Personnel Policy Manual
The policies in this manual are not firm conditions of employment, and the language is not intended to create an employment contract between the Department of Health and its employees.

The State Health Officer reserves the right to alter, amend, modify, rescind, or otherwise change the content of this manual as permitted by law, in its sole discretion, and without advance notice to any employee affected by the provisions of this manual.
DEPARTMENT OF HEALTH PERSONNEL POLICY TABLE OF CONTENTS

INTRODUCTION .........................................................................................................................6
Policy Development .....................................................................................................................6
Location of Department Personnel Policy Manual .....................................................................6
Definitions ..................................................................................................................................7

RESPONSIBILITIES ...................................................................................................................8

EMPLOYMENT PRACTICES AND PERSONAL CONDUCT .......................................................9
Equal Employment Opportunity (EEO) Policy ............................................................................9
Hostile Environment/ Sexual Harassment ....................................................................................10
Preventing Violence in the Workplace .......................................................................................11
Americans with Disabilities Act (ADA) .....................................................................................12
Drug-Free Workplace ................................................................................................................13
Substance Abuse Policy .............................................................................................................14
Use of Electronic Communication Devices .............................................................................15
Personal Cell Phone ..................................................................................................................17
Dress/Image ................................................................................................................................18
Nutrition Policy ..........................................................................................................................18

Ethics Policy .............................................................................................................................18
  Compliance with Laws and Regulations ..................................................................................18
  Policy Compliance ..................................................................................................................18
  Conflicts of Interest ...............................................................................................................19
  Abuse of Position ....................................................................................................................19
  Giving and Receiving Gifts/Money .........................................................................................19
  Honorarium ............................................................................................................................20
  Disclosure of Confidential Information .................................................................................20
  Use and Protection of Assets ...............................................................................................20
  Outside Employment or Moonlighting ...................................................................................20
  Financial and Other Records ...............................................................................................21
  Exception Provision ...............................................................................................................21

Fraud or Misconduct ..................................................................................................................21
  Actions Constituting Fraud or Misconduct ............................................................................21
  How to Report .......................................................................................................................22
  Whistleblower Protection .......................................................................................................22

- 1 -

June 2016
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political Activity</td>
<td>23</td>
</tr>
<tr>
<td>Lobbying</td>
<td>23</td>
</tr>
<tr>
<td>Time Off to Vote</td>
<td>24</td>
</tr>
<tr>
<td>Travel and Per Diem</td>
<td>24</td>
</tr>
<tr>
<td>Vehicle Use</td>
<td>24</td>
</tr>
<tr>
<td>Travel Reimbursement</td>
<td>25</td>
</tr>
<tr>
<td>Rate of Mileage Reimbursement</td>
<td>25</td>
</tr>
<tr>
<td>Vehicle Travel Options</td>
<td>25</td>
</tr>
<tr>
<td>Documentation and Approval</td>
<td>26</td>
</tr>
<tr>
<td>SALARY ADMINISTRATION</td>
<td>27</td>
</tr>
<tr>
<td>Salary Levels</td>
<td>27</td>
</tr>
<tr>
<td>Changes to Salary Levels</td>
<td>27</td>
</tr>
<tr>
<td>Payroll Reporting</td>
<td>28</td>
</tr>
<tr>
<td>Work Schedules</td>
<td>28</td>
</tr>
<tr>
<td>Hours of Work</td>
<td>28</td>
</tr>
<tr>
<td>Alternative Work Schedules</td>
<td>28</td>
</tr>
<tr>
<td>Flexible Schedules</td>
<td>29</td>
</tr>
<tr>
<td>Work Breaks</td>
<td>29</td>
</tr>
<tr>
<td>Lunch Breaks</td>
<td>29</td>
</tr>
<tr>
<td>Physical Activity at Lunch</td>
<td>29</td>
</tr>
<tr>
<td>Overtime</td>
<td>30</td>
</tr>
<tr>
<td>Exempt Employees</td>
<td>30</td>
</tr>
<tr>
<td>Non-Exempt Employees</td>
<td>31</td>
</tr>
<tr>
<td>Emergency Pager Policy</td>
<td>33</td>
</tr>
<tr>
<td>Department Emergency Pager</td>
<td>33</td>
</tr>
<tr>
<td>Section/Division Emergency Pagers:</td>
<td>34</td>
</tr>
<tr>
<td>Pager Use</td>
<td>34</td>
</tr>
<tr>
<td>Compensation</td>
<td>34</td>
</tr>
<tr>
<td>Other Department 24/7 Coverage</td>
<td>35</td>
</tr>
<tr>
<td>Probationary Salary Increase</td>
<td>35</td>
</tr>
<tr>
<td>Performance Bonus</td>
<td>35</td>
</tr>
<tr>
<td>Recruitment and Retention Bonus Policy</td>
<td>36</td>
</tr>
<tr>
<td>Recruitment Bonuses</td>
<td>37</td>
</tr>
<tr>
<td>Retention Bonuses</td>
<td>37</td>
</tr>
<tr>
<td>EMPLOYMENT POLICIES</td>
<td>39</td>
</tr>
<tr>
<td>Telecommuting</td>
<td>39</td>
</tr>
<tr>
<td>Credit for Temporary Service</td>
<td>44</td>
</tr>
<tr>
<td>Recruitment and Employment Procedures</td>
<td>44</td>
</tr>
<tr>
<td>Duties of Hiring Manager</td>
<td>44</td>
</tr>
</tbody>
</table>
Duties of the Human Resources Division ................................................................. 45
External Job Announcements .................................................................................. 46
Internal Job Posting ................................................................................................. 46
Interviewee Expenses .............................................................................................. 46
Moving Expenses .................................................................................................... 47
Employee Performance Evaluation ........................................................................... 47
Formal Performance Evaluations ............................................................................ 48
Probationary Evaluations ....................................................................................... 49
Changing the Evaluation Month ............................................................................. 49
Informal Performance Evaluation .......................................................................... 49
Job Description Questionnaires (JDQ) – Content and Access ............................... 50
Discipline Policy ...................................................................................................... 50
Discipline of Temporary and Probationary Employees ............................................ 50
Discipline of Regular Employees ............................................................................ 50
Informal Discussions ............................................................................................... 50
Verbal Warning ........................................................................................................ 51
Written Warning ....................................................................................................... 51
Progressive Discipline Exception ............................................................................ 51
Pre-Action Notice ..................................................................................................... 51
Opportunity to Respond ......................................................................................... 52
Dismissal .................................................................................................................. 52
Division Director, Manager and Supervisor Responsibilities .................................. 52
Personnel Files – Content and Access .................................................................... 53
Reduction-In-Force (RIF) Procedures ..................................................................... 54
LEAVE ..................................................................................................................... 57
Leave Approval ........................................................................................................ 57
Annual Leave ........................................................................................................... 57
Sick Leave ................................................................................................................ 58
Compensatory Leave .............................................................................................. 60
State Leave Sharing Program .................................................................................. 61
Annual Leave Sharing (N.D.C.C. § 54-06-14.1) ..................................................... 61
Sick Leave Sharing (N.D.C.C. § 54-06-14.2) ............................................................ 62
Funeral Leave .......................................................................................................... 63
Holidays ..................................................................................................................... 63
Jury and Witness Leave ........................................................................................... 64
Leave Without Pay .................................................................................................. 64
Military Leave .......................................................................................................... 65
Family and Medical Leave Act ............................................................................... 65
INTRODUCTION

This manual is intended to provide North Dakota Department of Health employees direction on issues or topics that require the formality of written guidelines. The department's personnel policy manual is not intended to replace, supersed or contradict policy directives from Century Code, Administrative Rules or fiscal and administrative policies of the Office of Management and Budget, but rather to complement and provide additional direction to all department staff. The written policies are intended to present a clear expression of this organization's desire to provide fair and equitable treatment for all employees – past, present and potential. In the event that a policy is not directly addressed within the North Dakota Department of Health personnel policy manual, the Department of Health will look towards the Human Resource Management Service (HRMS) policy manual for guidance.

Policy Development

The department reserves the right to add, modify or delete policy as it deems appropriate without notice. The Human Resources Division will serve as coordinator for purposes of general policy development. Any employee in the department has the opportunity to suggest the need for a departmental policy. The suggestion for a policy should follow the established organizational lines within the department. However, employees may submit suggestions regarding policies to their manager, division director, section chief, the human resources director or the state health officer. The decision whether a policy will be developed will include an assessment whether the nature of the problem or concern is broad based, affecting all sections of the department. In addition, a decision has to be made whether a less restrictive approach will work and whether it is necessary to define the management position of the department in writing in the form of a policy and procedure. Review of any proposed policy should include discussion and input from section chiefs and division directors. The state health officer will have final authority to adopt, amend or modify departmental policies and procedures.

Location of Department Personnel Policy Manual

All staff should be familiar with the department's personnel policy manual and have access to the manual at any time. Policy manuals and Human Resources related forms are found on the North Dakota Department of Health intranet site: https://www.ndhealth.gov/intranet/. On the left-hand side of the screen, select “Forms/Manuals.” A list of relevant forms will be listed at the top, and the Personnel Policy/Safety Manual can be found under “Manuals.” The username and password is the employee’s outlook username and password.
Definitions

Some of the terms used throughout this policy manual are defined as follows:

**Authorized Position** – A position authorized by the Legislature, also referred to as an FTE.

**Classification/Reclassification** – The placement of a position in a specific job classification at a specific pay grade based on the duties and responsibilities of the position.

**Compensation** – The combination of salary or wages, and benefits provided to an employee.

**Discipline** – Any formal action taken by the state health officer, section chief, division director or manager that is designed to correct the job performance or job-related behavior of an employee.

**Exempt Employee** – An employee who occupies either an executive, administrative or professional position, and who is not subject to the overtime requirements of the Fair Labor Standards Act (FLSA).

**Manager** – An employee who is responsible for assigning work to others, establishing standards of performance, and providing formal evaluations of others’ work performance.

**Non-Exempt Employee** – An employee who occupies a position that is subject to the minimum wage and overtime requirements of the Fair Labor Standards Act.

**Probationary Employee** – An employee who is employed in a classified position, who was selected for a position on an open, competitive basis and who has not yet completed the initial six-month probationary period.

**Promotion** – The reassignment of an employee from the employee's present position to another existing position at a higher pay grade.

**Reduction-in-Force** – The discontinuance of employment for any period of time due to lack of work, lack of funds, or as a result of reorganization.

**Regular Employee** – An employee who has completed the probationary period and who is in a legislatively authorized position classified by Human Resources Management Services.

**Temporary Employee** – An employee who is employed in a position that is time-limited in duration.

**Transfer** – The reassignment of an employee from the employee's current position to another existing position in the same pay grade.
RESPONSIBILITIES

Employee Responsibilities/Accountability

All employees of the North Dakota Department of Health are responsible for following the policies contained in this manual. Employees are accountable for their own performance.

Section Chief Responsibilities/Accountability

Section chiefs deal with key areas and provide high level direction and guidance, establish key principles and responsibilities, set fundamental requirements and limits and allocate responsibilities to accomplish the assigned mission of their section.

Section chiefs shall provide and manage their resources, fiscal and material, in accordance with their overall requirements and document the progress of the section as a whole, toward meeting the assigned goals and objectives.

Section chiefs are accountable for the performance of the division directors and other designated employees within their section.

Division Director Responsibilities/Accountability

Division directors shall develop and implement plans, programs and procedures to accomplish the assigned mission of their division.

Division directors shall document the progress of individual employees, and the progress of the division as a whole, toward meeting the assigned goals and objectives.

Division directors are accountable for the performance of any subordinate manager and other designated employees.

Manager Responsibilities/Accountability

Managers are responsible for ensuring the satisfactory completion of their own assigned work, and they are responsible for the results of the work effort of their subordinates. Managers must be aware of required performance standards and ensure that acceptable levels of performance are maintained.

Managers shall provide their employees with the guidance necessary for them to accomplish their assigned tasks.

Managers are accountable for the performance of any subordinate employee and other designated employees.
EMPLOYMENT PRACTICES AND PERSONAL CONDUCT

Equal Employment Opportunity (EEO) Policy

The Department of Health seeks to ensure a work environment free of discrimination, intimidation, coercion or retaliation. It is the policy of the Department of Health to assure that all applicants for employment and employees are subject to uniform human resource policies and should not be subjected to discrimination in all terms and conditions of employment on the basis of an applicant’s or an employee’s race, color, religion, sex, national origin, age, genetics, physical or mental disability, status with regard to marriage or public assistance, political opinions or affiliations, or participation in lawful activity off the employer's premises during non-working hours that is not in direct conflict with the essential business-related interests of the employer. The Department of Health makes its employment process accessible to people with disabilities. People needing accommodation should contact the division representative identified in the job announcement or HRMS at 701-328-3290 or through N.D. Relay Services toll free at 1-800-366-6888. Violations of this policy are grounds for disciplinary action up to and including termination of employment.

The Department of Health prohibits individuals from engaging in any form of threats, retaliation or discrimination against a person who has opposed any unlawful discriminatory practice or who, in good faith, has filed a complaint, testified, assisted or participated in an investigation, proceeding, hearing or litigation. Anyone found to be retaliating against an individual will be subject to disciplinary action up to and including termination of employment.

Employees or applicants who believe they are illegally discriminated against should file a formal grievance as provided for in this manual. Complaints also may be filed with the appropriate state or federal agency. If, after a complete review of the facts, an employee is found to have inappropriately or unlawfully discriminated against an applicant, another employee or a customer of the Department of Health, such action will result in disciplinary action up to and including termination of employment. An employee who is found to have intentionally made a false report of discrimination or who fails to cooperate with the investigation of a complaint will be subject to disciplinary action.

The Department of Health seeks to ensure all employees are aware of and abide by laws involving each individual's rights.

These laws include but may not be limited to:

- Equal Pay Act (federal 1963)
- Age Discrimination in Employment Act (federal 1967)
- Rehabilitation Act (Section 504 federal 1973)
- Civil Rights Act (Title VII federal 1964)
- Americans With Disabilities Act (federal 1990) and the Americans With Disabilities Act Amendments (federal 2008)
- Genetic Information Nondiscrimination Act 2008 (GINA)
- Public Employee Relations Act (N.D.C.C. ch. 34-11.1)
- Human Rights (Discrimination) (N.D.C.C. ch. 14-02.4)
- Equal Pay for Men and Women (N.D.C.C. ch. 34-06.1)
• Age of Employee, Discharge or Refusal to Hire (N.D.C.C. § 34-01-17)

For specific details on these laws and corresponding guidelines, employees are encouraged to review the related laws and administrative rules.

**Hostile Environment/ Sexual Harassment**

The Department of Health strives to provide an environment free of age, gender, race, ethnicity, religion and disability harassment. Such harassment may include any activity that creates fear, intimidates, ostracizes, psychologically or physically threatens, embarrasses, ridicules, or in some other way unreasonably overburdens or precludes an employee from reasonably performing his or her work. The Department of Health will make every effort to prevent a hostile work environment and will take immediate action to resolve allegations of hostile or inappropriate behavior. The purpose of this policy is to emphasize the department’s commitment to fair treatment for all its employees and its specific opposition to harassment in the workplace.

In addition, employees have the right to be free of harassment within the workplace from non-employees such as customers or other individuals who provide services to or within the Department of Health. Therefore, an employee may discontinue service or a telephone call in a situation in which a non-employee is being abusive or harassing, including situations subjecting the employee to conduct, communication, or sexually explicit material that interferes with the employee’s work performance or creates a hostile, intimidating or offensive work environment. If this happens, the employee must immediately report the incident and the action taken to the immediate supervisor and a record of the reason services were interrupted must be documented.

All employees in the department should be able to work in an environment that is free of all forms of harassment, particularly those involving sexual harassment. Sexual harassment consists of unwelcome sexual advances; requests for sexual favors; and other verbal, non-verbal or physical conduct or communication of a sexual nature when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of the individual’s employment; or
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of behaviors and may involve individuals of the same or different gender. These behaviors may include but are not limited to:

- Unwanted sexual advances or requests for sexual favors;
- Sexual jokes and innuendo;
- Verbal abuse of a sexual nature;
- Leering, massaging or touching;
- Comments about a person’s body, sexual prowess or sexual deficiencies;
- Displaying or showing inappropriate sexually suggestive or offensive pictures or objects anywhere in the workplace;
- Degrading e-mails.
The department has a need to know about the circumstances that are affecting employee performance or making employees uncomfortable at work. Early reporting and intervention are critical and have proven to be the most effective method of resolving actual or perceived incidents of hostile work environment and/or sexual harassment. Individuals experiencing any unwelcome behavior in the workplace or at any location, activity or event associated with the Department of Health may advise the offender directly that the conduct is unwelcome and offensive and request the conduct be stopped. If the employee has confronted the offender and the conduct has not stopped, or the employee feels uncomfortable confronting the offender, they are required to report incidents as soon as possible after their occurrence to a manager or the human resources director. Managers are required to consult the Human Resources Division on all allegations of hostile work environment and/or sexual harassment to ensure a thorough investigation and appropriate action. Report of incidents of hostile and inappropriate behavior will subject employees and managers to disciplinary action up to and including termination of employment. The Risk Management Division of OMB must be notified of all reports of incidents of hostile or inappropriate behavior. Managers must consult with the Human Resources Division when submitting the risk management report.

Hostile work environment and/or sexual harassment will not be tolerated by the Department of Health. Disciplinary action can and will be taken against any employee who engages in such behavior. In addition, an employee who is found to have intentionally made a false report of any type of harassment or hostile work environment or who fails to cooperate in the investigation of a complaint will be subject to disciplinary action up to and including termination of employment.

Retaliation against an employee for filing a sexual harassment or hostile work environment complaint is prohibited. An employee will not be adversely affected by having brought an allegation even if the allegation is ultimately not proven. Educational opportunities on the topic of sexual harassment for managers and non-supervisory employees will be periodically provided. The department encourages employees to contact the Human Resources Division for additional discussion on matters relating to sexual harassment.

**Preventing Violence in the Workplace**

The Department of Health is committed to providing a safe environment for its employees. Acts of violence or threatening behavior will not be tolerated in the workplace, and every effort will be made to prevent violent acts from occurring.

Violent acts or threats of violence include any activity by an individual that would cause another individual to feel unsafe due to the threat of physical harm. The violent behavior may take the form of verbal threats or harm to another person, damage of property, physical aggression, or harassment. Threats of violence include possession or display of a weapon of any type or exhibiting an object in such a manner that it appears to be a weapon or could be used as a weapon.

Employees who are subject to or become aware of any violent acts or threats of violence shall immediately report the matter to their supervisor or any higher level authority.
Supervisors or managers who receive a report of violent activity or a threat of violence shall immediately assess the situation to determine the nature of the threat and take action as follows:

1. Work units both in and outside of the Capitol complex should immediately dial 9-911 for emergency situations such as fire, tornado and medical issues, with a follow-up call to the Highway Patrol Headquarters at 701-328-2455 to alert them to the situation. For non-emergency or administrative issues, work units both in and outside of the Capitol complex should call the State Highway Patrol Headquarters at 701-328-2455. The State Highway Patrol is generally responsible for security and investigations on State property.

2. When it is apparent that one or more individuals in the Capitol complex may be in immediate physical danger, the endangered employee or any observing employee should call the Highway Patrol Headquarters at 701-328-2455. Work units not in the Capitol complex should call 9-911 for situations regarding immediate physical danger.

3. When any action regarding a or b is taken by supervisors or managers, the information will be reported to the section chief or the state health officer as soon as possible.

4. When the danger of physical harm does not appear to be immediate, the endangered employee or observing employee must provide a full report of the circumstances to the supervisor, division director, section chief, or the state health officer as soon as possible.

A section chief or the state health officer, upon receipt of a report of violence or a threat of violent activity, shall take action appropriate to the circumstances which may include requesting the proper authority to remove the violator from the work site, providing appropriate protection to the threatened person(s), and/or investigating or requesting the Human Resources Division to investigate the reported incident(s) that may form the basis for any corrective or disciplinary action. The Human Resources Division should be consulted regarding workplace investigation procedures. Risk Management must be notified of all incidents.

When a reported act of violence or threat of violent activity has been investigated, and the violator is an employee of DOH, the section chief or the state health officer shall take appropriate action which may include participation by the employee in the employee assistance program, disciplinary action up to and including termination of employment and/or reporting incident(s) to law enforcement authorities.

When a reported act of violence or threat of violent activity has been investigated and the violator is not a DOH employee, the section chief or the state health officer will take appropriate action which may include termination of the business relationship and/or reporting incident(s) to law enforcement authorities.

**Americans with Disabilities Act (ADA)**

The Department of Health provides equal employment opportunity to all people and ensures complete compliance with the Americans with Disabilities Act. All decisions related to personnel policy and practice in the recruitment, employment, development, advancement and consideration
of applicants and employees will be made on the basis of the individual's ability to perform the essential functions of the position, with or without a reasonable accommodation.

Managers shall identify the essential functions of a position before beginning any recruiting effort. Any person who believes he/she has been discriminated against because of a disability should contact the human resources director.

It is the policy of the department to include the following statement on all department notices for public meetings, hearings and training programs: “If you require any auxiliary aids or services, such as readers, signers, Braille materials, etc., please notify (list address and telephone number).” A deadline for contacting the department also can be included in this statement. For example – “If you require any auxiliary aids or services, such as readers, signers, Braille materials, etc., please notify the human resources director at 600 E. Boulevard Ave., Dept. 301, Bismarck, N.D. 58505-0200 or at 701-328-2392 at least five days prior to the scheduled meeting date.”

Alternative forms of department publications may be made available upon request.

Contact the human resources director or the director of public information for help in providing accommodations and materials in alternative formats.

**Drug-Free Workplace**

The North Dakota Department of Health has a zero tolerance policy regarding the use of illicit drugs for all employees. Department employees are expected to conduct themselves in an appropriate manner both at the workplace and at any time they are representing the state in a work-related activity.

Drug abuse and use in the workplace are subjects of immediate concern in our society. These problems are extremely complex and there are no easy solutions. From a safety perspective, the users of drugs may impair the well-being of all employees, the public at large, and result in damage to state property. Public Law 100-690, the Anti-Drug Abuse Act, was enacted by the federal government in 1988. Title V, Subtitle D, the Drug-Free Workplace Act of 1988, is part of the overall act, which requires state agencies who receive federal grants to certify that they will maintain a drug-free workplace and publish and administer specific drug-free workplace policies and drug awareness programs. Therefore, it is the policy of the department that the unlawful manufacturing, distribution, dispensation, possession or use of a controlled substance in the workplace is prohibited. Any employee violating this policy will be subject to discipline up to and including termination.

The department does not differentiate between drug users and drug pushers or sellers. Any employee who unlawfully gives or in any way transfers a controlled substance to another person or sells or manufactures or unlawfully uses a controlled substance while on the job, in the workplace, or at a site at which the agency’s work is performed will be subject to discipline up to and including termination. The term “controlled substance” means any drug listed in 21 U.S.C. 812 and other federal regulations. Generally, these are drugs that have a high potential for abuse. Such drugs include, but are not limited to, heroin, marijuana, cocaine, PCP, and “crack.” They also include “legal drugs,” which are prescribed by a licensed physician.
Each employee is required to inform his/her division director or the human resources director within five (5) days after he or she is convicted for violation of any federal or state criminal drug statute where such violation occurred in the workplace. A conviction means a finding of guilt, including a plea of guilty or of nolo contendere, or the imposition of a sentence by a judge or jury in any federal or state court.

If an employee is convicted of violating any criminal drug statute while in the workplace, he or she will be subject to discipline up to and including termination. Alternatively, the employee may be required to successfully complete an inpatient or outpatient drug abuse program sponsored by an approved private or governmental institution.

As a condition of further employment on any federal government grant, all employees are required to abide by this policy. The state health officer will notify the U.S. government agency with which the grant was made within ten (10) days after receiving notice from the employee or otherwise receiving actual notice of such a conviction.

**Substance Abuse Policy**

The Department of Health’s desire is to provide a drug-free, healthful and safe workplace. Employees are required to report to work in a condition to perform their jobs in a safe, efficient and satisfactory manner. The presence of alcohol and other drugs on the job and the influences of those substances on employees during working hours are inconsistent with the objectives of a drug and alcohol free workplace and will not be tolerated.

While at the workplace and while conducting business-related activities of the Department of Health, no employee may use, possess, manufacture, distribute, sell, or be under the influence of alcohol or illegal drugs or use legal drugs illegally. In addition, the legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to meet standards and perform the essential functions of the job in a safe manner that does not endanger other individuals, equipment or property in the workplace.

Employees may be disciplined up to and including termination of employment for use of illegal drugs, illegal use of legal drugs, or use of legal drugs such as alcohol or other prescription/nonprescription drugs. Discipline may be imposed for use during official working hours, including mealtime or other work breaks, or during nonworking hours when the effect of the legal drug inhibits the employee’s job performance or the agency’s performance. In addition, discipline may be imposed when the employee’s behavior affects the agency’s reputation, endangers others, or damages equipment or property. Off duty use of alcohol or other legal drugs also is cause for discipline when it results in an employee reporting to work “under the influence.”

Violations of this policy may lead to disciplinary action, up to and including termination of employment, and/or participation in a substance abuse rehabilitation or treatment program. Violations also may have legal consequences.

A manager may require an employee to leave the workplace if the manager determines the employee has reported to work in an inappropriate condition and cannot perform the essential
functions of the job effectively in a safe manner that does not endanger themselves or others. The employee may be required to use a day of annual leave or sick leave. If the manager determines the employee should not operate a motor vehicle, the manager should arrange transportation for the employee. If the employee refuses to accept transportation and insists on operating a motor vehicle, they will be informed by the manager that law enforcement officials will be notified that the employee appears unfit to operate a motor vehicle. Law enforcement officials should then be appropriately notified.

To inform employees about important provisions of this policy, the Department of Health has established a drug-free awareness program. The program provides information on the dangers and effects of substance abuse in the workplace, resources available to employees, and consequences for violations of this policy.

Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program. Employees also may wish to discuss these matters or this policy with their supervisor or HRMS to receive assistance or referrals to appropriate resources in the community. Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify the Department of Health of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction. All employees are required to sign a drug and alcohol free workplace acknowledgement (SFN 16769).

The use of alcohol, tobacco and illegal use of drugs while operating a state vehicle is prohibited. Individuals operating a state vehicle under the influence of alcohol or illegal drugs will be subject to disciplinary action up to and including termination of employment. The use of legal prescription or nonprescription drugs while operating a motor vehicle also may result in disciplinary action when the drugs impair the employee’s ability to drive.

When participating in social activities sponsored by the division, the Department of Health, or which are associated with workplace activities, employees are expected to conduct themselves in such a manner so they do not represent a danger to themselves, other employees, or the general public, or damage the reputation of the division or the Department of Health.

**Use of Electronic Communication Devices**

The Department of Health provides employees an array of electronic communication devices (ECDs) designed to facilitate business communication among state government and its business contacts. These devices include telephones, fax machines, and all computer and network related hardware, software, and/or peripheral devices, including e-mail and the Internet.

It is the Department of Health’s policy to limit the use of these ECDs to official business. However, department employees, including temporary and contractual employees, may be permitted to utilize ECDs for non-official business or personal use on a limited basis if that usage is in compliance with the following:

- Does not interfere with the performance of the employee’s public duties;
- Is done on the employee’s own personal time, which includes coffee and lunch breaks;
- Is of nominal cost to the department;
• Does not create the appearance of impropriety;
• Is not for a political purpose;
• Is not for a personal commercial purpose;
• Is reasonable in time, duration and frequency;
• Makes minimal use of hardware and software resources.

Department employees should always exercise good judgment in using ECDs for personal or non-official business. The data processing coordinator responsible for that ECD must approve software used for personal or non-official business prior to installation.

All department employees must adhere to the following standards of conduct as they relate to ECDs. Employees shall be held personally liable (legally, financially or otherwise) for the use of ECDs not in compliance with this policy. Employees are strictly prohibited from using department ECDs for any of the following activities:

• Annoying, harassing or similarly inappropriate behavior, to include uninvited e-mail of a personal nature;
• Accessing sexually explicit, obscene, offensive, discriminatory or defamatory material;
• Creating, distributing, copying, storing or knowingly using unauthorized copies of copyrighted material on department computers, or transmitting them over the state networks;
• Probing or hacking;
• Illegal, fraudulent or malicious activities;
• Gambling or purchasing illegal substances or material;
• Using another employee’s account without proper authorization;
• Lobbying for non-official business;
• Knowingly downloading, copying, distributing, storing, or using pirated software or data; and
• Knowingly distributing viruses or bypassing any department and/or state virus detection system.

Information that is sent and/or received by department employees using these devices during the course of their workdays is the property of the Department of Health. Employees must receive approval from a division director, or higher, before sending out department wide e-mails. Department employees should have no expectation of privacy with respect to the information sent, received or stored on these devices. E-mail should not be used to communicate sensitive or confidential information. All electronic communications are subject to North Dakota’s Open Records Law.

The department strongly encourages all employees to adopt an e-mail retention system that does not overly burden system and/or network storage. If it is necessary to maintain a large volume of e-mails for extended periods of time, contact the e-mail administrator for assistance in creating alternative methods of storage.

The Department of Health reserves the right to monitor the use of ECDs, including but not limited to storing, accessing and reviewing information received or sent through e-mail or over the Internet. If an employee inadvertently gains access to a website containing prohibited
information, it is the employee’s responsibility to inform his or her division director and document the occurrence. If an employee needs access to a prohibited site to perform work-related activities, it is the employee’s responsibility to obtain authorization from his or her division director prior to accessing the site. The Department of Health reserves the right to block out any Internet sites deemed by the department to be unrelated to the department’s responsibilities. The department will cooperate with any legitimate law enforcement investigation related to the abuse of this policy.

An employee’s violation of this policy may lead to disciplinary actions up to and including termination of employment or contract. This policy is subject to change and should be reviewed on a regular basis. Division directors are responsible for ensuring that all employees and contractors using state ECDs are aware of this policy.

**Personal Cell Phone**

The Department of Health recognizes that many employees own personal cellular phones which they carry on their person while at work. This guideline is to set forth standards for the use of personal cellular phones during business hours.

The Department of Health recognizes the occasional need for employees to conduct personal business during business hours when it cannot be reasonably accomplished outside of work hours. Therefore, these guidelines establish criteria for the authorized use of personal cellular phones by employees during business hours.

The following criteria shall apply to the use of personal cellular phones during business hours:

- Employees may possess personal cellular phones on department property and during work hours. However, personal use should not interfere with work assignments.
- Employees must keep any call to a short duration (not to exceed five minutes) unless the employee has an emergency situation which requires immediate attention.
- Employees must minimize the frequency of personal calls made during business hours unless the employee has an emergency situation which requires immediate attention.
- An employee must end a non-emergency call upon the request of his/her supervisor.
- Personal cellular phones may be used during breaks and lunch periods for personal use; however, no employee shall, through the use of their personal cellular phone, interfere with another employee’s ability to conduct state business during business hours.
- Cell phones shall be turned off or set to silent or vibrate mode during meetings, conferences and in other locations where incoming calls and texts may disrupt normal workflow
- An employee’s supervisor may, at any time, restrict the use of an employee’s personal cellular phone during business hours if the supervisor deems it disruptive to allow the employee to continue use of the personal cellular phone during business hours.
- The Department will not be liable for the loss of or damage to a personal cellular phone brought into the workplace.
- Employees are expected to comply with all local and state regulations and the Department of Health distracted driving policy related to cellular phone usage while operating a State vehicle or operating a personal vehicle on State business.
• Employees with telephones or electronic devices which access the internet and/or provide for entertainment (e.g. games, books, and videos) shall restrict their use of these entertainment features during the business hours except while on break or lunch.

**Dress/Image**

Employees are expected to dress appropriately and professionally for the work performed. Clothing and accessories, including jewelry, which contain an offensive message or connotation, are prohibited. Clothing to avoid includes offensive logo t-shirts and sweatshirts, sweat suits, casual shorts, and spandex pants. Dress or work shorts may be permitted in designated areas, such as the warehouse. Sandals, open-toed, and open-back shoes can be worn in office settings but are prohibited in lab and warehouse areas. Jeans are not permitted for office staff except on designated occasions.

**Nutrition Policy**

The Department of Health recognizes the importance of the health of all its employees and partners. All meetings, socials, conferences, and health fairs that are sponsored or supported by the Department of Health will provide healthy food and beverage choices. For guidelines, contact the department wellness coordinator. This policy does not dictate what individual staff members eat or bring into the office for special occasions. (Example: birthday celebrations, potlucks.)

**Ethics Policy**

The highest standard of ethical conduct and fair dealing is expected of each employee of the North Dakota Department of Health. Our reputation is a valuable asset, and we must continually earn the trust, confidence and respect of our fellow employees, our vendors and our community. This policy provides general guidance on the ethical principles that employees must follow, as no policy can anticipate all situations. The Department of Health depends on the basic honesty and good judgment of its employees and their sensitivity to the way others see us and may interpret our actions. If employees have any questions about this policy, it is their responsibility to consult their supervisor or division director. All employees are expected to promptly disclose to their supervisor or division director anything that may be in violation of this policy. Retaliation against anyone who reports possible violations of this policy will not be tolerated.

**Compliance with Laws and Regulations**

Employees shall conduct all work-related activities in compliance with all laws, regulations, policies and procedures. Employees of the Department of Health are charged with the responsibility of understanding the applicable laws, to recognize potential conflicts, and to know when to seek management or legal advice.

**Policy Compliance**

The department recognizes and respects the right of individual employees to engage in activities outside the department that are private in nature and will not in any way conflict with or reflect
poorly on the department. The department also recognizes its right and its obligation to determine when an employee’s activities may represent a conflict of interest with those of the department and to make sure they are identified and handled properly.

A committee appointed by the state health officer will review and determine compliance for activities, employment or appointments that may be in conflict with or are not clearly defined by this policy. The Ethics Committee is established to provide quality and consistency in the ethical review of complaints and questions concerning ethical conduct of employees, individuals or entities. It will render opinions on questions involving the meaning and application of the policy or an employee’s compliance. If the review reveals nonconformance, the committee will determine corrective actions. Questions or issues to be considered by the committee must be submitted to the director of human resources.

Conflicts of Interest

A conflict of interest is defined as the conflict between the duties assigned to the employee and the self-interest or other interests of the employee. Employees must avoid any interest, influence or relationship that might conflict or appear to conflict with the best interests of the Department of Health or the State of North Dakota, or that might affect one’s working judgment or loyalty. Employees must avoid any situation in which their loyalty may be divided and promptly disclose to their division director any situation where an actual or potential conflict may exist.

If employees have a potential conflict of interest in any program, contract or legal matter involving the Department of Health or reasonably related to their position with the Department of Health, the employees must notify the division director or section chief in writing of the potential conflict and the cause of the potential conflict and remove themselves from any negotiations, deliberations or decisions involving the conflict.

Abuse of Position

Employees shall not use or attempt to use their positions to secure special privileges or exemptions for themselves or any other person.

Unless authorized, an employee shall not use his or her position or office to solicit funds.

Giving and Receiving Gifts/Money

An employee may not seek or accept any gifts, payments, favors, gratuities or anything of value from any source other than the State of North Dakota for any matter directly related to or connected with that employee’s duties as a Department of Health employee. N.D.C.C. ch. 16.1-08.1.

This policy does not preclude accepting the following:

- Articles of nominal retail value that bear a company’s advertising logo or promotional materials or other items not generally for sale.
• Gifts of perishable items usually given during the holidays and items provided as a common courtesy, such as a cup of coffee, are acceptable.
• Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item.
• Informational material, publications or subscriptions related to the recipient’s performance of official duties.
• Food and beverages consumed at hosted receptions where attendance is related to the recipient’s official duties.
• Flowers, plants and floral arrangements.
• Food and beverages served as part of a function for which attendance is related to the performance of official duties.
• Gifts from other Department of Health or State of North Dakota employees for occasions such as birthdays, Christmas, weddings, etc.

Honorarium

Payment of honoraria is not authorized if there is indication that payment is being made for work or a presentation by an employee who is or was already paid by the state for that work. This would include any presentation or document created on work time for the employee’s duties with the Department of Health.

Disclosure of Confidential Information

Employees may only use or disclose confidential or privileged information to perform their official Department of Health duties or as required by law. Confidential or privileged information may not be used for personal benefit or financial gain.

Use and Protection of Assets

Employees have a duty to preserve the assets of the Department of Health and the State of North Dakota. Employees must demonstrate cost control and follow procurement standards. Acquisitions of goods and services must be at the proper level of utility and quality for the purpose intended in order to promote overall economy for the purpose intended.

Employees may not use state-owned materials, equipment, property or other assets for any unauthorized purpose. Certain assets must be periodically tracked and inventoried. Employees may not willfully damage, misuse, steal or destroy state property or assets.

Outside Employment or Moonlighting

An employee of the Department of Health may hold outside employment unless precluded by statute. Outside employment should not create a conflict of interest with constitutional duties, statutory duties and/or the performance level assigned to the individual or the individual’s office.

The Department of Health position shall be considered the primary employer; outside employment is considered secondary. Outside employment should not prevent employees from
being available for work when such availability is part of the employee’s job. An employee cannot represent the Department of Health while performing work for the outside employer.

An employee cannot use the department’s tools, supplies or equipment for outside employment. An employee cannot perform work for an outside employer during department work hours.

Outside employment does not include sporadic or odd jobs that are not related to Department of Health functions such as singing for a church event, in-home product sales, selling homemade crafts or general handyman work.

The section chief and the human resources director shall be made aware of secondary employment by the employee and confirm that a conflict of interest does not exist.

Financial and Other Records

Employees must record and report information accurately. Reimbursable business expenses must be reasonable, accurately reported and supported by receipts where necessary. Employees may not request reimbursement for business expenses that have been paid or reimbursed by another entity.

Financial statements of the Department of Health, and all books and records on which they are based, must accurately reflect all of the organization's transactions. All disbursements and receipts of funds must be properly authorized and recorded. No undisclosed or unreported fund may be established for any purpose.

Those responsible for the handling or disbursement of funds must ensure that all transactions are executed as authorized and recorded in accordance with the policies and procedures of the Department of Health and the State of North Dakota.

Exception Provision

The state health officer may make exceptions to the ethics policy. The record of exception must be signed by the state health officer.

Fraud or Misconduct

Maintaining high standards of conduct and ethics is important to the Department of Health. All employees are encouraged to report fraudulent or dishonest conduct (i.e., to act as a “whistleblower”) following DOH procedures. Fraudulent or dishonest conduct may involve employees as well as consultants, vendors, contractors, outside agencies doing business with employees of such agencies, and/or any other parties with a business relationship.

Actions Constituting Fraud or Misconduct

Actions constituting fraud or misconduct refer to, but are not limited to:

- Dishonest or fraudulent acts relating to or affecting Department of Health operations.
- Forgery or alteration of any document or account belonging to the department.
• Forgery or alteration of a check, bank draft or any other financial document relating to department business.
• Misappropriation of funds, securities, supplies or other assets owned, leased or related to department business.
• Improperly handling or reporting of money or financial transactions involving department business.
• Disclosing confidential and proprietary information to outside parties.
• Accepting or seeking anything of value from contractors, vendors or people providing services/materials to the department.
• Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment.

How to Report

Employees should report any reasonable concern about fraudulent or dishonest use or misuse of department resources or property to their supervisor, division director, section chief, deputy or state health officer, the human resources director, or the internal auditor. If the employee is uncomfortable or otherwise reluctant to report to his/her supervisor, then the employee can report the conduct to the next highest or another level of management, the human resources director, or the internal auditor.

Reports should contain enough information to substantiate the concern and allow an appropriate investigation to begin. Reports may be submitted anonymously. Appropriate action will be taken in response to reports. Supervisors or managers who receive the reports must promptly contact their section chief to initiate a review of the allegations. If the section chief is named in the allegation, the supervisor should contact the internal auditor, human resources director, deputy state health officer, state health officer or another department manager. Department staff including the section chief, state health officer or its designee, internal auditor, and human resources director will determine the scope of the investigation and the internal and/or external personnel required to conduct the investigation.

All reports received will be acted upon in confidence to the extent possible within the constraints of state law, the need to gather facts and the ability to conduct an effective investigation and take necessary corrective action. Reasonable care will be taken in dealing with suspected misconduct to avoid baseless allegations, premature notice to persons suspected of misconduct, disclosure of suspected misconduct to persons not involved with the investigation and violations of a person’s rights under the law.

Whistleblower Protection

The Department of Health will use its best efforts to protect whistleblowers, those who report fraud or abuse, against retaliation. Whistleblower complaints will be handled with sensitivity, discretion and confidentiality to the extent allowed by the circumstances and the law. Whistleblowers who believe that they have been retaliated against for reporting an activity may file a written grievance about the retaliation with the next highest or another level of management, the human resources director or the internal auditor. Any substantiated complaint of retaliation, including but not limited to, threats of physical harm, loss of job, punitive work assignments, or reduced salary or wages, will be promptly investigated and corrective action
taken. This protection from retaliation is not intended to prohibit managers or supervisors from taking action, including disciplinary action in the usual scope of their duties based on valid performance-related factors, nor is it intended to preclude disciplinary action against individuals who report baseless allegations.

**Political Activity**

As citizens of the United States, employees have the right to vote as they please; no employer can deny that right or attempt to influence an employee. Public employees can not engage in political activities while on duty or in uniform per NDCC 44-08-19. Political activities are defined in NDCC 39-01-04.

The Hatch Act is a federal statute that prohibits any employee, whose principal employment is in connection with an activity that is financed in whole or in part by federal funds, from taking an active part in partisan politics.

An employee who is subject to the provisions of the Hatch Act may not:

- Use his/her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
- Directly or indirectly coerce, attempt to coerce, command or advise any employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.
- Be a candidate for a public elective office in a partisan election (candidacy for political party office is not prohibited).

An employee who is subject to the provisions of the Hatch Act may:

- Express his/her opinions on political subjects and candidates.
- Take an active part in political management and political campaigns.
- Be a candidate for a nonpartisan office.

Prior to seeking elective or appointive public office, the employee must contact his or her section chief or division director and explain the duties of the public office. Because the duties and responsibilities of the employee’s job may be in conflict with the duties and obligations of the public office, it is necessary that they be reviewed and considered before the employee seeks the office. Each situation shall be reviewed on an individual basis. Once elected or appointed, an employee must take annual leave for any time taken during work hours to fulfill the requirements of that public office.

**Lobbying**

Governmental entities – including the North Dakota Department of Health – are prohibited by law from lobbying. However, exactly what constitutes lobbying can be confusing at times. The following information is provided to help clarify the issue.

Activities designed to influence action in regard to a particular piece of pending state or federal legislation are considered lobbying. That includes lobbying for or against pending legislation, as
well as indirect or “grass roots” lobbying efforts that are directed at inducing the public to contact their elected representatives to urge support of, or opposition to, pending legislation.

The North Dakota attorney general has determined that governmental entities may provide the public with neutral factual information but may not, without express legislative authority, expend public funds for the purpose of influencing the results of an election issue, including initiated measures.

Providing testimony or responding to questions on behalf of the Department of Health before a legislative committee, including stating the department’s official position on a bill is allowed.

No part of any funding may be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence election issues or pending legislation.

If employees choose to testify before a legislative committee as private citizens of North Dakota and not as representatives of the department, they must take annual leave and do so on their own time. It must be approved in advance through regular channels and the approval must be documented in writing. Employees who are testifying as private citizens may not wear their name badges, wear Department of Health attire, or identify themselves as speaking as department employees. If written testimony or handouts are provided, do not use department supplies or letterhead.

Employees who contact legislators as private citizens may not use Department of Health electronic devices – such as computers, cell phones, faxes, etc.

E-mail accounts or listservs hosted by any state electronic resource may not be used for lobbying as defined by this policy.

**Time Off to Vote**

The department encourages all eligible voters to vote at all statewide, special, primary or general elections. The department will grant an employee who is a qualified voter time off from work for the purpose of voting when the employee's regular work schedule conflicts with voting during times when polls are open.

**Travel and Per Diem**

The Department of Health reimburses employee expenses for meals and lodging while the employee is away from the employee’s normal workplace and residence. Refer to OMB’s Fiscal and Administrative Policy for reimbursable travel guidelines.

**Vehicle Use**

This policy is to establish the department's expectations for employees traveling on official business. This policy applies to all employees and includes safety expectations, reporting requirements, and potential disciplinary actions for violations.
State vehicles are to be used for state business only. However, vehicles may be used for other necessary transportation such as meals, lodging, etc., when employees are traveling out of their normal city of business.

All rules and procedures as outlined by the State Fleet Services are to be followed when using a state vehicle. Any tickets received by an employee will be paid by that employee. Driving under the influence of alcohol or illicit drugs is forbidden. Seat belts are to be used by all passengers in vehicles used for state business. Employees using their own vehicles for state business must use seat belts. Violations of motor vehicle laws may result in disciplinary action.

The use of cellular phones while operating a moving vehicle is considered unsafe and is prohibited while operating a state-owned vehicle.

Travel Reimbursement

It is the policy of the Department of Health for its employees to select the most cost effective travel method. Section chiefs and their designees are expected to establish sufficient controls to ensure travel expenses are minimized to the fullest extent possible.

Rate of Mileage Reimbursement

The standard mileage reimbursement rate is established by the Office of Management and Budget. It represents the total cost to own and operate a personal vehicle and is tied to the mileage reimbursement rate established by the U.S. General Services Administration (GSA). See OMB Fiscal and Administrative Policy 511 - Use of Personal Vehicle. See http://www.nd.gov/fiscal/docs/fiscaladmin2011.pdf - Policy 511.

The state fleet mileage reimbursement rate is determined by the Department of Transportation and reflects the average cost of operating a sedan/wagon available through the state vehicle fleet. See http://www.dot.nd.gov/divisions/fleet/docs/rentlrate.pdf.

Vehicle Travel Options

a) Employees should, to the maximum extent possible, use state fleet vehicles that are either permanently assigned or available through the state fleet. Employees should drive state vehicles unless an exception is granted by the section chief or designee.

b) Exceptions may be granted to employees to use their personal vehicles for official state business and be reimbursed at the standard mileage reimbursement rate when:
   1) Factors such as urgency; employee’s time and effort; proximity of state vehicles; and other administrative costs are considered.
   2) Travel is within a 20 mile radius of the city in which the employee is stationed.
   3) An employee has a documented physical condition that requires the employee to operate vehicles equipped to accommodate their specific needs that is not available through the state fleet.
c) In cases where section chiefs or designees authorize employees to use their personal vehicles resulting from the employee's request for personal preference or for the convenience of the employee, or when a state vehicle is reasonably available, the reimbursement shall be made at state fleet rate. "Reasonably available" is defined as available for use and adequate to meet any special needs of the employee and the state in the given circumstances.

d) If a state fleet vehicle is not reasonably available and the employee is required to use the employee’s personal vehicle, the reimbursement rate will be the standard mileage reimbursement rate with prior approval from the section chief or designee. Documentation of the unavailability must be provided to the section chief or designee.

e) The reimbursement rate must be either at the state fleet rate or the standard reimbursement rate. Different rates may not be negotiated.

f) Infrequent round trips of less than 10 miles are not eligible for reimbursement. Section chiefs may approve mileage reimbursement when numerous short trips are required.

g) When an employee drives a state fleet vehicle, the state's liability coverage is primary should an accident occur. If an employee drives a personal vehicle on state business, the employee's personal insurance is primary. If an employee must drive a personal vehicle because no state fleet vehicles are available, then the state would have primary responsibility. (OMB Fiscal and Administrative Policy 511)

h) Mileage from a normal workstation to a conference or meeting is reimbursable, if an employee actually reports to work prior to attendance at the meeting. However, mileage for travel from an employee's residence directly to the conference/meeting site is not reimbursable, since it is considered normal commuting travel. (OMB Fiscal and Administrative Policy 507)

**Documentation and Approval**

Sections shall specifically approve and justify any exceptions to this policy and retain the documentation as part of the related financial transaction. Documentation to support the approval of the payment of the standard mileage reimbursement rate must accompany the travel voucher.
SALARY ADMINISTRATION

Salary Levels

The level of salaries provided to a classified employee must be within the pay grade range established for the classification.

The approval of the human resources director or the chief of the Administrative Support Section is required before a salary offer can be made to a prospective employee.

Changes to Salary Levels

All changes to salary levels must be approved by the deputy state health officer. Managers may request an adjustment to the salary or wage levels of their employees under the guidelines set forth in Chapter 4-07-02 of the North Dakota Administrative Code. Management staff will be responsible for careful review of any proposed salary increases other than those specifically authorized by the Legislature to help assure that we remain within statutory requirements. Management must respond to the following guidelines when submitting a request for a salary adjustment:

- What is the reason for requesting a salary adjustment? (See Salary Administration Procedures NDAC 4-07-02.)
- What funding source will be used for the proposed increase?
- What nonmonetary actions have been used to solve the problem? Why haven't they been successful?
- When the request is for a “responsibility level or workload increase,” the manager must analyze the following information to determine if a salary adjustment is necessary and the appropriate level of adjustment:
  - For what specific tasks or responsibilities will the individual be responsible?
  - How much time will be spent on these duties?
  - Why are these duties being assigned to this individual?
  - Who else will be affected by the change? What will the effect be?
  - What is the level of these new responsibilities?
  - Are the changes temporary or permanent? If temporary, how long will the change be in effect?
- When requesting an equity increase, the manager must provide all of the information required in NDAC 4-07-02-15. Managers must make sure that any salary adjustment will not create any equity problems. Salary increases will usually be effective the month of receiving the request. Section chiefs may provide documentation that justifies a retroactive date for the salary increase for consideration. All wage and salary adjustments must be fully documented.
Payroll Reporting

A monthly time report showing the actual hours worked and any leave taken must be used by all non-exempt employees. (SFN 58680, Monthly Time Report for Non-Exempt Employees). These records must be signed and dated by the employee and supervisor and filed with the Accounting Division.

Exempt employees must use a time report form if they are paid through multiple funding sources. Exempt employees paid through one funding source are not required to complete a time report form.

Each timesheet will indicate any paid non work hours such as annual, sick, family sick, holiday, funeral, jury duty, approved compensatory leave, or administrative leave.

Work Schedules

Hours of Work

The standard work week for full-time employees is 40 hours, consisting of five consecutive eight-hour days, Monday through Friday. The standard work day is from 8 a.m. to 5 p.m. Certain employees may be assigned different work hours by their division director.

Alternative Work Schedules

Employees may be approved to work a schedule different from the standard work week/day. An alternative work schedule is a more consistent, permanent arrangement of the days and hours an employee works rather than a sporadic adjustment of the work schedule.

Recognizing the differing business functions of each section, the following are guidelines for managers and employees to use when setting up alternative work schedules. Alternative work schedules need to either benefit or at least not negatively impact the work environment and productivity of all employees affected. Employees are encouraged to discuss their interest in alternative work schedules with their managers to explore the potential benefits and efficiencies for performing their duties. The department allows alternative work schedules on a case-by-case basis. An employee who is interested in an alternative work schedule should give his or her manager a written proposal which includes the following information:

• Current schedule and requested schedule. (Example: four, ten-hour days; four nine-hour days, one four-hour day.)
• How the proposed schedule would sustain or enhance his or her ability to get the job done.
• What potential problems the proposed schedule could create for customers, co-workers, the manager or others.
• Suggestions for overcoming these challenges.
Division directors are responsible for approving or declining alternative work schedule requests.

Alternative work arrangements should be re-evaluated by both the individual and the manager on a periodic basis. When the individual’s or the organization’s needs change, the arrangement may have to be modified.

Flexible Schedules

The department allows employees to work a flexible schedule to accommodate an employee’s schedule as situations arise. For example, if an employee works extra hours one day, the employee may be approved to be absent the same number of hours later in the week. Flexible schedules are not permanent arrangements and should be used on rare occasions.

- Flexible schedules need to be approved in advance by the employee’s division director.
- Flexible schedule arrangements need to take place within an employee’s standard work-week.
- Flexible schedules are a privilege, not an employee right. Abuse of the flexible schedule policy can lead to loss of privilege and is subject to disciplinary action including termination of employment.

Work Breaks

Employees are encouraged to take a short break from time to time to relax and refresh themselves. The Department of Health allows up to two paid 15-minute breaks, one in the first half of the work schedule and one in the last half. Smoke breaks should be included in the allotted time for work breaks. Flexibility regarding breaks must be discussed in advance with the supervisor.

Lunch Breaks

Employees are required to take an unpaid lunch break of at least 30 minutes during the work schedule if employees work more than 5 consecutive hours. Employees must be completely relieved of all duties and free to leave their duty post. There is no requirement that the employee be allowed to leave the premises or work site.

Physical Activity at Lunch

The department encourages employees to utilize their breaks for physical activity. As part of flexible scheduling, employees are allowed to attach their morning 15 minute break and/or afternoon 15 minute break to their lunch break to accommodate physical activity.

- Employees are not allowed to use their breaks to come in late or leave early.
- Any time over the employee’s allotted lunch break, with the addition of break times, needs to be covered by flexible scheduling, comp time or annual leave.
- Work responsibilities come first, including scheduling of meetings, deadlines and employee coverage.
- Because each division has different business functions; not every employee will be able to take advantage of this policy.
- Section chiefs are responsible for approving or declining an employee’s use of break time for physical activity.
Overtime

The purpose of this policy is to establish basic, department-wide parameters concerning the Fair Labor Standards Act (FLSA) and compensatory time. The provisions of the FLSA serve as the basis for the department’s overtime policy. The FLSA sets the minimum wage and hour standards the department must abide by. It also defines employees as either exempt from FLSA requirements or non-exempt. Based on individual job descriptions and duties, certain employees are exempt from the FLSA overtime provisions. The determination of status as exempt or non-exempt is generally made at the time the position is classified and reviewed upon reclassification.

This section covers some of the basic requirements of the FLSA. Because of the comprehensive nature of the FLSA, it is not practical to cover all aspects of this federal law within this policy. Various publications and Labor Department guidelines are available to the department and will serve as a reference to address specific questions.

Unusual circumstances may develop that would make exception to the overtime policy appropriate. Exceptions to this policy must be approved by the Section Chief.

Exempt Employees

Exempt employees are employees whose qualifications and job duties meet one of the definitions (managerial, professional or administrative) for an FLSA exemption.

1. Overtime compensation is allowed for exempt employees in an emergency declared by the state health officer or designee.
   a) An emergency refers to work that must be done without delay because of circumstances for which the department could not reasonably have been expected to make provision and which cannot be performed by employees during their regular hours of work.
      i. Emergency work excludes the performance of routine work outside regular working hours.
      ii. Regular work hours are the routinely scheduled hours an employee works Monday through Friday.
   b) Compensated overtime must be approved in advance by the division director or designee with follow-up notification to Human Resources Division.
   c) Work performed in excess of regular work hours in any one day in response to the emergency shall be compensated at one hour for each hour of overtime worked. The state health officer or designee will determine whether employees will receive compensatory time off or cash for each event.
   d) No more than 80 hours of compensatory time may be accrued at any point in time. Any additional overtime will be compensated as cash.
   e) Unused compensated time earned during a declared emergency will be paid upon termination.
2. Supervisory discretion is necessary in allowing time off the job for exempt employees that are required to expend significant amounts of time beyond the regular 40-hour week to meet work demands for nonemergency situations.
   a) At the discretion of the division director compensatory time off may be allowed informally when the workload is less demanding to counter-balance the additional time required during a heavy work period.
   b) The employee and the division director may coordinate an adjusted workweek to accommodate travel to and attendance at required conferences, workshops, meetings, or classes on Saturdays, Sundays, or holidays.
   c) Division directors shall exercise prudent care in assuring fairness in granting time off.
   d) All accumulated nonemergency compensatory time not taken will be canceled upon termination of employment.
   e) Cash payments for overtime worked by exempt employees may be made only if approved by state health officer or designee.

3. Exempt employees required to work on holiday will receive compensatory time off at a straight time basis.

Non-Exempt Employees

Non-exempt employees are those to whom FLSA rules apply. "Non-Exempt" status means the employee is subject to the provisions of the FLSA and must be paid overtime for each hour of work for which overtime compensation is required. The department may authorize compensatory time for work performed by a non-exempt employee if so elected by the employee.

1. Overtime compensation is provided as required by FLSA
   a) Overtime must be approved in advance by the division director or designee, with follow-up notification to Human Resources. Employees working unauthorized overtime are subject to disciplinary action.
   b) Overtime is paid for all hours worked over forty (40) in one workweek at a rate of one and one-half times the hourly salary for each overtime hour. Alternatively, compensatory time is granted at one and one-half hours for each hour of overtime.
   c) Payroll time such as annual leave, sick leave or other paid leave time, such as holidays, is not considered work time for purposes of determining overtime to be paid for the 40-hour workweek.
   d) The employee may choose compensatory time off or cash overtime. The employee must document acceptance of compensatory time off in lieu of financial compensation.
   e) Compensation will be at time and one half for holidays.
   f) No more than 40 hours of compensatory time may be accrued at any point in time. Any additional overtime will be compensated as cash.
   g) Compensatory time may be kept on the books for any length of time, but may not exceed 40 hours. When 40 hours are reached, further overtime is paid via payroll. Employing units may limit the accumulation of compensatory time to less than 40 hours and may require that all compensatory time earned be taken within a certain time frame, such as the same month or following the month that it is earned.
2. Compensation for on-call status

Compensation for on-call status, where the employee must be reachable by telephone within five minutes and within 15 minutes travel time of duty, will be at $50 per week.

3. Workweek

For the purposes of counting overtime hours earned, the workweek is defined as 12:01 a.m. Saturday through 12:00 midnight Friday. In calculating overtime, each week is considered separately. The number of hours worked over two or more weeks cannot be averaged.

4. Record Keeping

The Labor Department requires that records be maintained for all regular as well as overtime hours for non-exempt employees.

Federal law requires that time records of non-exempt employees be kept for two years. State law requires that records be kept six years. The department requires that all time records be kept for six years, unless there has been an action filed against the department, in which case the record must be kept until six years from the last action.

Each non-exempt employee is required to use the Payroll Time Distribution Form (SFN 02028H) for all hours. Copies of all time records must be maintained by the organizational unit and must be available should there be a Labor Department audit or department audit. In situations where overtime is to be paid or compensatory time is accrued, the time sheet must be submitted to the Accounting/Payroll Office for payment or to record the time. The unit must retain a copy for its records.

5. Rounding Hours

When determining the total number of hours worked, the time record must be rounded to the nearest quarter hour. For example, an employee who works 41 hours and 7 minutes would be paid 41 hours. An employee who works 40 hours and 8 minutes would be paid for 40 hours and 15 minutes.

6. Coffee Breaks

The FLSA does not require the granting of coffee breaks. However, when coffee breaks are allowed the employer is required to consider this work time unless the coffee break is one half hour or more. In these cases, employers are not required to pay for the coffee break.

It has been the department practice to allow 15-minute coffee breaks and to consider this work time.
7. Travel Time

Travel time between the normal work site and another work site is considered time worked. Travel for attendance at required conferences, workshops, meetings, or classes are considered time worked. When employees travel overnight, hours spent traveling are considered hours worked. For non-working days, such as Saturdays, Sundays, and holidays, travel time is considered work time.

8. Authorization to Work Overtime

Division directors must approve overtime prior to employees working the additional hours. Employees requesting to work overtime must receive approval either verbally or in writing as directed by their division director. When it has been determined that an employee has worked overtime hours without approval, the following course of action will be taken:

a) The unauthorized hours will be paid, or compensatory time given, in accordance with the FLSA.

b) The circumstances for working the overtime will be reviewed to determine if it was an emergency and if disciplinary action is necessary.

c) After the first violation, the employee will be required to obtain written approval to work overtime for a period of time determined by the division director.

d) If discipline is warranted, the employee will receive a letter of warning that a second violation will result in further disciplinary action that may include dismissal.

e) If the employee persists in working unauthorized overtime after receiving a warning as described in item #d above, the employee may be disciplined up to and including dismissal.

Emergency Pager Policy

It is the policy of the North Dakota Department of Health (NDDoH) to respond to public health emergencies on a 24-hour basis, seven days per week (24/7). A pager system is used to contact appropriate employees for this purpose. Compensation will be provided to employees for carrying an emergency pager to respond on a 24/7 basis.

For certain department purposes, convenience pagers are carried by employees but response is not required on a 24/7 basis. Employees are not compensated for carrying a convenience pager.

Department Emergency Pager

An assigned case manager will carry the department’s emergency pager and is responsible for coordination of the 24/7 emergency response. The case manager shall be staffed by Emergency Preparedness and Response Section personnel. Additional staff requested by the Emergency Preparedness and Response Section chief and approved by the employee’s section chief also may serve as case managers. Case managers and back-up case managers are required to complete training specified by the emergency preparedness and response section chief.
Section/Division Emergency Pagers:

The following NDDoH sections and divisions shall carry emergency pagers to respond to public health emergencies on a 24/7 basis. The section chief or division director will assign staff to carry the emergency pagers:

- Emergency Preparedness and Response Section
- Division of Disease Control
- Division of Laboratory Services
- Environmental Health Section
- Division of Chemistry
- Division of Emergency Medical Services and Trauma

Pager Use

Case managers and employees assigned to carry the division or section pager must ensure that the emergency pager is powered on at all times. Batteries must be checked daily and replaced as needed. Emergency pagers must be kept in close proximity to the assigned NDDoH staff member to facilitate immediate response. Equipment malfunctions must be reported immediately to the case manager and the Health Alert Network coordinator. Numeric emergency pagers used by divisions and sections must remain within a 15-mile radius of the Bismarck/Mandan area.

Voice pagers used by the case managers are activated through State Radio and must remain in the State of North Dakota. If a case manager leaves the Bismarck/Mandan area, he or she must contact State Radio at 701-328-9921 and provide the following information:

- Intended destination
- Destination arrival time
- Destination departure time
- Return time to the Bismarck/Mandan area

Compensation

The Emergency Preparedness and Response Section will compensate personnel who carry emergency pagers based on the following daily rates. All seven days of the week are compensated:

- Department emergency pager and back-up pager – $15 per day
- Section and division emergency pagers – $10 per day

Personnel carrying multiple pagers can only be compensated for one pager at the highest single daily rate. Section chiefs are not eligible for compensation.

When individuals carrying a pager are called in to respond, the time spent responding to a call will be compensated in accordance with department policy regarding overtime.

Employees must submit requests for compensation for carrying the pager on their approved time sheets.
Other Department 24/7 Coverage

Sections and divisions that require 24/7 response but are not listed above shall develop a policy through the section chief and the Division of Human Resources.

Probationary Salary Increase

It is the policy of the department to grant an increase of up to 5 percent upon an employee’s successful completion of the six month probationary period. Successful completion of the probationary period must be determined by the employee’s supervisor and indicated by sending a performance review and a memo requesting the probationary increase to the Human Resources Division. The salary increase will be effective the day the six month probationary period has been successfully completed.

Performance Bonus

A performance bonus may be paid to an employee to recognize outstanding performance or work achievement beyond the normal work expectations. A performance bonus is funded from the department’s existing salary budget. A performance bonus is not part of an employee’s salary base; however, it is subject to state and federal taxes and withholding.

Indications of outstanding performance include:

- Completing a short-term project critical to the agency while maintaining high performance in the other areas of the employee’s job.
- Performance resulting in noteworthy accomplishments that made a strong contribution to the success of a division or section.
- Frequently exceeding expectations during the period under review or other exceptional performance as demonstrated on the performance evaluation.
- Completing a special assignment that resulted in a temporary heavy workload and required significant overtime or turn back of annual leave to complete the project or meet an important deadline.*
- Other exceptional performance documented by the supervisor and division director.

*Note: Department management recognizes that occasionally the work of this department requires significant overtime or the turn back of annual leave, often with little or no notice. As part of an overall healthy work environment, the department encourages employees to achieve a balance so that regular overtime is not a normal practice.

A performance bonus payment may be especially effective when an employing division has limited resources from which to make sustainable salary adjustments, but wishes to recognize an employee’s exceptional efforts. A performance bonus may be requested by a section chief at any time, but will only be considered when the availability of funding is clear. The availability of funding will be determined first from the division’s salary budget, then the section’s or department’s salary budget.
By law, the department may not provide performance bonuses to more than 25 percent of the number of FTE in the department on July 1 at the beginning of each fiscal year.

In order to be eligible for consideration, an employee must meet the following minimum criteria:

- Has held a position in state government for at least one year before a bonus is paid;
- Has full-time or part-time regular non-probationary status in a regularly funded full-time equivalent (FTE) position;
- Has at least satisfactory annual performance ratings in all measured criteria for the last review period; and
- Has not received a performance bonus payment during the fiscal year.

To recommend a performance bonus for an employee, a division director must provide, in writing to the section chief, documentation that describes the employee’s exceptional efforts and accomplishments, the amount of the requested bonus, and that the employee meets the criteria listed above. Amounts requested should be consistent with the level of performance. Each section chief may request bonuses for no more than 25 percent of the number of FTE in the section as of July 1 of each fiscal year. Unused slots may be reallocated to other sections at the discretion of the state health officer or deputy state health officer. After review and approval by the section chief, the request for performance bonus is forwarded to the director of human resources for review and final approval by the state health officer or the deputy state health officer.

**Recruitment and Retention Bonus Policy**

**Purpose**

The purpose of this policy is to establish criteria for providing recruitment and retention bonuses for classified department employees in hard-to-fill occupations.

**Authority**

Authority for this policy is found in Chapter 54-06 of the North Dakota Century Code.

**Definitions**

**Recruitment Bonus** - A lump-sum payment, which is not part of an employee’s base salary, paid to a new employee to recruit that employee into a hard-to-fill classified position.

**Retention Bonus** - A lump-sum payment, which is not part of an employee’s base salary, paid to an existing employee to retain that employee in a hard-to-fill or critical classified position.

Funding for recruitment and retention bonuses will come from the department’s budget for salaries and wages. Recruitment and retention bonuses are not considered part of an employee’s base rate of pay but are subject to state and federal taxes and withholding.
Recruitment Bonuses

A recruitment bonus may be used only in circumstances where there is a need to fill a position and usual recruitment methods are demonstrated to be unsuccessful.

A section chief may request that positions be considered eligible for recruitment bonuses. Requests must be in writing and submitted by the section chief to the human resources director for the state health officer’s review and approval. Eligibility determinations will be based on the following factors:

- Recent efforts to fill a position or a substantially similar position resulted in a low number of qualified applicants, all recruitment methods being exhausted, and/or job offers being declined due to low salaries or recruitment bonuses offered by other hiring entities.
- High turnover history, a large number of existing vacancies, frequent and lengthy job vacancies.
- Higher current rate of pay by other state agencies and the private sector for the occupation.
- Low unemployment rate for the occupation.
- Special qualifications which make the position more difficult to fill such as education, experience, skills, and licensure/certification requirements.
- Availability of salary and wage dollars within the section or department to fund the bonus.

Before receiving a recruitment bonus, an employee must sign a written agreement to complete two years of full-time employment with the department. If the employee does not complete the two-year period of full-time employment, the employee must repay the portion of the bonus attributable to the incomplete period. This applies if, within the two-year period, the employee voluntarily resigns; is terminated for cause; fails to obtain and maintain in good standing all licenses, certificates or permits necessary to perform required duties; or moves within the department to a position with a lower classification. No repayment of a recruitment bonus is required if an employee is involuntarily separated for reasons other than dismissal for cause. Repayment may be waived by the state health officer.

A recruitment bonus may be paid in increments as defined in the agreement. For example, one-half may be paid at the time of hire, and the second half may be paid at the end of either six months or one year of full-time employment with the department.

The amount of a recruitment bonus payment may not exceed two month’s starting salary. The amount may vary depending on the difficulty in recruiting.

Retention Bonuses

A retention bonus may be used only in situations where it is necessary to meet a critical deadline, to complete a critical project, and to maintain staffing in positions of critical need, where
recruitment has been difficult or the risk of losing the incumbent is high. A retention bonus should be proactive to retain staff with critical skills.

A section chief may request that positions be considered eligible for retention bonuses. Requests must be in writing by the section chief and submitted to the human resources director for the state health officer’s review and approval. Eligibility determinations will be based on the following factors:

- Recent efforts to fill a position or a substantially similar position resulted in a low number of qualified applicants.
- The critical nature of the position to the section.
- Employment continuity to preserve critical operational knowledge.
- A description of the project and deadlines and the critical nature of the employee’s role in the project.
- Special qualifications that make the position more difficult to fill such as education, experience, skills, and licensure/certification requirements.
- Availability of salary and wage dollars within the section or department to fund the bonus.

Before receiving a retention bonus, an employee must sign a written agreement to complete up to two years of full-time employment with the department. The written agreement must identify payment terms and terms for repayment if the employee does not remain employed with the department as stipulated in the agreement.

If the employee does not complete the agreed upon period of time, the employee must repay the portion of the bonus attributable to the incomplete period. This applies if, within the agreed upon time period, the employee voluntarily resigns; is terminated for cause; fails to obtain and maintain in good standing all licenses, certificates, or permits necessary to perform required duties; or moves to another position within the department. No repayment of a retention bonus is required if an employee is involuntarily separated for reasons other than dismissal for cause. Repayment may be waived by the state health officer.

The amount of a retention bonus may not exceed two month’s salary of the incumbent. NDAC 4-07-02-06.

Records

The human resources director will maintain the following information on recruitment and retention bonuses:

- Divisions that provided bonuses
- Dollar amounts of bonuses
- Classification and position numbers of employees who received bonuses
- A listing of employees who terminated after receiving bonuses, including the number of months employed and any required pay back
- A copy of the signed recruitment or retention bonus agreement
EMPLOYMENT POLICIES

Telecommuting

Definition

“Telecommuting” is a work arrangement that allows employees to work for all or part of the regular work week at a location other than the customary work site. The Department of Health (DOH) considers telecommuting to be a viable option to aid in the recruitment and retention of skilled workers in cases where employees in eligible positions desire workplace flexibility.

Determining Feasibility of Telecommuting Arrangement for Positions/Employees

Before advertising a vacant position, the section chief shall determine the feasibility of telecommuting based on the following job characteristics:

a) Results-oriented
b) Quantifiable, measurable, reasonably tracked
c) Easily portable
d) Limited requirement for face-to-face internal/external interaction and communication
e) Minimal supervision required
f) Information-based

In addition, the section chief shall assess the supervisor and employee suitability for a telecommuting arrangement. DOH has developed the telecommuting feasibility worksheet to assist managers in assessing the feasibility of a telecommuting arrangement for positions/employees.

In the event of a pandemic (i.e., widespread outbreak of a communicable disease), DOH will make temporary telecommuting arrangements as it deems necessary under the special circumstances created by the pandemic.

Agreement

A DOH section chief and employee may enter into an agreement that provides for an employee to telecommute. Arrangements to telecommute must focus first and foremost on the business needs of DOH. Participation in a telecommuting arrangement is discretionary on the part of the section chief and voluntary on the part of the employee, unless specifically stated as a condition of employment.

Telecommuting does not change the terms and conditions of employment with DOH. Telecommuting is not an employee right or entitlement.

Before entering into a telecommuting agreement with a current employee, the section chief, division director, the employee’s supervisor, and the employee shall evaluate the suitability of such an arrangement with regard to the following:
1. Employee Suitability – the employee and manager will assess the needs and work habits of the employee compared to traits customarily recognized as appropriate for successful telecommuters. Telecommuting is available for regular and temporary full-time and part-time employees who:

   a) Possess a demonstrated skill level in the work to be performed or have been employed by DOH for a period of time to achieve a competency level.
   b) Have demonstrated the ability to work independently and manage their time and workload
   c) Have exhibited above average performance in accordance with the performance appraisal process.

2. Job Responsibilities – the employee, employee’s supervisor, division director, and section chief should discuss the job responsibilities and determine if the job is appropriate for a telecommuting arrangement.

3. Equipment needs, work space design considerations, and scheduling issues.

4. Tax and other legal implications for the business use of the employee’s home based on IRS and State and local government restrictions; responsibility for fulfilling all obligations in this area rests solely with the employee.

Once the employee, employee’s supervisor, division director, and section chief agree, the division director shall prepare an agreement, have it reviewed by legal counsel, and obtain signatures of all parties.

Requirements of a Telecommuting Agreement

A telecommuting agreement must address and comply with the following:

   a) Work Schedules - The number of telecommuting days each week, the work schedule the employee will customarily observe, and the manner and frequency of communication must be addressed. Work schedules may parallel those of the customary work site or be structured to meet the needs of the employee and department. The employee must agree to be accessible by phone or e-mail within a reasonable time period during the agreed upon work schedule. Telecommuting employees who are not exempt from the overtime requirements of the Fair Labor Standards Act will be required to record all hours worked in a manner designated by the division director. Hours worked in excess of those specified per day and per week will, in accordance with State and Federal requirements, require the advanced approval of the supervisor or division director. Failure to comply with this requirement may result in an immediate termination of the telecommuting agreement or disciplinary action up to and including termination of employment. Each monthly timesheet must reflect hours worked and/or leave taken as appropriate and in accordance with Fair Labor Standards Act requirements.
   b) Salary - An employee’s compensation, benefits, and work status will not be affected by participation in a telecommuting arrangement when the same work would have been performed at the customary work site. If an employee takes a different position to locate
in a rural area or is assigned different work, the classification of the employee’s position and the employee’s salary may be different from when that employee worked at the customary work site.

c) Travel - Travel to the customary work site is the responsibility of the employee. Business travel in the course of the workday is reimbursable at travel and per diem rates set forth in DOH fiscal policy. The employee must use a state fleet vehicle if available unless directed otherwise by the division director. An employee with an out-of-state residence will use the North Dakota border when calculating mileage associated with work and identifying a start time for travel. Travel from a personal residence to the North Dakota border is personal time.

Note: The telecommuting policy does not apply to out-stationed employees. An out-stationed employee is defined as an employee whose physical office, other than their home is located outside of Bismarck.

d) Long Distance Phone Calls – Long distance phone calls placed on behalf of the division may be placed through a phone card, access to an “800” toll free line, or reimbursed.

e) Equipment & Supplies - The section chief shall determine, with information supplied by the employee and the supervisor, the appropriate equipment needs for each telecommuting arrangement on a case-by-case basis. Consideration shall be given to the types of office furniture, equipment, supplies, and technical support that the department will provide. Equipment and software must meet organizational standards.

Equipment provided by a division is to be used by the employee for business purposes only. Use by family members or others is prohibited. Equipment supplied by the department will be maintained by the department. The department accepts no responsibility for damages or repairs to employee-owned equipment. The employee must sign an inventory of all state property and agree to take appropriate action to protect the items from damage or theft. Upon termination of the telecommuting agreement or employment, all department property will be returned to the department, unless other arrangements have been made.

DOH policies relating to computer hardware and software usage applies in the telecommuting arrangement unless otherwise specifically authorized by the section chief.

The department should supply materials necessary to complete assigned work at the work site through the employee’s visits to the customary work site. Out-of-pocket expenses for supplies normally available through the department should not be reimbursed.

f) Inclement Weather - If the customary work site is closed due to an emergency or inclement weather, the section chief or designated staff person will contact the employee. The employee may continue to work at the telecommute work site. If there is inclement weather or an emergency, such as a power outage, at the work site, the employee shall notify the supervisor or division director as soon as possible.

g) Workers Compensation - The employee must immediately report any accident or injury to the supervisor or division director. Employees are required to submit the on-line incident reports to Risk Management and Worker’s Compensation within 24 hours.
Workers compensation coverage will be provided for the employee while in the telecommuting arrangement when injuries are sustained in conjunction with the employee’s regular work duties. However, the department assumes no liability for injuries occurring to the employee at the work site when the injuries are not sustained in conjunction with the employee’s regular duties. The employee is liable for any injuries sustained by visitors to his or her work site.

**Trial Period**

A telecommuting arrangement/agreement may be entered into for a trial period. If a trial period is agreed upon, evaluation of employee performance during the trial period must include regular interaction by phone and/or e-mail between the employee and the supervisor and face-to-face meetings as needed to discuss work progress and problems. At the conclusion of the trial period, the employee, supervisor, division director, and section chief shall complete an evaluation of the arrangement and make recommendations for continuance or modifications. Evaluation of employee performance beyond the trial period will be consistent with that received by employees working at the customary work location in both content and frequency, but will focus on work output and completion of objectives.

**Termination of the Telecommuting Arrangement/Agreement**

Any telecommuting arrangement may be discontinued at any time at the request of either the employee, division director, or section chief. A section chief may suspend or terminate a telecommuting arrangement/agreement due to operational needs of the department or due to an employee’s substandard work performance or work behavior. Management retains the right to refuse or terminate a telecommuting arrangement/agreement at any time followed by written notice to the employee.

**Section Chief Responsibilities Regarding Telecommuting**

a) Approve or disapprove the employee’s participation in a telecommuting arrangement.
b) Approve or disapprove work site arrangements.
c) Assure equipment is available for the employee to adequately perform assigned work.

**Division Director Responsibilities Regarding Telecommuting**

The division director shall:

a) Assess the impact of the telecommuting arrangement on the productivity of the division, the assigned work, and on any other affected employee; ensure that customer service will not be negatively impacted.
b) Maintain regular contact with the employee or ensure the employee’s supervisor maintains regular contact with the employee.
c) Address work-related issues.
d) Evaluate and monitor cost/benefit effectiveness of the telecommuting arrangement.
e) Assess the portability of the employee’s workload away from the customary work site.
f) Develop, amend, and implement performance standards and measurements for work performed; monitor, evaluate, and manage employee’s work performance. If the division director is not the employee’s supervisor, the division director shall hold the employee’s supervisor accountable for this responsibility.

g) Assure that the Risk Management telecommuting checklist is completed for the proposed work site.

Employee Responsibilities Regarding Telecommuting

The employee shall:

a) Abide by all work-related policies and regulations, work behavior, and expectations as required of any regular employee of the organization.

b) Maintain proper management, retention, and confidentiality of information and records. Disclose information and records only to those authorized to have knowledge or access to information.

c) Assure the work site is equipped and maintained in a manner to complete work as assigned.

d) Observe agreed-upon hours of work in accordance with policy.

e) Assist in the identification of training needs and participate in and/or provide appropriate training.

f) Ensure access to reliable computer equipment and internet connection for business purposes. Use by family members or others is prohibited.

g) Maintain safe conditions in the work area and, if working at home, have adequate homeowners, renters, or commercial general liability insurance as required by State Risk Management.

h) Protect State-owned equipment; use State-owned equipment for official purposes and in accordance with DOH policy.

i) Be responsible for lost, stolen, or damaged equipment owned by the State.

j) Spend previously agreed-upon time at the customary work site and attend required meetings.

k) Provide input during the development and implementation of the telecommuting agreement.

Telecommuting as an Accommodation

When requested by an employee, telecommuting may be considered as a reasonable accommodation under the Americans with Disabilities Act. “Reasonable accommodation” is any change in the work environment or in the way things are customarily done that enables an individual with a disability to apply for a job, perform a job, or gain equal access to the benefits and privileges of a job as long as the accommodation does not cause undue hardship to the agency. The section chief shall initiate an interactive process with the employee to determine the type of accommodation needed. To determine if any or all of a job can be performed at home, the section chief must ensure that essential functions of the position have been identified and consideration given to the feasibility of telecommuting on a full-time, part-time, or intermittent
basis. The section chief may waive certain telecommuting eligibility requirements, modify the telecommuting policy, or waive or modify other workplace policies to allow an employee with a disability to work from home as a means of reasonable accommodation. The section chief will not allow telecommuting as an accommodation if it prevents the employee from performing the essential functions of the job or causes undue hardship to the agency.

The section chief has the right to select the most effective accommodation even if it is not the one preferred by the employee. For additional information, see Enforcement Guidance: Reasonable Accommodation and Undue Hardship Under the Americans with Disabilities Act at http://www.eeoc.gov/policy/guidance.html or refer to DOH’s reasonable accommodation process.

Credit for Temporary Service

Temporary employees who become regular full-time employees are given credit for their temporary service for the purpose of determining their annual leave accrual date.

Recruitment and Employment Procedures

The purpose of this policy is to outline the department's hiring procedures.

Duties of Hiring Manager

Prior to Recruitment:

a) Analyze the needs of the division relative to the vacant position.
b) Notify human resources director if there is a need to fill the vacant position.
c) Request approval to fill the position from the deputy state health officer.
d) Update or prepare a Job Description Questionnaire (JDQ) for accuracy. JDQs should identify the essential and nonessential functions of the position. If the position does not have a job description, contact the Human Resources Division for the questionnaire used to collect information for the job description.
e) Review Job Description Questionnaire (JDQ). Does the JDQ reflect current responsibilities and duties? Is the position correctly classified?
f) Forward completed questionnaire or the updated job description to the human resources director.
g) Work with the human resources director to determine the criteria to be used in the pre-interview matrix. Select the rating factors and how much weight will be given to each factor. The matrix should be based on a 100 point system.

Recruitment:

a) Work with the human resources director to develop a job announcement and any ads for newspapers or other publications.
b) Determine the actual hiring salary range for the position with human resources director.
c) Request human resources director to place employment ads in newspapers and/or journals, if necessary.
d) Determine other recruitment alternatives; (i.e., universities outside of North Dakota or industry specific websites.)
e) When submitting the hiring matrix, indicate how many applicants will be forwarded to you for consideration (see NDCC 37-19.1).

Selection:

a) Utilize the completed pre-interview matrix to determine and document which candidates will be considered for the certificate of eligibles. The points for veteran’s preference will be added to the score for any veterans or disabled veterans. The law requires five points for veterans and ten points for disabled veterans. N.D.C.C. ch. 37-19.1
b) Maintain specific evidence to support your ratings.
c) Conduct a reference check on at least the top applicant. For additional information on conducting reference checks, contact the human resources director. N.D.C.C. 34-02-18.
d) Extend offer of employment. After extending a verbal offer, follow up with an offer in writing.
e) Send the offer letter to the Human Resource Director and Officer to send to the applicant. The applicant will accept or reject the offer through PeopleSoft and will begin the payroll process.
f) Forward a copy of the list of applicants and the applications of individuals interviewed but not hired to the human resources division. The list of applicants should include comments on who was interviewed and if any applicant declined an interview or an offer of employment.

Duties of the Human Resources Division

Prior to Recruitment:

a) Work with the hiring manager to update the job announcement and JDQ.
b) Ensure essential functions have been identified for the position.
c) Determine the salary range for the position.
d) Determine if job announcement is internal/external.
e) Work with the hiring manager to develop the rating factors and weights for the pre-interview matrix.

Recruitment:

a) Prepare and post job announcements.
b) Make arrangements for newspaper/journal advertisements.

Selection:

a) Conduct a review of the applicants to determine which ones meet the minimum qualifications.
b) Complete the pre-interview matrix.
c) Send the hiring manager the application forms of the candidates on the certificate of eligibles.
d) Provide the hiring manager with information on conducting interviews and reference checks when requested.

e) Help the hiring manager interview applicants, when requested by the hiring manager.

f) Notify applicants when the position has been filled.

g) File a copy of the job announcement, job description, pre-interview matrix, interview summary and application forms.

h) This information must be retained for at least three years from the date of hire.

**External Job Announcements**

External job announcements will be posted for at least five days. Fourteen days are recommended.

Job announcements will be posted on the Department of Health website and the state job vacancy announcement system. Job announcements on the system go to the majority of state agencies, including Job Service and college placement offices.

All external applicants must fill out an Application for Employment. This includes applicants for temporary positions.

**Internal Job Posting**

In order to inform employees of opportunities within the department, the Human Resources Division will send internal job announcements for all non-temporary openings.

If a division has an opening as a result of a termination, resignation or transfer, and the division director wishes to select an employee from within his/her own division, the position does not need to be posted throughout the entire department. Internal job announcements must at least be open to an entire division.

Temporary staff assignments for short-term or urgent projects may be made between divisions without posting.

When a job is posted, interested employees are to notify the Human Resources Division of their interest in writing by completing an Application for Employment form (SFN 10950). The Human Resources Division will then inform the hiring division of the employee's interest in the opening. Employees who meet the minimum requirements will be given an opportunity to interview for the opening.

Internal job announcements will be posted for a minimum of three work days including a weekend when possible.

**Interviewee Expenses**

The department may reimburse expenses for one round trip visit for non-managerial exempt positions at current state rates for mileage, per diem, and lodging (receipt required). Mileage, per diem, and lodging will not be prepaid. The department may prepay airline tickets as necessary.
with arrangement made through the Human Resources Division. Non-exempt positions may not be eligible for interviewee expenses. Check with the Human Resources Division on eligibility.

For managerial positions, the department may pay additional expenses deemed necessary as recommended by senior management after conferring with the deputy state health officer. Reimbursement is not mandatory. Interviewee expenses will be handled in a consistent manner for each applicant for each specific position.

Payment requests must be submitted with original receipts and used tickets attached. Indication of position number and division responsible for reimbursement is required.

See OMB Fiscal and Administrative Policy Nos. 513 and 517.

Moving Expenses

The department recognizes that in order to maintain a competitive stance in the hiring process, it may be necessary to include moving expenses as a part of an offer of employment. As a result, the following policy is being adopted:

Reimbursement for professional positions must be demonstrated to be necessary and must be approved by the section chief and Human Resources Division. Moving expense reimbursement provisions must be stated as part of the original offer letter. The department may pay reasonable actual expenses documented by original receipts up to $1,500 for expenses such as mover’s fees, equipment rental (i.e., U-Haul, etc.), and mileage at current state rates. Per diem and lodging may be reimbursed for up to three days at state rates for employee and spouse.

Managerial (division directors and above)

Managerial moving expenses are subject to approval by the state health officer, but are limited to a maximum of $5,000.

See also OMB Fiscal and Administrative Policy No. 521.

Employee Performance Evaluation

Introduction

Employee performance evaluation is a process or system to develop employees and assist them in achieving the goals of the department. All employees of the department should receive both periodic, formal reviews as well as ongoing, informal evaluations of their performance.

Purpose

As presented in the Human Resource Management Services Supervisor’s Guide to Performance Evaluation, the employee performance evaluation system is used to:

a) Measure actual performance against expected performance.
b) Provide an opportunity for the employee and the supervisor to exchange ideas and feelings about job performance.

c) Identify employee training and development needs and plan for career growth.

d) Identify skills and abilities for purposes of promotion, transfer and reduction in force.

e) Support alignment of organization and employee goals.

f) Provide the basis for determining eligibility for compensation adjustments based on merit.

g) Provide legal protection against lawsuits for wrongful termination.

h) The performance evaluation process provides an opportunity for open communication and feedback regarding both employee and supervisor expectations. Most employees want to perform to the satisfaction of their employer and contribute to achievement of the goals of the organization and therefore appreciate feedback regarding their performance.

Definitions

_Probationary employee_ - An employee who is employed in a classified position, who was selected for a position on an open, competitive basis and who has not yet completed the initial six-month probationary period.

_Regular employee_ - An employee who has completed the probationary period and who is in a position classified by Human Resources Management Services.

_Temporary employee_ - An employee who is employed in a position that is time-limited in duration.

Formal Performance Evaluations

For a performance evaluation system to be effective, employees must be informed of the responsibilities assigned to their position and the level of performance necessary to successfully perform the work. Within 60 days of beginning employment, all new employees must be provided written performance expectations established for the position, as well as strategic goals and objectives, if available. Formal performance reviews based on the expectations, goals and objectives must be conducted for all probationary employees following the completion of the six-month probationary period and annually thereafter on the anniversary month of the employee’s regular status. Temporary employees are not required to have probationary reviews but must be evaluated annually based on performance expectations. Feedback during the evaluation process should include direction for improvement regarding any unsatisfactory performance issues.

Each division is required to use a uniform performance evaluation form for all employees. The evaluation form must utilize at least three levels of performance, such as “exceeds standards,” “meets standards,” and “needs improvement” for each element evaluated. This is necessary in order for regular employees to be eligible to receive any employee pay bonuses awarded by the department (NDCC 54-06-30). Additional information such as employee development goals and training needs may be gathered on the form as well.
The supervisor must review the completed performance evaluation form with the employee. If desired, the supervisor’s manager may provide comments or approval of performance evaluations. In such cases, comments and approval of the supervisor’s manager must be included on the performance evaluation form and reviewed with the employee.

After the performance evaluation form has been reviewed with the employee, the employee and the employee’s supervisor must sign it. An employee’s signature on the performance evaluation form only acknowledges that it has been reviewed with the employee. Any copy of the performance evaluation form provided to the employee must include all supervisory and manager comments. Employees are encouraged to attach any written comments they wish to their performance evaluation. The performance review form with any employee comments will become a part of the employee’s personnel file. All original performance evaluation forms are maintained in the employee’s personnel file located in the Human Resources Division.

Probationary Evaluations

Evaluations must be completed within 15 days of the end of the six-month probationary period for all probationary employees. In addition to the above procedures, the probationary review includes a recommendation for regular status, probation extension or termination. Lack of notice within 15 working days of the end of the probationary period means the employee has successfully completed the probationary period (NDAC 4-07-06-06). In cases of termination or probation extension, detailed documentation is required.

Changing the Evaluation Month

Supervisors may request to change an employee’s annual evaluation month when (a) an employee is promoted, (b) an employee is transferred to a new program or division, (c) a new supervisor is hired, or (d) a supervisor prefers to conduct all employee performance reviews during the same month each year. To request a change, supervisors should send a brief memo to the Human Resources Division documenting the rationale for the change. The human resources director will consider the length of time between evaluations in considering the request to change the evaluation month. (NDAC 4-07-10-04).

Informal Performance Evaluation

It is important for supervisors to provide both formal and more frequent informal evaluations of employees. Most employees prefer informal feedback on an ongoing basis focusing on current issues.

Informal evaluations may or may not be documented. If documented, they must be signed by the employee and included in the employee’s personnel file. The supervisor will use discretion on whether the issue should be included in the employee’s formal evaluation. If satisfactory performance is achieved through an ongoing informal process, instances of unsatisfactory performance may be corrected in a timely manner and never appear on a formal evaluation form. In certain cases, this may be the most effective method of achieving high organizational performance.
Job Description Questionnaires (JDQ) – Content and Access

The department maintains a job description questionnaire (JDQ) on file for every position. The JDQ is located in the Human Resources Division. The JDQ contains detailed information about the position and is used to classify positions. Employees may request their JDQ by contacting Human Resources.

Discipline Policy

Supervisors are encouraged to consult early and as often as needed with the Human Resources Department, since the proper handling of disciplinary actions may impact DOH’s ability to adequately address workplace issues.

Discipline of Temporary and Probationary Employees

An employee on probation may be separated at will from employment and may be terminated without cause and without progressive discipline. The employee may not grieve or appeal a lawful separation.

The division director shall notify the employee of the separation in writing. However, a supervisor may, in the supervisor’s sole discretion, use progressive discipline to correct the job performance of a probationary employee, including extending the probationary period for up to and additional six months

Temporary employees may be terminated without cause and without progressive discipline. However, a supervisor may, in the supervisor’s sole discretion, use progressive discipline to correct the job performance of temporary employees.

Discipline of Regular Employees

Progressive discipline must be used to correct a regular employee’s job performance problems or for a violation of rules or standards. Supervisors should work with Human Resources Division throughout the entire progressive discipline process.

The steps discussed below are those typically used in a progressive discipline process.

Informal Discussions

These are meetings between the employee and supervisor to talk one-on-one about work-related problems. This provides an opportunity to discuss performance and behavior as follows: the impact on the work place, the employer’s expectations of the employee, any assistance that will be provided, and possible consequences if improvement does not occur. These discussions should be documented by the supervisor. It is recommended that a copy of the documentation of the meeting be given to the employee. Documentation will not go in the personnel file.
Verbal Warning

This is the first formal step of the disciplinary process. In the event that performance problems continue or a work-related offense occurs, the employee should receive a verbal warning. The warning should describe the problem, the impact on others, the employer’s expectations of the employee and the consequences if the performance problem continues or the offense occurs again. In the case of an offense, the expectation of the employee generally will include a specific time frame and the fact that the degree of discipline will increase if the offense occurs again during that time. Documentation will not go in the personnel file.

The verbal warning should be documented by the supervisor. It is recommended that a copy of the oral warning documentation be given to the employee.

Written Warning

Generally, the second step of the disciplinary process requires the supervisor to compose and deliver a written warning to the employee. This would normally occur where the performance problem continues, or the same or a similar violation occurs. The written warning will contain a description of the problem or offense and the effect on the workplace or the policy or administrative rule that was broken. The warning also will say that if the conduct is repeated the employee will be disciplined again more severely. A final warning also may be included in the written warning that specifies that dismissal will result if another infraction occurs.

A written warning containing special restrictions about attendance, conduct or imposing special procedures should be reviewed by the supervisor every 30 days, when it may be modified with a follow-up letter. Otherwise, the provisions, restrictions or directives will automatically continue until the next review. Documentation will go in the personnel file.

Progressive Discipline Exception

These steps of the progressive discipline process may be bypassed when an infraction or a violation of a serious nature is committed such as, but not limited to, insubordination; theft; falsification of pay records; assaulting a supervisor or coworker, patient or client; and for which the imposition of less severe disciplinary action would be inappropriate.

Pre-Action Notice

Prior to suspending, demoting or terminating a classified employee who has successfully completed the probationary period, the division director shall give the employee a written notice of the reasons for such action, an explanation of the allegations and the supporting evidence, and provide an opportunity for the employee to respond.

The written notice of the reasons and explanation of the allegations must include:

a) A statement of the division director’s intent to take disciplinary action that may result in demotion, suspension without pay, or termination of the employee.

b) An explanation of the allegations against the employee; citing behavior, dates or occurrences, witnesses and other evidence.
c) A statement of specific policy, administrative rule or practice violations or a statement citing what work expectation was violated and how the employee would have known of the work expectation.

d) Notice that the employee may provide the division director with evidence, explanation or other information in writing which contradicts the allegations and evidence.

e) Notice that the employee will have five working days to provide the written response.

f) Notice of the employee's status (to continue working or placement on leave of absence with pay) until the final decision is made.

g) A statement that a written notice of the final action taken will be provided to the employee.

h) A statement at the end such as “I have read and understand this document. I am aware that it is being placed in my personnel file. I acknowledge that my signature does not necessarily indicate agreement with the contents of this document. I understand that I have the right to attach a response if I so choose.”

i) A signature line for the employee to acknowledge receipt or a witness to acknowledge the employee’s receipt and/or refusal to sign.

Any time a pre-action notice is sent to an employee via US Postal service, an Affidavit of Service by Mail form must be used to document the date the letter was sent to the employee.

**Opportunity to Respond**

The employee must be given no less than five working days following receipt of the notice in which to respond in writing to the allegations. The employee must be given reasonable access to the employee’s personnel file and all information upon which the allegations are based. If necessary, the employee may be placed on a leave of absence with pay during this time.

**Dismissal**

This is the last step of the disciplinary process. This generally occurs after the supervisor has followed the complete progressive discipline process. This results after the manager has reviewed the employee’s response to the pre-action letter and has determined that dismissal is the appropriate action for the violations or behavior.

**Division Director, Manager and Supervisor Responsibilities**

Supervisor’s responsibilities related to disciplinary actions include documenting incidents of poor performance, inappropriate workplace behavior and violation of laws, rules and policies; documenting meetings with employees regarding their poor performance, inappropriate workplace behavior and violation of laws, rules and policies; establishing and monitoring adherence to plans for corrective action; drafting letters to employees and other documentation of disciplinary actions, investigating poor work performance and other job-related problems, and ascertaining and carrying out proper procedures.

Division directors, managers and supervisors are responsible to ensure full documentation and review of all disciplinary actions. Documentation must always be completed at the time of the action.
Supervisors may maintain a supervisory file containing written notes or documentation of an employee’s performance separate from the official personnel file. If contents of the supervisory file are used for disciplinary purposes, such content must be made a permanent part of the employee’s personnel file.

No documents that address an employee’s character or performance may be placed in the personnel file unless the employee has had the opportunity to read the material. The employee must acknowledge that the employee has read the material by signing the actual copy to be filed or an attachment to the actual copy to be filed, with the understanding that the signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with its content. If the employee refuses to sign the copy to be filed, the division director shall indicate on the copy that the employee was shown the material, was requested to sign the material to verify that the material had been read, and that the employee refused to sign the copy to be filed. In the presence of the employee and a witness, the division director shall sign and date a statement verifying the refusal of the employee to sign the copy to be filed. The material must then be placed in the personnel file.

The employee has the right to answer any material filed and any answer must be attached to the file copy. If any material is found to be without merit or unfounded through a grievance procedure, it must be immediately removed from the file and may not be used in any subsequent actions or proceedings against the employee.

No anonymous letters or materials may be placed in the employee’s personnel file.

**Personnel Files – Content and Access**

The department maintains a personnel file on each employee. The personnel file is located in the Human Resources Division. The personnel file shall include name, title, position held, payroll forms, salary, change of status, performance appraisals, date of employment, application for employment, letter of hire, acceptance letter, records of any disciplinary actions taken against the employee (written warnings, demotions, suspensions without pay or termination), occupational license, continuing education and information of a positive nature, including information indicating special competencies, achievements, performances or contributions of a professional or civic nature.

Any information addressing an employee's character or performance will not be placed in the personnel file unless the employee has had the opportunity to read the material. The employee must sign the actual copy to be filed, with the understanding that the signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with the content. If the employee refuses to sign the copy to be filed, the division director or section chief should indicate on the copy that the employee was shown the material, was requested to sign the material to verify that the material had been read, and that the employee refused to sign the copy to be filed. In the presence of the employee and a witness, the division director or section chief should sign and date the statement verifying refusal of the employee to sign the copy to be filed. The material will then be placed in the file.
Employees can answer any material placed in their personnel file and the answer will be attached to the file copy. Employees or their designated representative can examine their personnel files by appointment during normal business hours. Employees can reproduce any material in their personnel file at their personal expense. Personnel files can only be reviewed in the presence of the human resources director or a designated agency representative and the review will be conducted within the premises of Administrative Services.

Managers may maintain written notes or records of the employee's performance separate from the personnel file for the purpose of preparing evaluations or possible disciplinary action.

**Reduction-In-Force (RIF) Procedures**

The decisions of the Department of Health regarding where and how its resources, including its employees, will be assigned are necessary management decisions. Decisions on reduction-in-force are made in the context of overall budget cuts and reallocation of work.

RIF procedures will be initiated when it has been approved by the state health officer based on information provided by a section chief that a reduction-in-force is necessary in a division(s) or work unit(s) of a division(s) because of a reduction in funding, lack of work, curtailment of work or because of reorganization.

When a reduction-in-force is approved, the director of the division or work unit(s) will:

a) Determine the division or work unit to be affected by the reduction-in-force.

b) Determine the number of positions to be reduced and the classification(s) affected.

c) Review vacant positions within the designated division or work unit and within the designated classification(s) for possible elimination.

d) Reduce temporary employees performing the same or similar work in the designated division or work unit. (N.D. Admin. Code § 4-07-11-05)

e) Reduce probationary employees in positions assigned the same classification(s) as those designated for reduction in the designated division or work unit. (N.D. Admin. Code § 4-07-11-05)

f) Conduct a written reduction-in-force analysis if more than one regular employee occupies positions in the designated division or work unit with the same classification targeted to be reduced. A reduction-in-force analysis must show a comparison of the employees’ knowledge, skills, length of classified service, other experience and level of performance with the knowledge, skills and experience determined necessary to accomplish the work to be done following the reduction-in-force. (N.D. Admin. Code § 4-07-11-03) (SFN 17168, Reduction-In-Force Analysis Worksheet)

g) If a position to be eliminated is the only position in the division or work unit assigned a single classification, no reduction-in-force analysis is necessary but this fact must be documented.

h) Reduce regular employees in positions selected for reduction through the analysis, providing to affected employees, in person, a written notification of at least two weeks. More time is desirable when possible. Written notification must include the reason(s) for the reduction-in-force, notice of grievance and appeal procedures and outplacement services available to the employee.
i) Place a copy of the written notification in the personnel file and ensure that the termination of employment is recorded as a reduction-in-force for payroll purposes.

j) The analysis and related documentation must be maintained according to the applicable records retention schedule. (N.D. Admin. Code § 4-07-11-04)

A reduction-in-force may not be used as a substitute for addressing disciplinary issues and must be made in a nondiscriminatory manner in accordance with N.D.C.C § 14-02.4-01 and any Federal civil rights laws.

An employee who was in a classified position that was reduced has the right to file a grievance or appeal in accordance with N.D. Admin. Code § 4-07-20.1-07 on the basis that the Department of Health did not utilize a uniform comparative analysis as required by N.D. Admin. Code § 4-07-11-03 or that the reduction-in-force was conducted in a discriminatory manner. For grievance and appeal procedures, see page 72 of this manual.

The division director shall determine any outplacement services and the extent of those services made available to employees who lose employment due to a reduction-in-force. Such services should be provided within a reasonable time period prior to termination of employment and may take the form of the following:

- a) Allow work time to prepare and mail applications and resumes
- b) Assistance from human resources in preparing applications or resumes
- c) Excused leave for job interviews
- d) Use of phone services
- e) Referrals to other employers
- f) Allow work time to obtain services from ND Job Service, Public Employees Retirement System, HRMS and resources available to help the unemployed.

Approval is required by state health officer or designee before a position that has been included in a reduction-in-force can be subsequently filled.

Reemployment Following a Reduction-In-Force

An individual who has lost employment due to a reduction-in-force within the Department of Health shall be considered an internal applicant for all positions within the department for which the individual applies and shall be offered reemployment with the department if all of the following conditions are present (N.D. Admin. Code § 4-07-11-07):

- a) A regular position vacancy in the same classification or a lower classification in the same series occurred and the vacancy will be filled by someone other than a current employee.
- b) The individual meets the qualifications determined by the Department of Health to be necessary for successful performance of the position and successfully completes any required examinations specified by the department including an oral interview(s).
- c) No more than one year has lapsed since the individual lost employment due to reduction-in-force.
- d) The individual is not currently employed in a regular position in state service.
An individual who has lost employment due to a reduction-in-force and was denied reemployment has the right to file a grievance or appeal in accordance with N.D. Admin. Code § 4-07-20.1-07 only on the basis that OMB did not follow N.D. Admin. Code § 4-07-11-07 or that the denial of reemployment was conducted in a discriminatory manner. The assessment of whether an individual meets the qualifications necessary for successful performance shall remain with the Department of Health.
LEAVE

Leave Approval

Supervisors have the authority and responsibility to approve leave. Most leave should be scheduled and approved in advance for events such as vacation, medical appointments, military service, family activities, surgery, jury duty, funerals and other occurrences that cannot be scheduled outside of the regular work hours. In cases of sudden illness or emergency, employees should contact their supervisor as soon as possible after the time they are scheduled to report to duty. Any employee not reporting to work when a request for leave has been denied may be considered on unauthorized leave without pay and will be subject to disciplinary action.

Annual Leave

Employees begin to accrue annual leave from the first day of hire. Annual leave must be earned before it can be taken.

A request for annual leave must be approved by the employee’s supervisor before the employee is authorized to take the leave. A leave request can be denied if the absence would unduly disrupt the operations or services of the workplace or other business-related purpose.

Annual leave may not be advanced. It must be taken in no less than 1/2 hour increments.

The annual leave schedule in relation to length of service is as follows:

<table>
<thead>
<tr>
<th>Years of Service</th>
<th>Annual Leave Accrued for Full-time Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st through 3rd</td>
<td>8 hours per month</td>
</tr>
<tr>
<td>4th through 7th</td>
<td>10 hours per month</td>
</tr>
<tr>
<td>8th through 12th</td>
<td>12 hours per month</td>
</tr>
<tr>
<td>13th through 18th</td>
<td>14 hours per month</td>
</tr>
<tr>
<td>19th and over</td>
<td>16 hours per month</td>
</tr>
</tbody>
</table>

A temporary employee who obtains regular status must be given credit for the length of service as a temporary employee for purposes of determining the annual leave accrual rate, provided there was no break in service beyond one year. Annual leave hours may not be granted to a temporary employee.

An employee accrues leave for being employed for a fraction of a month. The number of annual leave hours earned by an employee for a fraction of a month must be in proportion to the total number of straight time hours the employee actually worked compared to the total number of normal working hours in the month.

No classified employee shall be credited with annual leave for:

- Any overtime hours,
- Any hour of leave without pay,
- Any hour in on-call status outside of regular duty hours,
- Any hour of travel or other activity outside regular duty hours and/or,
• Any hour of holiday or other non-work day which occurs while the employee is on leave without pay.

An employee who leaves employment and is rehired within three years must be credited with the employee’s previous years of continuous service for the purpose of determining the employee’s annual leave accrual rate.

An employee may not be paid for unused annual leave while the employee remains in the service of the agency except for the following reasons:

• The employee takes a long-term leave of absence.
• The employee goes on educational leave.
• The employee moves to temporary employment.
• Human Resource Management Services (HRMS) approves a written request from a division for an exception to this section for a business-related reason.

When an employee transfers from one agency to another, the employee must be paid for the difference in hours between what the employee has accumulated and the number of hours the receiving agency will accept. When an employee is leaving the service of the State, the employee must be paid for all accrued hours of annual leave.

An employee will not be charged for leave that was previously granted on a day when the agency is subsequently closed due to emergency, inclement weather conditions, or other events declared by the governor.

An employee can carry over a maximum of 240 hours of accrued annual leave beyond April 30th of each year.

A probationary or regular employee who is absent from work in a paid leave status continues to earn fringe benefits, including annual and sick leave.

**Sick Leave**

Employees begin to earn eight hours of sick leave each month of full-time employment with no maximum accumulations from the first day of employment. Sick leave must be earned before it can be taken.

An employee accrues sick leave for being employed for a fraction of a month. The number of sick leave hours earned by an employee for a fraction of a month must be in proportion to the total number of straight time hours the employee actually worked compared to the total number of working hours in a month.

No classified employee shall be credited with sick leave for:

• Any overtime hours,
• Any hour of leave without pay,
• Any hour in on-call status outside of regular duty hours,
• Any hour of travel or other activity outside regular duty hours and/or,
• Any hour of holiday or other non-work day which occurs while the employee is on leave without pay

Sick leave must be taken in no less than ½ hour increments. All requests for sick leave must be approved by the supervisor.

Sick leave may be used by an employee when:
• The employee is ill or injured and is unable to work.
• The employee has an appointment for the diagnosis or treatment of a medically-related condition.
• 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.
  a) Sick leave used for these purposes may not exceed 80 hours per calendar year.
  b) “Eligible family member” means the employee’s spouse, parent (natural, adoptive, foster, or stepparent), child (natural, adoptive, foster, or stepchild), or any other family 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.
• Employees may use up to 6 weeks of sick leave in the first 6 months for birth or placement for adoption of a child.
• Employees may use up to 12 weeks of sick leave in a 12 month period to care for a child, spouse, or parent with a serious health condition. “Serious health condition” means a disabling physical or mental illness, injury, impairment, or condition involving inpatient care or outpatient care requiring continuing treatment by a health care provider. The DOH may require the employee to provide written verification of the serious health condition by a medical provider.
• Employees may use sick leave to obtain services or assist immediate family members to obtain services relating to domestic violence, sex offense, stalking, & terrorizing situations.
  a) Seek legal or law enforcement assistance
  b) Seek treatment by a health care provider for physical or mental injuries of employee or immediate family member
  c) Obtain or assist an immediate family member in obtaining services from a domestic violence shelter, rape crisis center, or other social service program
  d) Obtain or assist an immediate family member in obtaining mental health counseling
  e) Participate in safety planning, temporary or permanent relocation or take other actions to increase the safety of the employee or employee’s family members
  f) Immediate family member means spouse, parent, child, or sibling.
  g) At the discretion of the employee’s supervisor, the sick leave hours may be limited to forty hours per calendar year.
• The employee is participating in an employee assistance program.

An employee who leaves employment and is rehired within one year must be credited with the amount of sick leave hours the employee had accumulated at the time of departure, less any amount for which the employee had subsequently been paid. An employee affected by a reduction-in-force and rehired within two years must be credited with the amount of sick leave hours the employee had accumulated at the time of departure, less any amount for which the employee had subsequently been paid.

An employee with at least 10 continuous years of state employment, who leaves state employment, is entitled to a lump sum payment equal to one-tenth of the pay attributed to the employee’s unused sick leave accrued under this section. NDCC 54-06-14

An employee’s years of state employment must be deemed continuous if the employee’s work is terminated because of a reduction-in-force and the employee is reinstated within two years, or if the employee is placed on voluntary leave status without pay and the leave lasts no longer than two years for educational purposes, or one year for any other voluntary leave without pay. Employees retiring from state employment also may be able to convert their sick leave balance to retirement service credit.

Compensatory Leave

Executive, administrative and professional employees, as defined by the Fair Labor Standards Act (FLSA), are exempt from the overtime-pay provisions.

Non-exempt employees must be paid time and one-half their regular rates for all hours worked in excess of 40 in a workweek.

Compensatory leave may be used in lieu of overtime compensation and must be at a rate not less than one and one-half hours for each hour of employment for which overtime pay would normally be required. There must be an agreement or understanding between employees and the North Dakota Department of Health, prior to the performance of work, to substitute compensatory leave for overtime pay.

Compensatory leave must be taken in no less than ½ hour increments. All requests for compensatory leave must be approved by the supervisor.

Compensatory leave may be kept on the books for any length of time but may not exceed 40 hours. When 40 hours are reached, further overtime is paid via payroll. Division directors may limit the accumulation of compensatory time to less than 40 hours and may require that all compensatory time earned be taken within a certain time frame, such as the same month or following the month that it is earned.

An employee who has accrued compensatory leave must be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly
disrupt the operations of the division. The division director may require that an employee use such accrued time.

All compensatory leave earned and used must be recorded on the Payroll Time Distribution Form and the Leave Report Form.

A non-exempt employee who has accrued compensatory leave must, upon termination of employment, be paid for the unused compensatory time at a rate of compensation not less than the average regular rate received by that employee during the past three years of employment or the final regular rate received by the employee, whichever is higher as required by FLSA.

**State Leave Sharing Program**

Employees may donate annual and sick leave to other state employees. Employees also may receive donated leave. Employees requesting shared leave must use the leave donation request form, SFN 58960.

Terms used in the section:

- “Household members” means people who reside in the same home, who have reciprocal duties to and who provide financial support for one another. This term includes foster children and legal wards even if they do not live in the household. The term does not include people sharing the same general house when the living style is primarily that of a dormitory or commune.
- “Relative of the employee” is limited to the spouse, child, stepchild, grandchild, grandparent or parent of an employee.
- “Severe” or “extraordinary” means serious, extreme or life threatening. These terms do not include conditions associated with normal pregnancy.
- “State employee” means a permanent employee with more than six months of continuous service with the state. It does not include employees in probationary status or employees on temporary or other limited term appointments.

**Annual Leave Sharing (N.D.C.C. § 54-06-14.1)**

A state employee may donate annual leave to another state employee who is suffering or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the employee to take leave without pay or terminate employment.

A state employee is eligible to receive shared leave pursuant to the following conditions:

- The division director determines that the employee meets the criteria described in this section.
- The employee has abided by state policies regarding the use of annual leave.
- The employee’s use of shared leave, including both annual and sick leave, does not exceed four months in any 12 month period.
A state employee may donate annual leave to another state employee only pursuant to the following conditions:

- The receiving employee has exhausted, or will exhaust, all annual leave, sick leave, and compensatory time off due to an illness, injury, impairment, or physical or mental condition, that is of an extraordinary or severe nature and involves the employee, a relative of the employee, or a household member of the employee.
- The condition has caused, or is likely to cause, the receiving employee to go on leave without pay or terminate employment.
- The donating employee donates leave in full-hour increments and retains a leave balance of at least 40 hours.

The employee must submit, prior to approval or disapproval, a letter to the state health officer requesting donated leave and a medical certificate from a licensed physician or health-care practitioner verifying the severe or extraordinary nature and expected duration of the condition.

Donated annual leave is transferable between employees in different state entities.

One hour of donated annual leave must be regarded as one hour of shared leave for the recipient. Any donated leave may only be used by the recipient for the purposes specified in this section and is not payable in cash.

All forms of paid leave available for use by the recipient must be used prior to using shared leave. Any shared leave not used by the recipient during each occurrence as determined by the division director may be retained by the recipient.

All donated leave must be given voluntarily. No state employee may be coerced, threatened, intimidated or financially induced into donating annual leave for purposes of the leave sharing program.

Sick Leave Sharing (N.D.C.C. § 54-06-14.2)

A state employee may donate sick leave to another state employee who is suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the employee to take leave without pay or terminate employment.

A state employee may be eligible to receive shared leave pursuant to the following conditions:
- The division director determines that the employee meets the criteria described in this section.
- The employee has abided by state policies regarding the use of sick leave.
- The employee’s use of shared leave, including both sick and annual leave, does not exceed four months in any 12 month period.

A state employee may donate sick leave to another state employee only pursuant to the following conditions:
• The receiving employee has exhausted, or will exhaust, all annual leave, sick leave and compensatory leave due to an illness, injury, impairment, or physical or mental condition that is of an extraordinary or severe nature.
• The condition has caused, or is likely to cause, the receiving employee to go on leave without pay or terminate employment.
• The employee may not donate more than five percent of the employee’s accrued leave hours and all leave must be donated in full-hour increments.

The division director shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health-care practitioner verifying the severe or extraordinary nature and expected duration of the employee’s condition.

Donated sick leave is transferable between employees in different state entities.

One hour of donated sick leave must be regarded as one hour of shared leave for the recipient. Any donated leave may only be used by the recipient for the purposes specified in this section and is not payable in cash. All forms of paid leave available for use by the recipient must be used prior to using shared leave. Any shared leave not used by the recipient during each occurrence as determined by the division director may be retained by the recipient.

All donated leave must be given voluntarily. No state employee may be coerced, threatened, intimidated or financially induced into donating sick leave for purposes of the leave sharing program.

**Funeral Leave**

Funeral leave is an approved leave of absence, with pay, of up to 24 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.

Funeral leave is not considered annual or sick leave. The leave may be granted even if the absence interferes with the normal operations of the agency.

Family means husband, wife, son, daughter, father, mother, stepparents, brother, sister, grandparents, grandchildren, stepchildren, foster parents, foster children, daughter-in-law and son-in-law of the employee and employee’s spouse.

**Holidays**

Employees are given the following 10 statutory holidays:
- January 1, New Year’s Day
- The 3rd Monday of January, Martin Luther King Jr. Day
- The 3rd Monday in February, Presidents’ Day
- The Friday preceding Easter Sunday, Good Friday
- The last Monday in May, Memorial Day
- July 4, Independence Day
- The 1st Monday in September, Labor Day
- November 11, Veterans’ Day
• The 4th Thursday of November, Thanksgiving Day
• December 25, Christmas Day

If the holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, is observed as a holiday.

State offices close at noon on December 24. This is an office closure, not a holiday. Noon closure only applies on December 24 if it falls on a Monday through Thursday.

An employee who occupies a part-time regular position must accrue holiday hours proportionately. If a state employee is scheduled to work on a holiday, the employee may be provided an alternate day off.

**Jury and Witness Leave**

Employees selected for jury duty must be granted an approved absence from work with pay, except that an amount of pay equal to the amount the employee received from the court for jury duty service must be deducted from the employee’s regular pay. However, if an employee is on authorized annual leave while performing jury duty, the employee may retain the fee paid by the court and the employee’s pay may not be reduced.

Employees who are called to appear as a witness or expert witness on behalf of the employer are reimbursed by the employer for mileage, meals and lodging. Also, the employee must be paid the employee’s regular rate of compensation for time spent as a witness. In this circumstance, the employee is not considered on leave.

An employee may retain a witness fee paid by a party only when each of the following applies:

a) The employee’s agency did not reimburse the employee for mileage, meals and lodging.

b) The employee was on authorized leave.

If an employee performs witness duties unrelated to the employee’s official capacity or because the employee is personally interested in the proceedings or because the employee volunteers to do so, they must be placed on annual leave or leave without pay status. In these situations, the employee may retain any witness fee provided to the employee.

**Leave Without Pay**

Leave without pay is an approved leave of absence from work without pay and may be granted to an employee who has maintained a satisfactory service record. Annual and sick leave do not accrue during leave without pay, but employees do retain any unused sick and annual leave balances. An employee must first use any accrued compensatory time, then accrued paid annual or sick leave before authorized leave without pay.

If the leave is to last more than 14 consecutive days, the conditions of the leave, the status of benefits, and the terms and conditions of the return to work must be in writing between the employee and section chief. Leave without pay may not be granted for more than one year.
Should an employee fail to return to work at the expiration of the leave, the employee may be terminated unless other arrangements have been made.

**Military Leave**

State employees who are members of the National Guard or Armed Forces Reserve shall be subject to call to service by the President of the United States, or are volunteers for service when ordered by proper authority to active non-civilian employment, are entitled to a leave of absence from such civil service for the period of such active service without loss of status or efficiency rating.

To be eligible, employees must be in the continuous employ of the state for 90 days immediately preceding the leave of absence; they shall receive 20 workdays each calendar year without loss of pay.

Any leave of absence necessitated by a full or partial mobilization of the reserve and National Guard or emergency state active duty, must be without loss of pay for the first 30 days thereof less any other paid leave of absence which may have been granted during the calendar year pursuant to this section.

If leave is required for weekend, daily or hourly periods of drill for military training on a day in which the employee is scheduled to work, the employee must be given the option of time off with a concurrent loss of pay for the period missed or must be given an opportunity to reschedule the work period so that the period of training occurs during time off from work without loss of status or efficiency rating.

An employee who within 90 days after receiving a discharge other than dishonorable from active non-civilian service, and who is not physically or otherwise incapacitated to perform the duties of the position formally held by the employee, applies for the position held by the person at the time of entering such active service, must be given such position or one of like seniority, status and pay and is immune from discharge from said position except for cause, as defined by the North Dakota Department of Veterans Affairs, for a period of one year after entering upon the duties of the person’s civilian position.

If an individual is not reemployed or is discharged within one year without cause, he or she has the right to appeal to the Department of Veterans’ Affairs under such rules and regulations as the administrative committee on veterans’ affairs may promulgate. If the North Dakota Department of Veterans’ Affairs finds that such person was not reemployed or was discharged within one year without cause, it may order the division director to comply with the provisions of this chapter.

**Family and Medical Leave Act**

This policy is not an exhaustive description of state and federal law on Family and Medical Leave.
Employees are eligible for family and medical leave under the State and Federal Family and Medical Leave Acts (FMLA) if they have been employed with the State of North Dakota for at least 12 months and have worked at least 1,250 hours during the previous 12-month period. If eligible, employees must be provided up to twelve weeks of unpaid leave, except as noted in (f) below, during a 12-month period for the following reasons:

a) The birth or care of the employee’s newborn within the first 12 months after the birth.

b) The placement or care of a newly adopted or foster child within the first 12 months after placement.

c) Care for the employee’s spouse, son, daughter, or parent, but not parent-in-law, who has a serious health condition.

d) A serious health condition that makes the employee unable to work or perform any one of the essential functions of the employee’s job. “Serious health condition” means an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the job or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment or incapacity due to pregnancy or a chronic condition. Other conditions may meet the definition of continuing treatment. (29 CFR §825.113)

e) A qualifying exigency arising from the fact that the employee’s spouse, child, or parent is a covered military member is on covered active duty or has been notified of impending call or order to covered active duty in the armed forces. “Qualifying exigency” includes short-notice deployment, military events and related activities, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional activities that may arise out of active duty or call to active duty status and upon which the employer and employee agree. Leave for a qualifying exigency applies when a member of the regular or reserved components of the armed forces is deployed to a foreign country under a call or order of active duty.

f) Care for a military service member with a serious injury or illness. Note: An employee who is the spouse, parent, child, or next of kin of a current member of the armed forces (including National Guard or Reserves) who was injured in the line of duty on active duty in the armed forces may be eligible for a combined total of 26 weeks of leave for any qualifying reason during the 12-month period. The 26 weeks of leave to family members of veterans is extended for up to five years after a veteran leaves service if he or she develops a service-related injury or illness that was incurred or aggravated while on active duty.

The leave entitlement period will be determined by the rolling 12-month period measured backward from the date an employee uses any leave under this section. Any FMLA leave used during this 12-month period will be deducted from the total allowable under this section. The 12 months of employment with the State need not be consecutive. For information on separate stints of employment, reference 29 C.F.R. §825.110. For reason (f) above, leave begins counting on the date an employee first takes leave to care for the military service member.
The Department of Health requires an employee to first use any accrued compensatory time, then accrued paid annual or sick leave before authorized unpaid family and medical leave. For an employee’s own serious health condition, the employee must first use any accrued sick leave, then any accrued compensatory time, and annual leave, in this order, before unpaid authorized family and medical leave. For any reason other than an employee’s own serious health condition, employees must first use any family leave (see note below) and then use any accrued compensatory time, and annual leave, in this order. Employees who have exhausted the applicable types of paid leave will be provided unpaid leave to fulfill the authorized period of family and medical leave. In all cases, donated leave will run concurrently with family medical leave. (Note: The family leave referred to is the eighty hours of paid leave granted to eligible employees under N.D.C.C. § 54-52.4-03.)

If a holiday falls within a week in which the employee needs a full week of leave, the holiday will count against the family and medical leave entitlement. If the employee needs less than a full week of leave and a paid holiday occurs during the leave period, the holiday cannot be counted against the 12-week entitlement unless the employee would be otherwise scheduled and expected to work if not on leave.

Employees who are provided with unpaid leave during any authorized family and medical leave period will continue to have health plan premiums paid by the Department of Health during the leave period. Employees in an unpaid leave status will not accrue annual or sick leave during the period of unpaid leave.

**Request for Leave.** An employee requesting leave must complete SFN 58548, Employee Request for Family Medical Leave, and submit it to the supervisor at least 30 days in advance of when the leave is to begin if the leave is foreseeable or as soon as is practicable for unforeseen leave. An employee requesting leave for a qualifying exigency must complete Form WH-384, Certification of Qualifying Exigency for Military Family Leave (www.dol.gov/esa/whd/forms/WH-384.pdf).

An employee requesting leave to care for a military service member with a serious injury or illness must complete Form WH-385, Certification for Serious Injury or Illness of Covered Service member for Military Family Leave (www.dol.gov/esa/whd/forms/WH-385.pdf). The supervisor must then forward the request form to the division director for approval.

**Notices.** The division director must provide the employee, within five business days of the request for leave or of becoming aware of the leave, if feasible, with a copy of the Form WH-381, Notice of Eligibility and Rights & Responsibilities (www.dol.gov/esa/whd/forms/WH-381.pdf), which will detail specific entitlements and responsibilities of the employee and explain any consequences of failure to meet those obligations. The division director will decide whether a condition qualifies as a serious health condition. Upon approval of requested information, the division director will provide the employee with Form WH-382, Designation Notice (www.dol.gov/esa/whd/forms/WH-382.pdf), and attach a list of the essential functions of the employee’s position if a fitness for duty to return to work is required.

**Medical and Other Certification.** The division director must, within five business days of a request for family and medical leave, notify the employee of the requirement of a medical
certification from a health care provider. This is required to verify that the family and medical leave request is necessary for the employee’s own serious health condition, to care for a family member’s serious health condition, or to care for a covered service member with a serious injury or illness.

The employee must provide the medical certification within 15 calendar days of the division director’s request unless it is not practicable under the particular circumstances in spite of the employee’s good faith efforts.


If an incomplete or insufficient certification is returned, the division director will give the employee seven calendar days to correct any deficiency by notifying the employee in writing what additional information is necessary. If the deficiencies are not corrected, the division director may deny the FMLA leave. The division director must notify the employee at the time the certification is requested of the consequences of the employee’s failure to provide adequate certification.

A Department of Health representative may contact the health care provider, after written employee authorization, to clarify or authenticate the medical certification (whether initial or recertification) after the employee has been given an opportunity to cure any deficiencies. The representative who contacts the employee’s health care provider must be a health care practitioner, a human resource professional, or a management official. Under no circumstances may the employee’s direct supervisor contact the employee’s health care provider.

Failure to provide the requested certification in a timely manner or cooperate or release relevant information may result in denial of the leave until the requested certification information is provided. If an employee refuses to provide a certification, the leave request may be denied and the employee may be disciplined.

An employee may also be required to submit to additional examinations by a physician selected and paid for by the Department of Health. If the minimum duration of the employee’s incapacity specified on a certification furnished by the health care provider is more than 30 days, the Department of Health will not request recertification until the minimum duration has passed unless:

a) The employee requests a leave extension;

b) Circumstances described by the previous certification have changed significantly (e.g. duration of the illness, the nature of the illness, complications); or

c) The Department of Health receives information that casts doubt upon the continuing validity of the certification.
If family and medical leave is taken intermittently or on a reduced work schedule basis, the Department of Health will not request recertification in less than the minimum period specified, on the certification as necessary for such leave unless conditions a, b, or c above are met.

Any recertification requested by the Department of Health shall be at the employee’s expense. A division director may not require second or third opinions on recertification. A division director may require certification that an employee’s family member is on active military duty by requesting the covered military member’s active duty orders the first time the employee requests exigency leave.

An employee who requests an extension of family medical leave due to the continuation, recurrence or onset of his/her own serious health condition or of the serious health condition of the employee’s spouse, child, or parent, must, within two business days, submit a written request for an extension to the supervisor. This written request must be made as soon as the employee realizes that she/he will not be able to return at the expiration of the leave period.

**Interruption Leave.** When medically necessary, employees may take family and medical leave intermittently or on a reduced work schedule basis for their own serious health condition, the serious health condition of a family member, or to care for a covered service member with a serious injury or illness. Leave must be taken in no less than half-hour increments. Employees are required to cooperate with the Department of Health to arrange reduced work schedules or intermittent leave to minimize disruption of business operations. To better serve the employee and agency, intermittent leave may require the employee to go from full-time to part-time status or to be temporarily transferred to an alternative position of which the employee qualifies and of equal pay and benefits. Once leave is no longer needed, the employee would return to the original or equivalent job.

Qualifying exigency leave may be taken intermittently or on a reduced leave schedule. Leave for the birth of a healthy child or placement by adoption or foster care of a healthy child may be taken intermittently or on a reduced leave schedule if the division director agrees.

**Return from Leave.** If an employee wishes to return to work prior to the expiration of a family medical leave of absence, a notification must be given to the employee’s supervisor within two business days prior to the employee’s planned return. However, the supervisor, with the concurrence of the employee, may allow the employee to return to work immediately. An employee who takes leave for their own serious health condition may be required to provide a fitness for duty certification signed by the health care provider; such notice must be included in the Designation Notice. If an employee fails to submit the required fitness for duty certification, the employee’s restoration to his or her position may be delayed or denied.

Upon return from leave, an employee who is not designated as a “key employee” will be restored to their original position or an equivalent position with equivalent pay, benefits, and any other employment rights that existed at commencement of the leave or that may have accrued during the leave period. Whether a position is an “equivalent position” is the decision of the division director.
An employee designated as a “key employee” may not be provided restoration rights upon return from leave. Individuals designated as “key employees” under FMLA will be notified of such designation at or before the time FMLA leave commences. If the restoration of a key employee causes “substantial and grievous economic injury” to the employing agency, reinstatement upon returning from leave may not occur.

An employee who fails to return at the end of the leave will be considered to have voluntarily resigned unless additional leave as a reasonable accommodation under the Americans with Disabilities Act is necessary. If an employee fails to return from an FMLA leave, the Department of Health may recoup the cost of health plan premiums for any period of the FMLA leave which was taken as unpaid leave, unless the reason the employee does not return is due to:

a) The continuation, recurrence, or onset of a serious health condition of the employee or the employee’s family member which would otherwise entitle the employee to leave under FMLA; or

b) Other circumstances beyond the employee’s control such as staying home to care for a newborn with a serious health condition, the spouse is transferred to a location more than 75 miles from the employee’s worksite, or an employee is laid off.

If the Department of Health experiences a reduction-in-force during the employee’s absence and the employee would have lost his/her position, the employee retains any rights under the Department of Health’s Reduction in Force policy but may not be eligible for reinstatement under the Family and Medical Leave Acts.

Married Couples Who Work for the State. If an employee and his/her spouse are both employed by the State of North Dakota, both are eligible for family and medical leave and are limited to a combined total of 12 weeks of leave in a 12-month period if the leave is taken for birth of the employee’s child or to care for the child after birth, for placement of a child with the employee for adoption or foster care or to care for the child after placement, or to care for the employee’s parent with a serious health condition. A husband and wife may each take 12 weeks of FMLA leave if needed to care for their newborn child or an adopted or foster child with a serious health condition, even if both are employed by the same employer, provided they have not exhausted their entitlements during the applicable 12-month FMLA leave period. The employee and spouse may be limited to a combined total of 26 weeks of leave when care for a covered service member with a serious injury or illness is taken in addition to leave for birth of the employee’s son or daughter or to care for the healthy child after birth, for placement of a healthy son or daughter with the employee for adoption or foster care, to care for the child after placement, or to care for the employee’s parent with a serious health condition during a single 12-month period.

If a dispute arises as to the eligibility for leave under this section, the designation of paid leave as qualifying under this section, or the appropriateness of notice requirement of less than 30 days, an employee may submit additional information to the approving authority for further consideration.
EMPLOYEE BENEFITS

Group Benefits

All group benefit programs are administered by the North Dakota Public Employees Retirement System (NDPERS). Forms can be obtained from the division’s payroll contact. Additional information about each of the benefit plans can be obtained from the NDPERS office.

Health Insurance

Employees may participate in a health insurance program with coverage provided through Blue Cross Blue Shield of North Dakota. Employees can obtain single or family coverage with the premium paid for by the state.

To obtain health insurance coverage, employees must work at least 20 hours per week for at least 20 weeks per year in a regularly funded position. Coverage for new employees begins the month following the month employment began.

Health coverage will end one month after the date of termination. A past employee and his or her covered dependents may apply for COBRA coverage within 60 days of his or her separation of employment. COBRA gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time if:

a) The employee and his or her covered dependents were enrolled in the PERS health plan.  
b) Neither the employee nor his or her covered dependents are eligible for Medicare.  
c) Past employees will have the option to continue COBRA coverage for a maximum period of 18 months. COBRA coverage will be terminated if:
   i. The employee or his or her covered dependents become eligible for an employer sponsored health plan.  
   ii. The employee or his or her eligible dependents become eligible for Medicare.

Life Insurance

Employees can participate in a group life insurance plan if they are at least 18 years of age and working at least 20 hours per week for at least 20 weeks per year. The state pays for a basic insurance benefit of $1300 per employee. Employees can buy additional insurance coverage for themselves and their dependents through a payroll deduction.

Retirement

Employees are eligible to become members of the North Dakota Public Employees Retirement System if at the time of initial employment they work at least 20 hours per week for 20 weeks or more per year and are 18 years of age or older. The state contributes in the employees’ behalf an amount equal to six and twelve-hundredth percent; the employer also contributes the employee portion of four percent; and one and fourteenth-hundredth percent for the retiree health credit.
program; and the employee contributes two percent. Employees receive a guaranteed right to retirement in 36 months.

**Deferred Compensation**

Employees may defer tax free a portion of their income in a voluntary state deferred compensation supplementary retirement plan. The amount of income the employee elects to defer plus any earnings are subject to income tax only when the employee or his or her beneficiary receive income at the time of death, retirement, disability or termination of employment.

For more information on the annual maximum allowable deduction schedule, visit [http://www.nd.gov/ndpers/activemembers/index.html](http://www.nd.gov/ndpers/activemembers/index.html).

**FlexComp**

An employee may pay for eligible insurance payments, medical expenses and dependent care expenses with pre-tax dollars through payroll deductions. Employees should contact NDPERS for a full description of those items that qualify for the Flex-Comp plan.

The Flex-Comp plan runs from January 1 through December 31 of each year. However, there is a 2-1/2 month “grace period” for participants enrolled in a Medical Spending Reimbursement account; claims incurred between January 1 and March 15 of the new plan year can be reimbursed out of any account balance remaining from the previous plan year.

Employees must indicate on the FlexComp Reimbursement Voucher SFN 16868 if they want medical care expenses incurred during the grace period reimbursed from any amount available in the prior plan year. The deadline to file medical and dependent care claims is April 30. Any amounts remaining in these accounts after April 30 are forfeited.

All records and information pertaining to an employee’s medical and dependent reimbursement information are confidential and not public record.

**Dental Insurance**

Employees can participate in a group dental insurance plan for themselves and their dependents if they are at least 18 years of age and work 20 hours per week for at least 20 weeks per year. The coverage would be effective the first of the month following the employment date.

**Vision Insurance**

Employees can participate in a group vision insurance plan for themselves and their dependents if they are at least 18 years of age and work at least 20 hours per week for at least 20 weeks per year.

The coverage would be effective the first of the month following the employment date.
Long-Term Care Insurance

Employees can participate in a long-term care insurance plan for themselves and their spouse if they are at least 18 years of age and work 20 hours per week for 20 or more weeks. Employees can apply anytime for this coverage and must be medically underwritten. Coverage would be effective the first day following the month of the insurance carrier’s approval.

Employee Assistance Program

Services are available through the Employee Assistance Program (EAP) when problems that affect job performance are encountered relating to physical illness, mental or emotional illness, marital or family relations, employer/employee relations, finances, alcoholism, drug abuse or other concerns. These services are provided to employees in a strictly confidential manner.

The Employee Assistance Program consists of four phases:

a) Recognition by an individual of a personal problem or identification by the manager or employee of a continuous job performance, behavior or medical problem.

b) Self referral or referral by the manager or agency representative to an organization professionally competent to diagnose the problem.

c) Diagnosis and treatment by professionals who are trained to properly diagnose and treat performance, behavioral or medical problems.

d) Treatment and follow-up as needed to resolve the problem.

The manager's role is one of identification of performance problems; an offer of assistance to secure appropriate treatment, and whatever support and follow-up is needed during the treatment phase. The department has contracted with St. Alexius Medical Center's Employee Assistance Program to provide confidential assessment, counseling and a referral service to help employees evaluate and resolve problems. The service is provided free of charge to employees and is limited to eight counseling sessions per problem.

Employees will not have job security or promotional opportunities jeopardized by coming forward to request counseling or referral assistance.

In instances where it is necessary, annual and/or sick leave shall be granted in accordance with established procedure.

Since employee job performance can be affected by problems of an employee's spouse or other dependents, the program also is available to the families of department employees. In cases where direct family involvement is required for effective treatment, an employee may be allowed by his or her manager to use available sick leave, annual leave or leave of absence without pay.

Great care shall be exercised to see that the entire personal problem is given strict confidential handling and that all documentation in the personnel files shall refer to the status of job
performance and efforts to resolve the problem affecting job performance (Executive Order 1981-11).

**Training and Development**

The purpose of this policy is to encourage employees to pursue continuing education to enable employees to maintain a high degree of efficiency within their positions and to have a uniform method for reimbursing educational expenses.

**Job-Related Training or Seminars**

Division directors may, within approved budgetary constraints, plan, schedule and pay for any job-related training programs appropriate to the work assigned to a regular employee of their division.

Training opportunities may include college course work leading to a degree, special training, or a single course of study intended to assist an employee to perform a task or to enhance job performance.

Division directors will determine which trainings are considered to be job-related and have a defined public purpose. This determination will be made based on the content of the training program and its value to improving the ability of an employee to perform the job, achieve work plans, or assist the division in achieving stated goals.

All costs related to attendance at approved job-related training programs will be paid by the division in which the employee works. Travel, lodging, and per diem associated with such training will be paid in accordance with current OMB fiscal and administrative policies.

Training under this section will normally be provided during duty hours. When training or associated travel extends beyond normal duty hours, the overtime provisions of the Fair Labor Standards Act (FLSA) for non-exempt employees must be applied.

**Tuition Reimbursement**

Regular employees may apply to receive tuition reimbursement by completing the Application for Tuition Reimbursement Form. Tuition reimbursement may pay for up to 80 percent of tuition, fees and approved travel costs depending upon budget.

A college course or training session must be directly job-related and must have a stated public purpose or benefit. A college course that is required within a specific degree plan and the degree is job-related may be eligible for reimbursement depending on supervisor and section chief approval. All requests for training or tuition reimbursement must be approved prior to course registration.

Employees must complete the course prior to receiving reimbursement and provide the Department of Health with proof of completion. Proof of completion is a certificate of completion or other documentation such as a transcript.
Employee must maintain a “C” or above average for undergraduate classes and “B” or above average for graduate classes.

For reimbursement, the employee must send receipt of payment for the class to the Accounting Division. The following items must be attached to the tuition reimbursement request: college course catalog description, transcript showing grade for the course, and an itemized receipt for all tuition and fees paid for the course.

An employee must indicate the amount of aid received from other sources (educational sources, scholarships, grants, government aid). Department reimbursement applies to the balance not covered by other aid.

Employee will be obligated to work for the department for a period of two years following reimbursement of the course.
An employee who receives tuition reimbursement who leaves employment with the North Dakota Department of Health within two years of receiving the reimbursement must repay the tuition reimbursement received on a prorated basis. Repayment must occur within 60 days of leaving employment.

Testing

Section chiefs may, within approved budgetary constraints, plan, schedule and pay for any job required testing appropriate to the work assigned to a regular employee of their division. If the employee fails the test, all future attempts to pass that test must be paid at the employee’s expense. Such testing could include certifications required for promotion or advancement.
Section chiefs also have the discretion to reimburse optional job-related testing within approved budgetary constraints. The test must be directly job-related and must have a stated public purpose or benefit. For reimbursement, the employee must send receipt of payment for the test to the Accounting Division.

Infants at Child Care

If an infant is placed in child care, a breastfeeding mother will be allowed a flexible work schedule to allow her to pump breast milk or breastfeed her infant for up to one year from the birth of the child. The schedule will be worked out and agreed upon by the mother and the division director.

Nursing Mother Accommodations Policy

Mothers who continue to breastfeed after their infants are placed in child care will be allowed a flexible work schedule to allow her to pump breast milk or breastfeed her infant for up to one year from birth of the child. Breastfeeding mothers are allowed to breastfeed or express milk during work hours using their normal breaks and meal times. For time that may be needed beyond the usual break times, employees may use personal leave or may make up the time as negotiated with their supervisors. The schedule will be worked out and agreed upon by the mother and the division director.
Employer responsibilities

State and federal laws exist to protect nursing mothers and their right to continue nursing their child. Regulations require:

- the provision of a clean, private room or space shielded from view, and free from any intrusion from co-workers and the public. A space has been dedicated in the capitol building.
- a space temporarily converted into a space for expressing milk or made available when needed by the nursing mother is sufficient.
- the space may not be a toilet stall or restroom.

Regulations require that the location must be functional as a space for expressing breast milk. Department guidelines to ensure functionality include:

- enough space available to be adequate for the breastfeeding employee(s),
- accessible electrical outlets for an electric breast pump,
- a comfortable chair,
- a small table,
- a clean water source for washing hands and rinsing out any breast pump equipment near the private space.

Employee responsibilities

- Maintaining adequate communication with the supervisor. Mothers who breastfeed or wish to express milk during the work period shall keep supervisors informed of their needs so that appropriate accommodations can be made to satisfy the needs of both the employee and the department.
- Maintaining the milk expression area. This includes keeping milk expression areas clean, using anti-microbial wipes to clean the pump and the area around it. Employees are also responsible for keeping the space clean for the next user.
- Storing milk properly. Employees should label all milk expressed with their name and date collected so it is not inadvertently confused with another employee’s milk. Each employee is responsible for proper storage of her milk using an office refrigerator or personal storage coolers.

Infant at Work

An employee may submit a request to the division director to care for his or her infant child by birth, adoption or foster care, younger than age six months, at work during normal work hours. The division director shall consider and approve or deny such request (SFN 54321, Infant at Work Request).

If the division director approves an employee’s request, the employee and other parent of the infant are required to sign a waiver of liability, indemnification and medical release (SFN 59429, Infant at Work Waiver of Liability, Indemnification, & Medical Release).

If the infant becomes ill or fussy for a prolonged period of time causing a distraction or preventing the employee or other employees from accomplishing work, the infant must be
removed from the workplace. If in the opinion of the employee’s supervisor or division director the infant’s presence is excessively disruptive in the work environment or negatively affects the productivity of the employee or other employees, the infant at work arrangement will be terminated.

At the conclusion of the infant at work duration, the supervisor shall complete SFN 54320, Supervisors’ Infant at Work Review.

The employee must keep the infant in the employee’s workspace. For short periods of time, such as restroom breaks, the infant may be in another employee’s workspace if the arrangement is mutually agreed upon. The work environment must be safe for the infant at all times. An employee’s child may not accompany an employee traveling in a state vehicle. If the employee’s job includes travel, he or she must make alternative child care arrangements for travel days or must travel in the employee’s personal vehicle. Travel must be approved by the division director prior to the travel.

The employee must provide appropriate furniture for the infant’s care, (i.e., crib, playpen, swing, etc.) The employee must use discretion as to when and where the infant’s diapers are changed. Used cloth diapers must be stored in a closed container and taken home daily. Used disposable diapers must be wrapped appropriately and discarded in an appropriate container outside of office or meeting space.

**Problem Resolution**

Employees are encouraged to discuss any work-related problem with management at any time. If there is something about the employee’s job that is bothering them, it is better to get it out in the open and discuss it. In most cases, employees should talk with their immediate supervisor first. If the employee is not satisfied with the supervisor’s response or if the employee is uncomfortable going to the supervisor, the employee is welcome to speak with any Department of Health manager. Management cannot answer employee questions or help solve problems unless they know the concerns and how they may be addressed.

All employees have the freedom to discuss anything they wish with their supervisors. Whenever an employee has a problem or concern, it can usually be resolved by following these steps:

a) Any concern should first be discussed with the immediate supervisor.
b) If the supervisor cannot solve the problem or if the employee is not satisfied after talking with the supervisor, the employee should request to speak to the division director or section chief.
c) If an employee has spoken with the supervisor, division director or section chief and feels the need to speak with another member of management the employee is encouraged to contact the human resources director.
d) If concerns or problems are not solved in the employee’s discussions with management, we encourage the employee to put in writing the problem or concern, suggestions for a solution, what the employee would like management to do and a time frame for
implementing suggested changes. The employee may submit their request to the Human Resources Division.

In the event that the concern is not resolved or the employee does not feel comfortable following these steps, there are other options available to you.

- The human resources director is available for advice or assistance.
- The Employee Assistance Program at St. Alexius is available to all employees and their families. The EAP can be reached by dialing 701-530-7195 or 1-800-327-7195.
- HRMS offers Alternative Dispute Resolution services. They can be reached at 701-328-3345.

When an employee informs management of a concern or problem, management will try to respond as soon as possible. All information obtained in attempting to solve the problem will be held in strict confidence as much as possible.

**Grievance Procedures**

Should normal steps of problem resolution fail, Section 4-07-20-02 of the Administrative Code states that each agency, department, institution, board and commission shall establish internal grievance procedures. Under the Administrative Code, only certain employer actions are grievable. Those actions are:

- Demotion.
- Dismissal.
- Suspension without pay.
- Forced relocation.
- Reduction-in-force.
- Reprisal.
- Discrimination in employment.

If an employee feels they have been subject to one of the above listed actions, the employee may submit the North Dakota Department of Health Internal Grievance form to the Human Resources Division within 15 working days of the action, notice of action or reprisal.

Management will provide a written response from management within 15 working days after receiving your written grievance. If additional time is needed to investigate the allegations made in the grievance, the employee will be notified in writing within 15 working days. Extensions for a formal written response to the grievance are allowable up to 15 working days.

Employees will be allowed reasonable time during the workday to process a grievance without loss of pay.

Employees may waive their right to grievance by notifying management in writing.

The aggrieved employee may appeal management’s response by sending a letter within five working days of the response to his or her section chief. The section chief will have 10 working
days to respond. This response may be appealed by sending a letter within five working days to the state health officer. The state health officer will investigate and make a determination within 10 working days.

If dissatisfied with the response or action taken by the state health officer, the employee may appeal to the State Personnel Board if the grievance is an appealable issue. The appeal must be filed with the State Personnel Board by filing the proper documentation with the human resource management services director. The appeal must be forwarded to Human Resource Management Services within ten working days after the receipt of the response from the state health officer. Employees should consult North Dakota Administrative Code, Article 59.5-03-03-12 for details regarding appeals to the State Personnel Board.
SAFETY/RISK MANAGEMENT

The policy of the North Dakota Department of Health is to protect the safety and health of its employees.

Management, Supervisor and Employee Responsibilities

Management is responsible for providing an environment that minimizes the potential for and encourages the prevention of work-related accidents. Management will provide the necessary incentives and full support for all training, safe practices and hazard elimination practices. Management also will work to reduce the cost of claims to the department.

Supervisors are directly responsible for the safety of their employees, which includes covering safety and health procedures and policies with all employees and enforcing all safety practices.

Employees are responsible for cooperating with and following the department’s safety and health practices. This includes attending all mandated safety training, following all safety policies and procedures and immediately reporting all accidents or near misses. Each employee has the responsibility for his/her own safety, as well as the safety of other employees and no employee is required to perform an action that the employee feels is unsafe.

Self-Inspection Program

In order to achieve the Department of Health’s goal of providing employees with a safe and healthy working environment, the department has developed and implemented a self-inspection program. The goals of the self-inspection program are:

- All employees are responsible for understanding the general safety rules and the safe operating procedures for their work area. Employees must conduct regular safety checks of their work area and notify their supervisor or safety committee member of any potential hazardous conditions they may observe within the department. The potential hazard will be remedied immediately.
- At the Division of Laboratory Services, the Safety Committee will conduct an annual safety audit for the entire lab in January. Each area of the laboratory will conduct a self-audit in June or July on an annual basis. Monthly, quarterly, and weekly inspection will be done for areas of concern or essential safety equipment. Informal inspections will be conducted on an as needed basis.
- An annual safety inspection will be conducted for the offices in the Judicial Wing, Gold Seal Building and the EHS Training Center by the risk management coordinator and staff from each building. Informal inspections will be conducted on an as needed basis.
- Employees conducting the safety inspections will be trained through seminars, videotapes and written and oral instruction to recognize hazardous conditions and to remedy potential hazards.
- Results of the inspections in all of the office buildings and laboratory will be documented and reviewed by the risk management coordinator and the section chief(s).
Risk Management Coordinator

The risk management coordinator is responsible for the implementation of the department’s Risk Management Program. This includes providing managers and employees with advice and guidance on workplace safety issues, working with injured employees, ergonomic assessments, medical providers, and Workers Compensation Bureau on claims management, staying current on the safety standards that apply to the employer, and coordinating a Safety Training Program.

Reporting Incidents and Accidents

Employees are required to promptly report all accidents and near misses to the Department of Risk Management and Workforce Safety. Doing so will protect the state’s interests and reduce the state’s liability. Late or inaccurate reporting could jeopardize the defense of a claim or lawsuit.

Along with any accident resulting in injury or damage to the general public, all incidents involving the general public and state employees must be reported to the Risk Management Division, no matter how insignificant they seem.

All reports must be made on the Risk Management Fund Incident Report Form SFN 50508 which can be accessed online on the Risk Management Division website. If not filed online, the reports may be submitted by hard copy by the agency’s risk management coordinator. A copy of an incident report filed online (either by the agency’s designed risk management or another employee of the agency) will be electronically provided to the risk management coordinator for the agency’s records.

Similarly, all incidents involving potential or actual employment practices issues such as harassment, violence or discrimination complaints by state employees must be reported to the Risk Management Division.

Vehicle Accidents

In the event of a vehicle accident:

a) Call the Highway Patrol or local law enforcement using 9-1-1. All accidents involving personal injury, death or extensive property damage also must be immediately reported to the Risk Management Division 701-328-7584. To facilitate that reporting, after calling 9-1-1, if an accident involves serious injury (death, the potential for death, or potential for serious or permanent injury) employees should contact State Fleet Services at 701-328-2514 to report “a Risk Management accident.” State Fleet Services, after obtaining the information, will report the accident to Risk Management.

b) Complete a Risk Management Fund Motor Vehicle Accident Report (SFN 51301) in detail. An electronic version of this form is available on the Risk Management Division website. All spaces and blocks on the accident reports must be filled out; if one does not pertain to the accident, write “N/A” for “not applicable.” Always read the instructions on the report form before completing it. If the accident involved a parked vehicle, indicate
this by writing “parked” in the space asking for the driver’s identification. Filing SFN 51301 electronically offers the ability to add a vehicle diagram of the accident.

Every effort should be made to complete and forward these reports within 24 hours of the incident.

**Timing**

Incidents involving serious bodily injury, death or serious property damage covered under the Risk Management Fund must be reported immediately by phone to the employee’s section chief, as well as to the Risk Management Division. All other events should be reported within 24 to 48 hours of their occurrence.

**Guide to Reporting Online**

In the case of a workplace injury, there are two (2) forms that must be completed to report the incident. Both forms are available online. One form is for the Department of Risk Management and the other is for Workforce Safety and Insurance (WSI). Each agency has its own form because they have separate roles in the incident reporting process. Complete both forms for all incidents.

The WSI form is located at [http://www.workforcesafety.com/](http://www.workforcesafety.com/).

Even if the employee does not believe that they will be seeking medical attention for the incident a Risk Management form and a WSI form must still be filed. This acts as documentation of the accident so that claims can be processed down the road in case the injury worsens.

**Distracted Driving**

Safety is a primary concern when employees are driving a State Fleet vehicle or their privately-owned vehicle on State business. Employees should refrain from any activities that could distract their driving.

In order to reduce the risks associated with distracted driving, it is the policy of the Department of Health to prohibit the use of cell phones (including hands free) or any other mobile devices while operating a motor vehicle on state business. This restriction includes answering or making phone calls, engaging in phone conversations, reading or responding to e-mails and text messages, and accessing the Internet. These restrictions do not apply to emergency calls, or calls that are identified and designated as necessary to fulfill critical job responsibilities.

**Seat Belts**

Employees must wear properly fastened safety belts whenever they travel in State Fleet vehicles or their privately-owned vehicle on State business. The driver must verify compliance and remind all passengers of the required seat belt policy.
Transitional Duty Program

The Department of Health (DoH) follows the transitional duty program established by the State of North Dakota. The transitional duty program has been established to comply with the Americans with Disabilities Act, help minimize workers compensation costs, and to provide a service to employees who are unable to perform some of their previous job duties following an occupation injury or disease that temporarily limits their capabilities. In the event of a permanent disability for which reasonable accommodations are not feasible, every effort will be made to place the employee in an alternative vacant position that he or she is qualified to perform and that matches their physical limitations.

Prior to placing an employee in a transitional duty program within the Transitional Duty Pool developed by the State, the DoH will try to accommodate the needs of the employee by identifying possible transitional duty positions, alternative work or special projects. If none are available to accommodate an injured employee’s restrictions, a position will be located through the Risk Management Workers Compensation Program (RMWCP).

For more information and assistance with this policy please contact the Risk Management Coordinator.

Designated Medical Provider

As a part of the State Risk Management and Workforce Safety and Insurance (WSI) Programs, the Department of Health is required to select a Designated Medical Provider (DMP). A DMP is a health-care provider selected by the state agency to treat workplace injuries. A DMP can be individuals, clinics, hospitals or any combination thereof. They can be medical doctors, chiropractors, osteopaths, dentists, optometrists, psychologists, podiatrists or any combination as well.

To maximize the coverage, the Department of Health’s Loss Control Committee has selected both Sanford Health and Worklife (St. Alexius) as DMPs. They are chosen because of their training in occupational medicine and the members’ knowledge of the workers compensation system.

If an employee is injured at work they must be treated by the DMP or another provider referred to by the DMP. If not, WSI may not pay for treatment and the employee may be responsible for medical costs. This requirement only applies to the treatment an employee receives as the result of a workplace injury. Employees can continue to see their private physician for any other type of medical treatment. Also, seeing an employer’s DMP is not required in emergency situations.

An employee may select a different or additional DMP. To select an alternative DMP notify the Human Resources Division prior to a work-related injury in writing or by submitting a DMP Waiver form. The name and address of the DMP must be included in the notification. An employee can have as many DMP designates listed as they desire, but they must be listed prior to injury.
Ergonomics

The Department of Health has developed an ergonomic program to actively eliminate and reduce workplace hazards by providing management support and employee involvement in the identification and resolution of hazards and by providing training and evaluation on an ongoing basis.

As part of the Risk Management program, the Department of Health has constructed an ergonomic assessment designed to educate and train employees on the basic principles of ergonomics and proper body mechanics. This program also includes trained employees capable of providing first level ergonomic assessments to all employees and their work stations. To request an ergonomic assessment, contact the risk management coordinator or the Human Resources Division.

Records Retention

The Department of Health has implemented a records retention schedule that complies with the records management program requirements of the Information Technology Department (ITD) records retention program, including retention/destruction of both paper and electronic records. Employees should go through their records on an annual basis and destroy all documents in accordance with the records retention schedule.

It is Department of Health’s policy to preserve all official records in accordance with applicable statutory and regulatory requirements, and to promote access to information by staff, partners, and the public, as appropriate. Each section within the Department of Health is required to establish and maintain a records management program meeting the following minimum requirements:

- Create, receive, and maintain official records providing adequate and proper documentation as evidence of the department’s business activities.
- Manage records, regardless of format, in accordance with applicable statutes, regulations, and policies.
- Maintain electronic records to ensure they are accessible throughout their entire life cycle.
- Secure records to protect the legal and financial rights of the government and persons affected by government activities.
- Dispose of records as specified in the approved records retention schedules. Records and other documents that are no longer sufficiently active to warrant retention in office space shall be removed to an inactive storage facility, if available.

When the Department of Health is subject to or reasonably foresees that it will become involved in litigation, it will immediately implement litigation hold procedures to preserve relevant documents, electronic information and other materials.

Records Retention Schedules for all divisions are available on ITD’s website http://www.nd.gov/itd/service-info/general-records-retention-schedule

- 84 -

June 2016