

CHAPTER 4-07-02
SALARY ADMINISTRATION PROCEDURES

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. "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.
2. "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.
3. "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.
4. "General salary increase" means a salary increase provided to classified employees by specific legislative appropriation.
5. "Hiring rate" means the salary level assigned to an employee upon initial employment with an agency.
6. "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 (JEC) 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.
67. "Pay grade" means the number assigned to a classification which corresponds with one specific range of pay rates.
78. "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.
89. "Probationary increase" means a salary increase provided to a classified employee upon the successful completion of their applicable probationary period.
910. "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.

4011. "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.

4112. "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.

4213. "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.

4314. "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)

CHAPTER 4-07-03 CLASSIFICATION PLAN

Section

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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 ~~except "Classification plan" means the listing of all the classes that have been established, the descriptions for those classes, and the process and procedures developed to maintain the plan 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 ~~common~~ working title to designate persons or positions may be used ~~when communicating externally, or when the purpose of the communication is not related to human resource administration.~~

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 and ~~conditions~~ 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 has not been reviewed for at least three years and different duties and responsibilities have been assigned to the position.~~

~~43. 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.~~

~~5. A position is vacant, has not been reviewed for at least seven years, and will be filled.~~

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 include all information specified by be submitted to human resource management services. The request must be submitted on the using the designated forms specified by the division 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)

~~**4-07-03-07. 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 their 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.** 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 any of the reasons apply, the appointing authority shall submit the request to human resource management services for review. If none of the reasons apply, the appointing authority shall respond to the employee. [Repealed effective July 1, 2014]~~

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)

4-07-03-09.2. Correcting class evaluation interpretation 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. Human resource management services shall notify the appointing authority and employee~~Classification process and notifications. Within sixty calendar days of receiving a request to review a position, human resource management services shall notify in writing the agency appointing authority and the employee of the division's decision and the right to request reconsideration. The human resource management services director may extend the timeframe if:

1. ~~The request requires creating a new or revising an existing class description; or~~
2. ~~The division is required to obtain additional information in order to properly process the request.~~

~~In cases of extended timeframes, human resource management services will notify the appointing authority.~~Upon receipt of a classification or reclassification request, human resource management services shall initiate a review of the position. If human resource management services concurs with the agency request, the classification or reclassification shall be implemented. If either human resource management services and the agency do not concur, human resource management services shall ensure that complete job information is gathered and prepared for presentation to the job evaluation committee for determination. If the review is not completed within sixty days, 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 working days. If either the employee or appointing authority disagree with the job evaluation committee's decision, an appeal may be made as provided in NDAC 59.5-03-02.

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)

~~4-07-03-11. Request for reconsideration of classification decision.~~ —An appointing authority or an employee may request reconsideration of a classification assigned to a position by submitting a written notice to human resource management services within fifteen working days from the date the initial classification decision was mailed by human resource management services. The request for reconsideration must state the

~~specific issue and reasons for the request and the desired outcome. Human resource management services shall review the information contained in the request and provide a decision in writing to the parties within sixty calendar days from the date the request for reconsideration was received by the division. [Repealed effective July 1, 2014]~~

~~**History:** Effective May 1, 1994; amended effective November 1, 1996; 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

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4-07-04-05	Additional Information Required
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4-07-04-07	An Employee May Request a Review
4-07-04-08	An Appointing Authority Shall Consider an Employee's Request [<u>Repealed</u>]
4-07-04-09	Human Resource Management Services Shall Notify Affected Appointing Authority and Employee <u>Pay Grade Review Process, Pay Grade Exceptions, and Notification</u>
4-07-04-09.1	Effective Date of Pay Grade Assignment
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4-07-04-10	Pay Grade Appeal to the Director [<u>Superseded</u>]
4-07-04-11	Pay Grade Exception [<u>Repealed</u>]
4-07-04-12	Periodic Review

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:

1. "Class" means ~~job or job title representing a group of tasks, duties, and responsibilities.~~

2. "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)

4-07-04-03.1. Correcting class evaluation interpretation 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. [Repealed effective July 1, 2014]~~

~~**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)~~

4-07-04-04. 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 duties and responsibilities of the class have changed.~~
21. The appointing authority is experiencing recruiting problems due to the assigned pay grade.
32. The appointing authority is experiencing retention problems due to the assigned pay grade.
43. 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 descriptions/~~position information~~ questionnaire(s).
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)~~

4-07-04-07. 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 their 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.** 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 respond to the employee. [Repealed effective July 1, 2014]~~

~~**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)~~

~~**4-07-04-09. Human resource management services shall notify affected appointing authority and employee. Pay grade review process, pay grade exceptions, and notification.** Within sixty calendar days of receiving a request to review a pay grade, human resource management services shall notify in writing the affected agency appointing authority and the employee of the division's decision and the right to request reconsideration. The appointing authority shall communicate pay grade assignments to the employees. The human resource management services director may extend the time when the nature of the request requires extensive review and a comment period in order to properly process the request. In cases of time extensions, human resource management services shall notify the appointing authority. 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 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 NDAC 59.5-03-02.1.

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)

~~**4-07-04-09.2. Request for reconsideration of pay grade assignment.** An appointing authority or an employee may request reconsideration of a pay grade assigned to a class by submitting a written request to human resource management services within fifteen working days from the date the initial pay grade decision was mailed by human resource management services. The request for reconsideration must state the specific issue, reason for the request, and desired outcome. Human resource management services shall review the information contained in the request, solicit other information and input as appropriate, and provide a written decision to the parties within sixty calendar days from the date of the request for reconsideration. The human resource management services director may extend the time when the nature of the request requires extensive review and a comment period in order to properly process the request. In cases of time extensions, human resource management services shall notify the appointing authority. [Repealed effective July 1, 2014]~~

~~**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)~~

~~**4-07-04-11. Pay grade exception.** Upon receipt of a request to review a pay grade from an appointing authority or an employee the director, human resource management services, 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. [Repealed effective July 1, 2014]~~

~~**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

4-07-05-05.1. Internal recruiting. When an appointing authority proceeds to fill a vacant classified, nontemporary position by recruiting an individual who is a current employee of the appointing authority within its agency, the appointing authority shall ensure that all

employees occupying classified positions of the appointing authority or within the specified work unit(s) 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)

CHAPTER 4-07-06 PROBATIONARY PERIOD

4-07-06-02. Probationary period. Each newly hired or reinstated employee shall serve a probationary period each time of the employee's hiring into a classified position in an agency. Nonprobationary classified employees are not required to serve a probationary period upon promotion, demotion or transfer within an agency. Temporary service at the same level and type of work may be considered toward the probationary period.

History: Effective September 1, 1992; amended effective July 1, 1995; November 1, 1996; July 1, 2004; January 1, 2012; July 1, 2014.

General Authority: NDCC 54-44.3-12

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

CHAPTER 4-07-07 WORKING HOURS AND HOLIDAYS

4-07-07-03. The standard workweek. The standard workweek is a fixed and regularly recurring period of seven consecutive twenty-four-hour periods. A workweek may begin on any day of the week and at any hour and minute of the day. Due to the nature of the work, an agency may assign employees to work different workweeks or different workdays to carry out the mission of the agency. Employees must be made aware of their assigned workweek. An agency may establish different workweeks in accordance with requirements of the Fair Labor Standards Act of 1938 [Pub. L. 75-718; 52 Stat. 1060; 29 U.S.C. 201 et seq.]. In the absence of an established standard workweek, the period of ~~12:01~~11:59 a.m. Sunday through ~~12:00~~11:59 p.m. the following Saturday ~~must~~ shall be utilized.

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

General Authority: NDCC 54-44.3-12

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

CHAPTER 4-07-19 DISCIPLINARY ACTIONS

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4-07-19-05	Appointing Authority Shall Provide a Written Preaction Notice
4-07-19-06	Appointing Authority Shall Provide a Written Final Action Notice
4-07-19-07	<u>Agency Reconsideration of Prior Discipline</u>

4-07-19-07. Agency reconsideration of prior discipline. An appointing authority may reopen and reconsider previously imposed discipline in the event the appointing authority determines that new information or circumstances exist or that discipline imposed pursuant to delegated authority is inconsistent with established agency policy, standard, or practice or otherwise is inappropriate in light of the adequacy of any prior investigation or the obligations the agency has to take corrective action. An employee that is demoted, suspended, or dismissed under this section may appeal the basis for reopening and reconsidering the previously imposed discipline as well as the grounds for the discipline imposed in accordance with the provisions of chapter 4-07-20.1.

History: Effective July 1, 2014

General Authority: NDCC 54-44.3-12

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

CHAPTER 4-07-36 TRAINING AND TUITION REIMBURSEMENT

4-07-36-02. Payment of training and tuition. An appointing authority may adopt policies to provide training and educational opportunities to its employees to learn new required skills or to enhance their current skills, to increase the opportunity for advancement within the agency or state service, to increase proficiency and productivity, and to improve work performance.

Costs of training or educational courses, including tuition and fees, may be paid for, within budgetary constraints, by the agency or reimbursed to the employee in accordance with agency policy.

An employee who leaves employment with the state agency within two years of receiving the tuition must repay the tuition received on a prorated basis.

History: Effective July 1, 2008; amended effective July 1, 2010; July 1, 2014.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-33, 54-44.3-12