CHAPTER 59.5-03-02.1
PAY GRADE APPEALS

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

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

History: Effective November 1, 1996; amended effective July 1, 2004.
General Authority: NDCC 54-44.3-07(1)
Law Implemented: NDCC 54-44.3-07(3)

59.5-03-02.1-02. Definitions.

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

1. "Regular employee" means a person who has completed the probationary period and who is in a position classified by human resource management services.

2. "Working days" means Monday through Friday exclusive of holidays.

History: Effective November 1, 1996; amended effective July 1, 2004.
General Authority: NDCC 54-44.3-07(1)
Law Implemented: NDCC 54-44.3-07(3)

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

1. A regular employee or an appointing authority may appeal to the state personnel board the pay grade assigned to a class by human resource management services if one of the following is alleged:

   a. Human resource management services did not give due consideration to information presented.

   b. Human resource management services did not follow chapter 4-07-03.

   c. The decision of human resource management services was made in a discriminatory manner as defined in North Dakota Century Code section 14-02.4-01.

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

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

3. Human resource management services shall provide each member of the state personnel board, the employee, and the agency appointing authority a copy of each document to become a part of the appeal file. The appeal file must include copies of the following:

   a. The original pay grade review request under appeal and all attachments and responses.

   b. The written appeal and all attachments.

   c. All written correspondence relating to the original request and appeal, including written requests for extension and notices of extensions granted or denied.

   d. The written appeal commencing the appeal before the state personnel board.

   e. Other directly relevant and significant documents submitted by the employee, appointing authority, or human resource management services.

4. Human resource management services shall disseminate the appeal file to all participating parties at least ten working days prior to the board hearing date. Documents submitted by any participant after the appeal file is disseminated may cause the board to delay the hearing, generally to the next scheduled board meeting date.

5. The employee, appointing authority, and their representatives may appear at the board meeting for the hearing of the pay grade appeal. The employee, appointing authority, or their representatives shall first make an oral presentation relative to the matter under appeal, followed by human resource management services. The board chairperson shall ensure that all parties have ample opportunity to present their views relating to the pay grade appeal. New information presented at the hearing may delay the decision of the board.

6. If the board determines by a preponderance of the evidence that the appeal has merit based on reasons stated in subsection 1, the board shall:

   a. Remand the appeal to human resource management services for further review; or

   b. Uphold the decision of human resource management services.

7. Human resource management services shall notify the employee and appointing authority in writing of the board's decision within five working days following the date the board makes its decision regarding the appeal. A decision that results in a pay grade either higher or lower than that previously established by human resource management services is effective on the date specified by the appointing authority, though not earlier than the month of human resource management services approval. An earlier effective date may be applied with written approval from the director of human resource management services. The board's decision regarding a pay grade appeal is final.

8. The employee's agency shall reimburse the appealing employee for the required time, travel, meals, and lodging expenses to appear before the board. The reimbursement may not exceed the amounts allowed state employees.

History: Effective November 1, 1996; amended effective July 1, 2004; April 1, 2020.
General Authority: NDCC 54-44.3-07(1)
Law Implemented: NDCC 54-44.3-07(3), 54-44.3-12