

**ARTICLE 86-02
DEPARTMENT OF VETERANS' AFFAIRS**

Chapter
86-02-01 Veterans' Rights to Reemployment

**CHAPTER 86-02-01
VETERANS' RIGHTS TO REEMPLOYMENT**

Section
86-02-01-01 Reinstatement to Former Employment
86-02-01-02 Notice of Appeal
86-02-01-03 Employer Response Request
86-02-01-04 Issuance of Order
86-02-01-05 Employer Failure to Implement the Order of the Commissioner

86-02-01-01. Reinstatement to former employment.

The procedures of this chapter establish a means whereby individuals having been denied reinstatement to a former position may pursue their request for reinstatement as provided in the North Dakota Century Code section 37-01-25.1.

General Authority: NDCC 37-01-25.1

Law Implemented: NDCC 37-01-25.1

86-02-01-02. Notice of appeal.

Any individual entitled to reinstatement to a former position as set forth in the North Dakota Century Code section 37-01-25.1 may make the individual's case known to the department of veterans' affairs of North Dakota and seek assistance in reinstatement by completing notice of appeal form, DVA-Appeal-1, supplying the information requested in the notice of appeal in specific detail. The information so provided in affidavit form, sworn to and notarized, shall be delivered to the commissioner of veterans' affairs, post office box 1287, 1017 fourth avenue north, Fargo, North Dakota 58102. Notice of appeal forms, DVA-Appeal-1, are available through the department of veterans' affairs in Fargo, North Dakota, or may be obtained through any county veteran service officer in the state. The commissioner or any county service officer will assist an applicant in the completion of notice of appeal whenever assistance is requested.

General Authority: NDCC 37-01-25.1

Law Implemented: NDCC 37-01-25.1

86-02-01-03. Employer response request.

Upon receipt of the notice of appeal, the commissioner shall immediately arrange to advise the employer, by letter, of the notice of appeal and its total content, through a copy of the notice of appeal. The employer shall then be provided an opportunity to respond by sworn affidavit setting forth the facts in the matter. The employer will be advised, at the time of the communication notifying the employer of the content of the appeal, that the employer has twelve days to provide information to be considered by the commissioner prior to the commissioner's determination and issuance of an order.

General Authority: NDCC 37-01-25.1

Law Implemented: NDCC 37-01-25.1

86-02-01-04. Issuance of order.

Immediately following the twelve-day period provided for the employer to respond, the commissioner will carefully examine the information available and will either prepare an order to deny

the applicant's request or order the officer, or other appointing power, to comply with the provisions of the North Dakota Century Code relative to reinstatement to former position. When the decision of the commissioner orders reinstatement, the order shall direct the employer to effect such reinstatement immediately or, in lieu of immediate reinstatement, make satisfactory arrangements for a reinstatement date concurred in by the applicant.

General Authority: NDCC 37-01-25.1

Law Implemented: NDCC 37-01-25.1

86-02-01-05. Employer failure to implement the order of the commissioner.

In the event an order of the commissioner to reinstate does not effect such reinstatement, the applicant will be contacted and offered the services of the department to pursue the applicant's appeal through the district courts, if the applicant so desires.

General Authority: NDCC 37-01-25.1

Law Implemented: NDCC 37-01-25.1