

## 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 or which reflects a substantially higher level of responsibility 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; April 1, 2022

**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 also should consider equity between the state agencies.

**History:** Effective March 1, 1991; amended effective July 1, 2004; 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 4-07-05 RECRUITMENT AND SELECTION

### Section

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#### **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; [April 1, 2022](#).

**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~~ The appointing authority **must also that lists** vacancies **for external recruitment** 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; April 1, 2022.

**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

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 shall 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 either has 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 section 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; full time or part time status; regular or temporary status.
2. Position number for internal use only.
3. Salary or projected hiring range.
4. Closing date.
5. Duty location of position (city) and optional statement on the feasibility of remote work.
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; April 1, 2020; [April 1, 2022](#).

**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 4-07-08  
WORKING AND INCLEMENT WEATHER CONDITIONS**

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**4-07-08-01. 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)

**4-07-08-02. 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 are expected to follow a normal work schedule.**

**History:** Effective September 1, 1992;

**Amended effective April 1, 2022.**

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

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

**4-07-08-03. Reporting late or leaving early.**

An employee who either reports to work late, or who leaves work early during inclement weather

**History:** Effective September 1, 1992.

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

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

**4-07-08-04. Key positions.**

An appointing authority may designate key positions. Individuals occupying those positions shall provide continuing services or essential services as required during emergency or inclement weather conditions when the agency is closed by an authorized official. An individual occupying a key position may be provided extra compensation, in addition to the regular pay rate, for performing required work during a period when agency facilities or normal operations have been closed or curtailed due to emergency or inclement weather conditions.

**History:** Effective September 1, 1992.

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

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

#### **4-07-08-05. No pay reduced.**

An appointing authority may not reduce the pay of an employee who is released from work due to an emergency or inclement weather conditions by an authorized official for those hours the employee was not required to work.

**History:** Effective September 1, 1992.

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

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

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

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)

**CHAPTER 4-07-34.1**  
**LOCAL COUNTY SOCIAL SERVICE MERIT SYSTEMS**

Section

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4-07-34.1-06	Noncompliance
4-07-34.1-07	Opt-Back-In Procedures

**~~4-07-34.1-01. Scope of chapter.~~**

~~This chapter applies to county social service agencies that have opted not to be covered by the North Dakota merit system, but are required to comply with the federal standards for a merit system of personnel administration.~~

~~**History:** Effective October 1, 2008.~~

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

~~**Law Implemented:** NDCC 54-44.3-12~~

**~~4-07-34.1-02. Procedures for establishing a local county social service agency merit system.~~**

~~A county board of commissioners or group of county boards in consultation with the social service board or boards that opts to establish a local merit system for the social service agencies shall develop a plan that includes policies and procedures that comply with the merit principles listed in section 4-07-34.1-04 and submit it to human resource management services and the department of human services for approval prior to implementation.~~

~~**History:** Effective October 1, 2008.~~

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

~~**Law Implemented:** NDCC 54-44.3-12~~

**~~4-07-34.1-03. Plan approval.~~**

~~Human resource management services shall establish an effective date authorizing a county board of commissioners or group of county boards merit system after approval of the county plan.~~

~~**History:** Effective October 1, 2008.~~

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

~~**Law Implemented:** NDCC 54-44.3-12~~

**~~4-07-34.1-04. Merit principle requirements.~~**

~~The following are the minimum merit system requirements that a county board of commissioners or group of county boards must address in its plan to establish a local merit system.~~

- ~~1. Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.
  - ~~a. A standard employment application form;~~
  - ~~b. An application review and ranking process, applicant notification, and procedure for appeals of disqualification;~~~~

- ~~c. Referral of applicants to interviewer based on applicant ranking;~~
  - ~~d. Compliance with North Dakota Century Code chapter 37-19.1, veterans' preferences;~~
  - ~~e. Job announcements for internal and external recruitment; and~~
  - ~~f. Position changes, including promotions, demotions, transfers, and reinstatements.~~
- ~~2. Providing equitable and adequate compensation.~~
- ~~a. A classification plan, including class descriptions with minimum qualifications;~~
  - ~~b. Individual job descriptions;~~
  - ~~c. A salary administration plan with minimum salary range rates that are not less than the state merit system compensation plan;~~
  - ~~d. Identified working hours; and~~
  - ~~e. Leave policies, including holidays, annual, sick, military, funeral, jury and witness, workers' compensation, and family medical leave.~~
- ~~3. Training employees, as needed, to assure high-quality performance.~~
- ~~4. Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.~~
- ~~a. A for-cause employment standard must be used;~~
  - ~~b. A performance management program, including a minimum of an annual performance review;~~
  - ~~c. A probationary period;~~
  - ~~d. A corrective and disciplinary process, including use of progressive discipline; and~~
  - ~~e. Defined separations, including preaction process, dismissal, reduction-in-force, and expiration of appointment, including a formal appeal mechanism.~~
- ~~5. Assuring fair treatment of applicants and employees in all aspects of human resource administration without regard to political affiliation, race, color, national origin, sex, religious creed, age, or disability and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the federal equal employment opportunity and nondiscrimination laws.~~
- ~~a. Policies, including Americans With Disabilities Act, Fair Labor Standards Act, and Age Discrimination in Employment Act;~~
  - ~~b. Compliance with federal and state equal employment opportunity and nondiscrimination laws including title VI and title VII of the Civil Rights Act of 1964, as amended, the North Dakota Human Rights Act, and the Public Employee Relations Act of 1985, as amended;~~
  - ~~c. Grievance policy and procedure;~~
  - ~~d. Appeals process to a neutral third party; and~~
  - ~~e. Records management, including personnel files, records retention, open records, and compliance with the Health Information Portability and Protection Act.~~



- ~~6. Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office and compliance with the federal Hatch Act.~~

~~History:~~ Effective October 1, 2008.

~~General Authority:~~ NDCC 14-02.4, 54-44.3-12

~~Law Implemented:~~ NDCC 14-02.4, 54-44.3-12

#### ~~4-07-34.1-05. Oversight and audit procedures.~~

~~Human resource management services and the department of human services human resource division shall jointly conduct periodic audits or oversight reviews of local county merit system policies, procedures, and practices to ensure compliance with the local county merit system plan and federal merit system principles.~~

~~History:~~ Effective October 1, 2008.

~~General Authority:~~ NDCC 14-02.4, 54-44.3-12

~~Law Implemented:~~ NDCC 14-02.4, 54-44.3-12

#### ~~4-07-34.1-06. Noncompliance.~~

- ~~1. When a local county merit system is found to be out of compliance, the audit team shall recommend corrective action.~~
- ~~2. The county board of commissioners or group of county boards shall submit a corrective action plan within sixty days of receipt of the audit findings.~~
- ~~3. The county board of commissioners or group of county boards, human resource management services, and the department of human services shall negotiate a corrective action agreement within sixty days of receipt of the corrective action plan.~~
- ~~4. Upon approval of the corrective action plan, the county board of commissioners or group of county boards shall have an additional sixty days to implement the plan.~~
- ~~5. A followup audit shall be conducted within six months of the implementation date of the corrective action plan.~~
- ~~6. When a local county merit system is found to be out of compliance with the local county merit system plan and federal merit system principles after a followup audit, the county board of commissioners or group of county boards shall be required to be placed under the jurisdiction of the North Dakota merit system. All programs and policies, including salaries, must be adjusted to be in compliance with the North Dakota merit system. Any federal penalties that result from the noncompliance shall be the responsibility of the county board of commissioners or group of county boards.~~

~~History:~~ Effective October 1, 2008.

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

~~Law Implemented:~~ NDCC 54-44.3-12

#### ~~4-07-34.1-07. Opt-back in procedures.~~

~~A county board of commissioners or group of county boards in consultation with the social service board or boards that opted out of the North Dakota merit system may opt back in the North Dakota merit system with the concurrence of human resource management services and the department of human services. All programs and policies, including salaries, must be adjusted to be in compliance with the North Dakota merit system.~~

~~History: Effective October 1, 2008~~

~~General Authority: NDCC 14-02.4, 54-44.3-12~~

~~Law Implemented: NDCC 14-02.4, 54-44.3-12~~

CHAPTER 4-07-37  
SHARED LEAVE

Section

4-07-37-01 Scope of Chapter

4-07-37-02 Definitions

4-07-37-03 Administration of State-wide Shared Leave Program

4-07-37-04 Policy on Qualifying Medical Conditions.

**4-07-37-01. Scope of chapter.** This chapter applies to all permanent state employees. Independent programs consistent with the human resource management services division program may be administered for state judiciary, legislative, and university system employees.

**History:** Effective April 1, 2022

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

**Law Implemented:** NDCC 54-06-14.7

**4-07-27-02. 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 employee” means a permanent state employee with over six months continuous service with the state. It does not include employees in probationary status or employees on temporary or other limited term appointments.
2. “Annual leave” means an approved absence from work with pay, as defined in section 4-07-02.
3. “Sick leave” means an approved absence from work with pay, for use in accordance with section 4-07-13-07.
4. “Eligible family member” means the employee’s spouse, parent (natural, adoptive, foster, and stepparent), child (natural, adoptive, foster, and stepchild), or any other family or household 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.
5. “Serious” or “extraordinary” means severe, extreme, or life threatening. These terms do not include conditions associated with normal pregnancy.

**History:** Effective April 1, 2022

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

**Law Implemented:** NDCC 54-06-14.7

**4-07-37-03. Administration of state-wide leave sharing program.** The human resource management services division of the office of management and budget shall administer a state leave sharing program for permanent state employees. The program provides a mechanism for eligible employees to donate accrued annual and sick leave

to an eligible employee who does not have available leave who is suffering from a serious or extraordinary illness, injury, impairment, or physical or mental condition. State employees may also donate accrued annual leave to another eligible employee who does not have available leave and who is caring for an eligible family member who is suffering from a serious or extraordinary illness, injury, impairment, or physical or mental condition.

The human resource management service division will approve or disapprove each request for donated leave after consultation with the requesting eligible employee's agency administrator. The division shall track the amount of leave taken by eligible employees under the program.

All forms of leave available for use by the recipient must be used prior to using shared leave. Donated leave shall be credited to the eligible employee in increments that may not exceed one month. An eligible employee may not use more than four months donated leave in any twelve-month period and an eligible employee may not retain leave beyond the occurrence necessitating the leave. Leave that has been donated but remains unused beyond the qualifying occurrence shall be returned to the donating employee.

All donated leave must be given voluntarily. An eligible employee may not donate more than five percent of the eligible employee's accrued sick leave hours per month. An eligible employee's donation of annual leave may not reduce their annual leave balance to less than 40 hours. All leave must be donated in full-hour increments.

An eligible employee may request and use donated annual leave or sick leave for the purpose of donating an organ or bone marrow.

An employee who has received a documented verbal or written warning for inappropriate use of annual or sick leave will not be eligible to receive donated leave without specific approval from the director of the human resource management services division.

**History:** Effective April 1, 2022

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

**Law Implemented:** NDCC 54-06-14.7

**4-07-37-04. Policy on qualifying medical conditions.** The human resource management services division will maintain and consistently administer criteria for qualifying serious or extraordinary conditions based on best practices. For each shared leave request, the division shall require medical certification from a physician, physician assistant, psychologist, or advanced practice nurse practitioner verifying the severe or extraordinary nature of the medical condition and the expected duration of the condition. Requests for donated leave will not be considered without this specific documentation.

**History:** Effective April 1, 2022.

**General Authority: NDCC 54-44.3-12**  
**Law Implemented: NDCC 54-06-14.7**