

## CHAPTER 4-07-20 GRIEVANCE PROCEDURES

### Section

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#### **4-07-20-01. 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 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), 54-44.3-12.2

#### **4-07-20-02. Requirements for grievance procedures.**

Each agency, department, institution, board, and commission subject to this chapter shall establish internal grievance procedures that include the following:

1. A provision that allows an employee to grieve an employer action of demotion, dismissal, suspension without pay, forced relocation, reduction-in-force, reprisal, or discrimination in employment. The provision must require the employee to begin the agency grievance procedure within fifteen working days from the date of notice of the employer action, except in the case of reprisal. The date of service of the notice shall be considered to be the date the notice was mailed or the date transmitted 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 by electronic means, or hand delivery. The provision must also require that in the case of reprisal the employee shall begin the agency grievance procedure within fifteen working days from the date of the reprisal action.
2. Specific steps to be followed in processing the grievance, limitations on the amount of time the parties have to respond, and any procedures for extending time limitations.
3. A requirement that the parties must respond to the issues raised in the grievance.
4. A method of counting time that is in working days.
5. Provisions that allow an employee a reasonable amount of time to process a grievance without loss of pay during regular working hours.
6. An option that if the appointing authority misses an established deadline in the grievance procedure, the grievance may be advanced to the next step.
7. The use of a standard grievance form.

**History:** Effective May 1, 1994; amended effective November 1, 1996; July 1, 2004; July 1, 2010.

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

**Law Implemented:** NDCC 54-44.3-12(1), 54-44.3-12.2

#### **4-07-20-02.1. Waiver of agency grievance procedure.**

A waiver of the agency grievance procedure is allowed by mutual agreement of the employee and appointing authority. Each party must sign the waiver within fifteen working days of the employer action. Upon obtaining the waiver, the employee may appeal directly to human resource management services in accordance with section 4-07-20.1-08. An additional fifteen working days is not available if the requested waiver is denied.

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

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

**Law Implemented:** NDCC 54-44.3-12.2

#### **4-07-20-03. Absence of established written agency grievance procedure.**

In the absence of an established written agency grievance procedure, the aggrieved employee may appeal an employer action as covered in subsection 1 of section 4-07-20.1-02 and section 4-07-20.2-04 directly to human resource management services by following the applicable appeal procedures outlined in section 4-07-20.1-08 or 4-07-20.2-07. Human resource management services shall act upon the appeal in the same manner as an appeal processed through an agency grievance procedure. This avenue of appeal does not negate the requirements for an agency grievance procedure.

**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), 54-44.3-12.2