

ARTICLE 4-07

ORGANIZATION OF HUMAN RESOURCE MANAGEMENT SERVICES

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**CHAPTER 4-07-05
RECRUITMENT AND SELECTION**

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4-07-05-09	Vacancy Announcement Requirements

4-07-05-07. Veterans' preference documentation required. To receive veterans' preference, an applicant must submit the following documentation:

- ~~1. An applicant claiming veterans' preference shall provide a copy of report of separation DD-214.~~
- ~~2. An applicant claiming disabled veterans' preference shall provide a copy of report of separation DD-214 and a letter less than one year old from the veterans' administration indicating the veteran's disability status.~~
- ~~3. An applicant claiming veterans' preference as an eligible spouse of a deceased veteran shall provide a copy of the marriage certificate, the veteran's report of separation DD-214, and the veteran's death certificate.~~
- ~~4. An applicant claiming disabled veterans' preference as an eligible spouse of a disabled veteran shall provide a copy of the marriage certificate, the veteran's report of separation DD-214, and a letter less than one year old from the veterans' administration indicating the veteran's disability status.~~

Veterans' Preference must be applied in the recruitment and selection of employees in accordance with N.D.C.C. ch. 37-19.1.

History: Effective November 1, 1996; amended August 1, 2011.

General Authority: NDCC 54-44.3

Law Implemented: NDCC 54-44.3-23, NDCC 37-19.1

4-07-05-08. Vacancy announcement contents. Each vacancy announcement must include the following information:

1. Class or working title.
2. Position number.
3. Salary or projected hiring range.
4. Closing date.
5. Duty location of position (city).
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; August 1, 2011.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12, NDCC 37-19.1-02(4)

CHAPTER 4-07-06 PROBATIONARY PERIOD

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4-07-06-07	Extending a Probationary Period
4-07-06-08	Promotion During Initial Probationary Period [Repealed]
4-07-06-09	Promotion Following the Initial Probationary Period [Repealed]

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. Non-probationary classified employees are not required to serve a probationary period upon promotion 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.

General Authority: NDCC 54-44.3-12

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

CHAPTER 4-07-13 SICK LEAVE

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4-07-13-11	Sick Leave and Reemployment
4-07-13-12	Assumption of Accrued Sick Leave

4-07-13-07. Uses of sick leave. Sick leave may be used by an employee when:

1. The employee is ill or injured and is unable to work.

2. The employee has an appointment for the diagnosis or treatment of a medically related condition.
 3. The employee wishes to attend to the needs of the employee's eligible family members who are ill or to assist them in obtaining other services related to their health or well-being. Sick leave used for these purposes may not exceed ~~forty~~eighty hours per calendar year.
 4. Upon the approval of the agency appointing authority or designee, the employee may, per calendar year, take up to an additional ten percent of the employee's accrued sick leave to care for the employee's child, spouse, or parent if the child, spouse or parent has a serious health condition. The employer may require the employee to provide written verification of the serious health condition by a health care provider.
45. It is appropriate as a participant in an employee assistance program.

History: Effective September 1, 1992; amended April 26, 2011; January 1, 2012.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1), NDCC 54-52.4-03

CHAPTER 4-07-14 **FUNERAL LEAVE AND HONOR GUARD LEAVE**

Section

4-07-14-01	Scope of Chapter
4-07-14-02	Definitions
4-07-14-03	Granting Leave
4-07-14-04	Not Considered Sick Leave or Annual Leave

4-07-14-01. 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; August 1, 2011.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1); NDCC 54-06-36

4-07-14-02. Definitions. The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3 and North Dakota Century Code chapter 54-06-36, except:

1. "Family" means husband, wife, son, daughter, father, mother, stepparents, brother, sister, brother-in-law, sister-in-law, grandparents, grandchildren, stepchildren, foster parents, foster children, daughter-in-law, and son-in-law.
2. "Funeral leave" means an approved absence from work, with pay, of up to twenty-four working hours, provided to an employee to attend or make arrangements for a funeral, as a result of a death in the employee's family, or in the family of an employee's spouse.
3. "Honor guard leave" means the approved absence from work, with pay, for up to twenty-four working hours per calendar year for an employee to participate in an honor guard for a funeral service of a veteran.
4. "Honor guard" means an individual with an essential ceremonial role in the funeral service of a veteran.
5. An "individual with an essential ceremonial role" is a member of the flag folding team; a member of a firing party; or a bugler performing as part of the official funeral service of a veteran.

History: Effective September 1, 1992; amended August 1, 2011.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1); NDCC 54-06-36

4-07-14-03. Granting funeral or honor guard leave. An appointing authority may grant a request for a funeral or honor guard leave even if the absence of the employee might interfere with the normal operations of the agency.

History: Effective September 1, 1992; amended August 1, 2011.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1); NDCC 54-06-36

4-07-14-04. Not considered sick leave or annual leave. An agency may not consider funeral or honor guard leave as sick leave or annual leave.

History: Effective September 1, 1992; amended August 1, 2011.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1); NDCC 54-06-36

CHAPTER 4-07-24 MERIT SYSTEM APPLICATIONS AND APPEALS

Section

4-07-24-01

Scope of Chapter

4-07-24-01.1

Definitions

4-07-24-02	Application for a Position
4-07-24-03	Open Register Applications [Repealed]
4-07-24-04	Application Accepted After Announcement
4-07-24-05	Investigation of Application Information
4-07-24-06	Disapproval and Disqualification of Applications
4-07-24-07	Merit System Application Appeals to the Agency Appointing Authority
4-07-24-08	Merit System Application Appeals to Human Resource Management Services

4-07-24-07. Merit system application appeals to the agency appointing authority.

1. An applicant who has submitted a timely and properly completed application for a position within an agency, department, or institution subject to this chapter and who has been determined by the employing agency to be disqualified for that position because of failure to meet the minimum qualifications, may appeal the disqualification to the agency appointing authority.
2. The employing agency must notify an applicant who fails to meet the minimum qualifications for a position of the applicant's disqualification and right to appeal by letter mailed to the applicant's last-known address or transmitted by electronic means. If an applicant wishes to appeal the disqualification, the applicant shall file a written appeal to the agency appointing authority. The appeal must be ~~postmarked no later than fifteen working days from the date on the letter of notification of rejection by the employing agency~~ delivered, mailed, or transmitted by electronic means and must be received by the agency appointing authority within fifteen working days from the date of notice of the applicant's disqualification. 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 letter of appeal must specify the basis upon which the applicant relies to assert that the applicant meets the minimum qualifications for the position.
3. The agency appointing authority has fifteen working days from the receipt of the appeal to review the appeal and provide a written response to the applicant.

History: Effective July 1, 1995; amended effective January 1, 2012.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

4-07-24-08. Merit system application appeals to human resource management services.

1. If an applicant is a regular employee and does not agree with the response of the agency appointing authority, the applicant may further appeal the disqualification to human resource management services. A letter of appeal must be addressed to the Director, Human Resource Management Services, 600 East Boulevard Avenue, Dept. 113, Bismarck, ND 58505-0120, and must be ~~postmarked no later than fifteen working days from the date of the agency appointing authority's response to the appeal~~ delivered, mailed, or transmitted by electronic means and must be received in the human resource management services office by five p.m. within fifteen working days of service of the notice of the agency's response to the appeal. 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 letter of appeal must specify the basis upon which the applicant relies to assert that the applicant meets the minimum qualifications for the position.
2. Upon receipt of the appeal letter, the director, human resource management services, shall certify the appeal and submit a written request to the director, office of administrative hearings, to conduct the hearing in accordance with this section.
3. If the applicant and the appointing authority agree in writing, an appeal taken under this section may be disposed of informally as provided in this subsection. The administrative law judge shall notify the applicant and the appointing authority to provide documentation upon which each relies to assert its position on the appeal. Each party may also provide a memorandum of support for its position and may request oral argument before the administrative law judge at the time it submits its memorandum. If either party requests oral argument before the administrative law judge, the administrative law judge shall notify the parties of the time, date, and location of the oral argument. After oral argument, if any, the administrative law judge shall issue findings of fact, conclusions of law, and a final order and provide them to the parties and human resource management services. If the applicant and the appointing authority do not agree to informal disposition of the appeal, the administrative law judge shall conduct a hearing in accordance with this section. After the hearing, the administrative law judge shall issue findings of fact, conclusions of law, and a final order and provide them to the parties and human resource management services.

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

General Authority: NDCC 28-32-05.1, NDCC 54-44.3-12

Law Implemented: NDCC 28-32-05.1, NDCC 54-44.3-12