
Law Implemented: NDCC 15.1-02-11, 15.1-32-02, 15.1-32-09; 20 USC 1412(a)(15); 20 USC 6319(c)-(f); 34 CFR 200.58

67-13-01-05. Cooperative program.

The school district cooperative or special education units must address the following:

1. A plan for sharing administration, at a minimum a shared superintendent ~~or~~, special education director, or business manager unless the school district has taxable property located in the same city as the other school district under the cooperative plan;

2. A plan for sharing cooperative expenditures between the member districts or special education units;

3. A plan for sharing cooperative or unit revenues upon termination of the agreement; and

4. A plan for the changing of the agreement.

History: Effective May 1, 1999; amended effective January 1, 2018; January 1, 2020; April 1, 2022; October 1, 2023.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 15.1-27-16

67-13-01-07. Cost-sharing reimbursement.

To be eligible to be reimbursed for a cost-sharing agreement, school districts or special education units must:

1. Share a superintendent ~~or~~, special education administrator ~~and~~, or business manager;

2. Demonstrate a cost-savings by sharing central office personnel; and

3. Indicate the percentage of time the superintendent or special education administrator and business manager are assigned to each district or unit.

History: Effective April 1, 2022; amended effective October 1, 2023.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 15.1-27-16

CHAPTER 67-19-04
EDUCATIONAL OPPORTUNITIES WITH SPONSORING ENTITIES

Section
67-19-04-01 Local Policy
67-19-04-02 Creation of Proposal
67-19-04-03 ~~Submission of Proposal~~Notification of Department
67-19-04-04 Review and Approval of Proposals [Repealed]
67-19-04-05 Program Evaluation Data
67-19-04-06 Revocation of ~~Proposal~~Program

67-19-04-03. ~~Submission of proposal~~Notification of department.

~~1. Because of the dual nature of the kindergarten through grade twelve education coordination council review and department of public instruction approval, the department will act as a liaison between the schools and the kindergarten through grade twelve education coordination council. Proposals approved by the board of a school district or governing board of a nonpublic school must be submitted to the following address:~~

~~North Dakota Department of Public Instruction~~
~~Attn: North Dakota K-12 Education Coordination Council~~
~~600 East Boulevard Avenue, Department 201~~
~~Bismarck, ND 58505-0440~~

~~ndk12ecc@nd.gov~~

~~2. For educational opportunities, proposals must be submitted to the director of the office of school approval and opportunity a minimum of ninety days before the beginning of instruction.~~

~~3. All proposals must include the local policy and the school board meeting minutes documenting the adoption of the local policy and the approval of the proposal from the sponsoring entity.~~

~~4. Upon receiving the proposal, the director of the office of school approval and opportunity shall submit the proposal to the president of the kindergarten through grade twelve education coordination council for review.~~

A school district or nonpublic school that has approved a proposal from a sponsoring entity under this chapter shall notify the superintendent of public instruction within thirty days of approval.

History: Effective January 1, 2022; amended effective January 1, 2023; October 1, 2023.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 15.1-07-35

67-19-04-04. Review and approval of proposals.

Repealed effective October 1, 2023.

~~1. Within thirty days of receiving the proposal, the superintendent of public instruction shall provide the members of the kindergarten through grade twelve education coordination council with the opportunity to review the proposal to ensure compliance with section 67-19-04-02. Members of the kindergarten through grade twelve education coordination council may provide feedback to the superintendent of public instruction.~~

~~2. Following review by the kindergarten through grade twelve education coordination council, the superintendent of public instruction shall approve or deny the proposal, in accordance with subsection 6 of North Dakota Century Code section 15.1-07-35.~~

~~3. In accordance with subsection 6 of North Dakota Century Code section 15.1-07-35, the department of public instruction shall notify boards of school districts and governing boards of nonpublic schools of their approval status.~~

~~**History:** Effective January 1, 2022; amended effective January 1, 2023.~~
~~**General Authority:** NDCC 28-32-02~~
~~**Law Implemented:** NDCC 15.1-07-35~~

67-19-04-06. Revocation of ~~proposal~~program.

1. If program evaluation data indicates that a ~~proposal~~program is not providing success for students, the superintendent of public instruction may:

   a. Make recommendations for improvement; or

   b. Revoke the ~~proposal~~program.

2. If the superintendent of public instruction revokes a ~~proposal~~program as authorized in subsection ~~10~~8 of North Dakota Century Code section 15.1-07-35, school districts and nonpublic schools must be allowed to revise and ~~resubmit~~submit their proposal to the department for ~~approval~~reinstatement. The department shall notify school districts and nonpublic schools of their resubmission status within thirty days of resubmission.

History: Effective January 1, 2022; amended effective October 1, 2023.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 15.1-07-35

ARTICLE 67-33
INTERIM ASSESSMENT

Chapter
67-33-01 State-Approved Interim Assessment List

CHAPTER 67-33-01
STATE-APPROVED INTERIM ASSESSMENT LIST

Section
67-33-01-01 Definitions
67-33-01-02 Selection and Approval Criteria
67-33-01-03 Selection and Approval Process
67-33-01-04 List Creation, Maintenance, and Tracking

67-33-01-01. Definitions.

1. "State-approved list", for purposes of this chapter, means a list of vendors who administer interim assessments and meet the selection and approval criteria created by the superintendent of public instruction.

2. "Interim assessment" means assessments administered during instruction to evaluate students' knowledge and skills relative to North Dakota educational content standards to inform policymaker or educator decisions at the classroom, school, or district level.

History: Effective October 1, 2023.
General Authority: NDCC 15.1-21-17.1, 28-32-02
Law Implemented: NDCC 15.1-21-17.1

67-33-01-02. Selection and approval criteria.

Any interim assessment vendor serving public school districts must meet the following criteria to be selected as a state-approved interim assessment vendor and placed on the state-approved interim assessment list. It is a shared responsibility between the interim assessment vendor and the school district to ensure that all kindergarten through tenth grade interim assessment data are being shared with the statewide longitudinal data system.

1. Interim assessment vendors must electronically share assessment data with the statewide longitudinal data system within thirty days of administering the assessments and in a format compatible with the statewide longitudinal data system. Interim assessment data sharing can occur in two different ways:

   a. The vendor shares a statewide file with the state for use in the statewide longitudinal data system that consists of all school districts in the state that they serve. The data-sharing agreement would allow access to that school district's portion of the state file.

   b. The vendor shares individual school district files with the state for use in the statewide longitudinal data system.

2. Interim assessment vendors must disclose if any large-scale student data breaches, related to their interim assessment products, have taken place in the previous three years. If there has been a large-scale data breach in the previous three years, the interim assessment vendor must explain the severity, number of students involved, and if any North Dakota schools or students were involved.

3. The interim assessment vendor must adhere to all state and federal student data privacy laws.

4. Interim assessment vendors must make training and support available to school districts on how to administer interim assessments.

5. Interim assessment vendors must publicly share their process and timeline to update and improve their interim assessment. Information to be shared includes a psychometric review for validity and reliability, by the vendor or outside evaluator, in relation to the North Dakota educational content standards.

History: Effective October 1, 2023.
General Authority: NDCC 15.1-21-17.1, 28-32-02
Law Implemented: NDCC 15.1-21-17.1

67-33-01-03. Selection and approval process.

Data-sharing agreements between the school district, vendor, and statewide longitudinal data system must be in place. This must occur to ensure compliance with subsection 4 of North Dakota Century Code section 15.1-21-17.1. It is the responsibility of the school district to ensure an updated data-sharing agreement is in place. An interim assessment vendor must follow the process described in this section to be considered for placement on the state-approved list:

1. Contact the North Dakota department of public instruction to retrieve the approval form that interim assessment vendors must complete. This approval form will also be available on the department's website.

2. Complete the approval form. The approval form will:

   a. Include assurances for items listed under section 67-33-01-02.

   b. Require a signature from someone with vendor signature authority.

   c. Require contact information to be shared with the department.

3. Submit the approval form via the instructions on the form itself. The department of public instruction will then review the approval form and inform the vendor of its status within thirty days.

History: Effective October 1, 2023.
General Authority: NDCC 15.1-21-17.1, 28-32-02
Law Implemented: NDCC 15.1-21-17.1

67-33-01-04. List creation, maintenance, and tracking.

When interim assessment vendors are approved they will be added to the state-approved interim assessment list. The list will be created and maintained by the department of public instruction and will be available on the department's website and available to be shared upon request. The superintendent of public instruction has the authority to remove vendors if they are not in compliance with the criteria in this chapter. The department of public instruction and the North Dakota information technology department will work together to track school districts and interim assessment vendors who are and are not in compliance with this chapter. The state will provide feedback to the interim assessment vendors about data-sharing agreements and the usefulness of the interim assessment data. If data are found to be of little value or low quality, the superintendent of public instruction has the authority to remove vendors from the list.

History: Effective October 1, 2023.
General Authority: NDCC 15.1-21-17.1, 28-32-02

Law Implemented: NDCC 15.1-21-17.1