

North Dakota Department of Corrections and Rehabilitation



EMPLOYEE HANDBOOK

JULY 1991

(Revised 7/2018)

DOCR Employee Handbook Changes and Additions:

Click on a section below to see the changes and additions made this biennium.

Section 1, page 7 – Employment Opportunities
Section 2.1, page 9 – Leave Request and Approval
Section 2.2, pages 9-10 – Annual Leave
Section 2.3, pages 10-12 – Sick Leave
Section 2.4, pages 12-14 – Family and Medical Leave
Section 2.6, page 15 – Court/Jury Leave
Section 2.7, pages 16-17 – Military Leave
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LETTER FROM THE DIRECTOR

Dear DOCR Employees:

We, the North Dakota Department of Corrections and Rehabilitation (DOCR), believe our employees contribute to the success of our division, and share our commitment to achieve our goals to act in accordance with our mission statement. We are committed to providing the highest quality services within our available resources.

The success of the DOCR is determined by our success in operating as a unified team. It is built by creative, productive employees, who are encouraged to make suggestions while thinking “outside the box”. Your job, every job, is essential to fulfilling our mission every day for public safety and the supervision of individuals placed in its care, custody, and control. The primary goal of the DOCR, and yours, as one of its employees, is to live our mission statement and continue to be an industry leader. We achieve this through dedicated hard work and commitment from every employee. It is the desire of the DOCR to have every employee succeed in their job and be part of achieving our goals.

This employee handbook contains the key policies and procedures, goals, benefits, and expectations of the DOCR, and other information you will need. You should use this handbook as a ready reference while you pursue your career with the DOCR. At the DOCR, we want to recognize the contributions of all employees.

If you have any questions regarding the information contained in the handbook, please contact your Human Resource Officer for your division.

Sincerely,

Leann K. Bertsch

Leann K. Bertsch
Director

DOCR MISSION STATEMENT

Our mission is to enhance public safety, to reduce the risk of future criminal behavior by holding adult and juvenile individuals accountable, and to provide opportunities for change.

DOCR VISION STATEMENT

A safer North Dakota through effective correctional services.

DOCR VALUE STATEMENTS

Our values shall drive our relationships and enhance our behavior towards individuals in our care, stakeholders, and colleagues.

RESPECT:

We acknowledge each other's expertise, roles and perspective.
We maintain dignity and treat others the way we want to be treated.
We believe every person has equal value.

PROFESSIONALISM:

We place service above self.
We ensure humanity of all people by showing compassion and patience.
We maintain impartiality and objectivity.

TEAMWORK:

We promote and support a diverse, yet, unified team.
We work together to meet our common goals.
We pursue excellence in service.

TRANSPARENCY:

We encourage public participation.
We are open to new ideas and the opinions of others.
We welcome involvement and share our knowledge.

INTEGRITY:

We maintain the highest standards of behavior.
We are firm, fair, and consistent in our interactions.
We never betray our profession, our integrity or the public trust.

INNOVATION:

We embrace and capitalize on change.
We are dedicated to listening.
We acquire, apply, and integrate knowledge.

INTRODUCTION

The following pages will explain many important aspects of your employment and your employer. Your handbook describes the principal employee benefit programs, your employer's work rules, and some additional benefits available to you. Your handbook is designed for easy reference to guide and assist you in answering questions that may arise. Through your supervisor, your co-workers, and your own firsthand experience, you will learn a great deal more about your job and your employer. It is mandatory that you completely inform yourself with the contents of this handbook.

The policies in this manual are not firm conditions of employment and the language is not intended to create an employment contract between the State and its employees. The North Dakota Department of Corrections and Rehabilitation director 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.

If you have any questions on the benefits or work rules, your designated division human resource staff will be glad to help you.

CHAPTER 1: EMPLOYMENT OPPORTUNITIES

It is the policy of the state to prohibit discrimination on the basis of race, color, religion, sex, national origin, genetics, age, sexual orientation, the presence of any mental or physical disability, status with regard to marriage or public assistance, political opinions or affiliations or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer.

The general human resource practices of the Department of Corrections and Rehabilitation are based on the standard human resource policies for administrative agencies as established by the Human Resource Management Services (HRMS) who develop Administrative Rules with input from all the agencies that are covered by the policies.

The Human Resource Management Services prepares a classification plan, which provides a complete inventory of all position titles used in the classified service and class description for all titles within a specific class of work. This includes minimum requirements for all titles. See Chapter/Section 3.3 for additional information on the classification process.

The Human Resource Management Services prepares a compensation plan that provides a complete listing of all pay grades used in state classified service and an assigned pay range for each grade. The Department of Corrections and Rehabilitation follows the salary administration rules developed by the Human Resource Management Services for positions in the classified service. Each classification is assigned a pay grade/salary range. The plan considers the relative responsibility of the work, comparison to prevailing market rates, and other pertinent salary and economic data.

The Department of Corrections and Rehabilitation and its Divisions use internal, external, or a combination posting to announce job openings and fill new positions or vacancies.

The goal of the Department of Corrections and Rehabilitation (DOCR) is to obtain the best qualified person to fill a vacancy.

Division Directors / Central Office Area Directors or designees shall determine whether a position vacancy will be posted internally or externally. There is no requirement to announce a vacancy when transferring an employee to a vacant position as a reasonable accommodation under the Americans with Disabilities Act or to avoid a reduction in force during reorganization. Agency vacancies will be posted for a minimum of seven working days.

Employees who desire a promotion must be determined qualified to assume the new responsibilities.

The DOCR will follow the HRMS rules related to the recruitment and hiring process for temporary employees and interns.

1.1 DEFINITIONS OF EMPLOYEE STATUS

- A. **PROBATIONARY:** Generally, all employees hired to fill a classified position must be appointed a probationary status. The probationary period is a minimum of six months; however, it may be extended for up to one year. The probationary period is an essential part of the hiring process and is used to monitor the adjustment of a new employee. New employees whose performance or behavior does not meet desired standards will be terminated prior to the completion of the probationary period. The employee shall be notified in writing of successful completion of probation. An extension to the probationary period may be established when warranted based on the employee's performance, behavior or position. If the probationary period is extended, the employee shall be notified in writing of the period of extension and the reasons. An employee may be terminated during the probationary period without the right of appeal or hearing.
- B. **REGULAR:** An employee who occupies a legislatively authorized and classified position.
- C. **TEMPORARY:** An employee who does not occupy a classified position and who performs work that is generally time-limited in duration.
- D. **CLASSIFIED POSITION:** A position that is classified by the ND Human Resource Management Services.
- E. **UNCLASSIFIED POSITION:** A position that is not classified by the ND Human Resource Management Services.

CHAPTER 2: LEAVE INFORMATION

Benefits described in this section apply to employees in classified positions unless otherwise noted.

2.1 LEAVE REQUEST AND APPROVAL

Whenever an employee is unable to report to work, it is his/her responsibility to ensure that the supervisor is informed as soon as possible. A general reason for the absence and the length of time the employee expects to be away from work shall be explained. Failure to do this or follow any division or facility specific leave request procedures may result in denial of paid leave, possibly resulting in leave without pay and disciplinary action up to and including termination of employment.

All leave requests must be submitted through the Absence Management Module in PeopleSoft and approved or denied by the supervisor. (See Section 2.2 and 2.3)

Division directors or wardens have the authority to approve or deny leave requests. This authority may be delegated to managers and supervisors. The division director, warden, or delegated supervisor has the authority to make eligibility determinations and approve paid or unpaid leave for employees under their supervision. Supervisors must approve or deny leave requests within 30 days after the request was submitted. If an exception is needed, the supervisor must contact DOCR payroll prior to expiration of the 30-day deadline.

2.2 ANNUAL LEAVE

Annual leave is an approved absence from work with pay for a classified employee. Eligible employees will begin to accrue annual leave from the date of hire. Not more than 240 hours of unused annual leave may be carried forward and credited to the employee at the end of the established yearly cut-off date of April 30.

Staff employed less than full time shall accrue annual leave on a prorated basis. Temporary employees are not eligible for annual leave.

Annual leave for a full-time employee is accrued on the following basis:

<u>Years of Service</u>	<u>Monthly Earnings</u>
Zero - 3 years	8 hours
4 - 7 years	10 hours
8 - 12 years	12 hours
13 - 18 years	14 hours
over 18 years	16 hours

Generally, a request to use annual leave must be approved by the immediate supervisor before an employee is authorized to use the leave. Leave requests may

be denied if the employee's absence would unduly disrupt the operations or services of the department. Approved leave requests may be canceled to ensure safe and efficient operations or services of the department, unless the employee would suffer significant financial loss due to cancellation of leave or the employee is otherwise unavailable.

A temporary employee who moves into a classified position must be given credit for the employee's length of service as a temporary employee for purposes of annual leave accrual rate provided that there is no break in service beyond one year.

Employees terminating their employment shall be paid for all accumulated unused annual leave. If they are transferring immediately to another state agency that will accept a transfer of all or a portion of the accrued leave, they may request a transfer of the leave.

Generally, the amount of annual leave that can be requested immediately prior to the resignation date is two weeks.

An employee of another state agency who transfers immediately into the DOCR will be allowed to transfer the balance of accrued annual leave. If an employee leaves and then returns to the service of the state within three years, the employee will be credited with their previous years of continuous service for the purpose of determining their annual leave accrual rate.

2.3 SICK LEAVE

Sick leave is a statutory privilege granted to all eligible employees, and is not a benefit considered as earned by the employee such as annual leave. It allows employees to build a reserve of days that may only be used for illnesses or medical reasons. Eligible employees will begin to accrue sick leave from the date of hire. All accrued unused sick leave may be carried over from one year to another. Sick leave must be earned before it can be taken.

Staff employed less than full time shall accrue sick leave on a prorated basis. Temporary employees are not eligible for sick leave.

Employees in positions designated as essential must make a good faith effort to request sick leave at least two hours prior to the start of a scheduled shift, unless extraordinary circumstances exist. If sick leave is requested less than two hours prior to a scheduled shift, the essential employee must arrange for another qualified employee to cover the shift or the use of sick leave may not be approved. The employee will be placed on leave without pay status, which may result in disciplinary action up to and including termination of employment.

An employee may present a written grievance using SFN 18776 when a sick leave request is denied for not following the request procedure or when the employee believes extraordinary circumstances were not taken into consideration. The written

grievance must be presented to the immediate supervisor within 10 working days after the sick leave request has been denied.

Divisions and facilities may have sick leave request procedures in place that are clear and communicated to all essential employees.

Sick leave for a full-time employee is accrued on the following basis:

Years of Service

All

Monthly Earnings

8 hours

A medical statement is requested by the DOCR when the absence is continuous for a period of three working days or more. A medical statement may also be requested at the discretion of administration when there appears to be cause to consider this. If the agency is not satisfied with the opinion of the health care provider, it may request a second opinion from a health care provider of its choice whose fee shall be paid by the agency.

A sick leave request through Absence Management in PeopleSoft must be completed and submitted by the employee within five workdays of their return to work. Generally, requests for medical and dental appointments should be submitted in advance of taking the leave.

Abuse of sick leave may result in disciplinary action up to and including discharge.

In accordance with N.D.C.C. § 54-06-14, an employee with at least ten continuous years of state employment is entitled to a lump sum payment equal to one-tenth of the pay attributed to the employee's unused sick leave upon termination of employment. Employment is considered continuous if there is not a break in service or, in the following instances: if an employee is subject to a reduction in force and is reinstated within two years or if an 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.

An employee who leaves State employment and who 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.

Sick leave may be used by an employee to tend to the needs of eligible family members who are ill, or to assist them in obtaining medical services or other services related to their health or well-being. Sick leave used for these purposes may not exceed eighty hours per calendar year. Eligible family members include the employee's spouse, parent (natural, adoptive, foster, and step-parent), child (natural, adoptive, foster, and step-child), and 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.

An employee may take up to six weeks of accrued sick leave within the first six months following birth or adoption of a child. (NDCC 54-06-14.5)

An employee may use up to 12 weeks (480 hours) of accrued 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. (NDCC 54-52.4-03)

An employee may use sick leave for the following situations relating to domestic violence, a sex offense, stalking, or terrorizing (NDCC 54-06-14.6):

- 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.

An employee may use sick leave for participating in the employee assistance program.

2.4 FAMILY AND MEDICAL LEAVE

Family leave is provided for by state and federal laws the North Dakota Family Leave Act of 1989 and the federal Family and Medical Leave Act of 1993. Listed below is general information on this leave. This is not an exhausted description of state and federal law on family medical leave. Contact your designated human resource staff for specific DOCR policy and procedures to be followed in applying for this leave.

- A. Family and Medical Leave is an unpaid leave of absence available to an employee for the birth, adoption or foster placement of a child; for the serious health condition of a parent, child, spouse or employee; for an employee's own serious health condition; or for "any qualifying exigency" due to a call to active duty in support of a contingency operation affecting a spouse, child or parent;

or caregiver leave to provide care for an injured service member who is a spouse, child, parent or nearest blood relative. The employer may designate paid leave (if employee has such leave) be used for purposes of FMLA.

- B. Family leave is available to all employees who have worked for one year for the state and at least 1250 hours of service during the 12-month period immediately preceding the commencement of the leave. This includes temporary staff.
- C. An employee may take up to 12 weeks for an employee's serious health condition or all other authorized reasons. In the case of caregiver leave to provide care for an injured service member, an employee may take up to 26 weeks of leave in a single 12-month period. For purposes of family medical leave, the Department of Corrections and Rehabilitation defines the 12 months as the 12 months forward from the date family medical leave begins. This is pro-rated for part-time employees. Intermittent leave may be available. Intermittent leave is defined as leave taken in separate blocks of time due to a single illness or injury. A "reduced leave schedule" is a change in the employee's schedule for a period of time, normally from full-time to part-time. Reduced leave schedule and intermittent leave is limited solely to those times that are scheduled for treatment or recovery from illness. For intermittent leave or leave on a reduced schedule, there must be medical need of the leave, not voluntary treatments and procedures. Employees needing intermittent leave on a reduced schedule must attempt to schedule their leave so as not to disrupt the employer's operations. Intermittent leave or leave taken on a reduced schedule will only reduce the total amount of leave by the amount actually taken.
- D. There are specific provisions that apply if both spouses are employed by the State. The combined leave may not exceed 12 weeks. This limitation, however, applies only to leave taken for the birth or adoption of a son or daughter or to care for a sick parent. If the leave is requested for either the husband's or wife's own serious health condition or the serious health condition of the couple's son or daughter, the limitation does not apply.
- E. Birth, adoption or foster care leave must be taken within 12 months of the event.
- F. To request this leave an employee should complete the FMLA Application (SFN 50039) and submit it to the designated human resources staff. The designated human resources staff will complete the FMLA Employee Notice (SFN 50038) and provide this to the employee requesting the leave within five calendar days.
- G. The Department will require an employee to provide a medical certification from a health care provider to verify that the family and medical leave request is necessary. In cases of pregnancy or placement of a child, the Department may waive certification. If leave is foreseeable and at least 30 days notice has been provided, the employee should provide the medical certification before the

leave begins. In all other circumstances, an employee must provide the requested certification within 15 calendar days following the request, unless it is not practical under the particular circumstances to do so despite the employee's diligent, good faith efforts. The medical certification must include certain information contained in the Certification of Physician or Practitioner (SFN 19519).

- H. If an incomplete or insufficient certification is returned, the division human resources staff will give the employee seven calendar days to correct any deficiency by notifying the employee in writing what additional information is necessary. The division director or human resources must notify the employee at the time the certification is requested of the consequences of the employee's failure to provide adequate certification. If the deficiencies are not corrected, the division director may deny the FMLA leave.
- I. DOCR human resources staff 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. Under no circumstances may the employee's supervisor contact the employee's health care provider.
- J. When leave is completed, the employee must be returned to the same position or a position with equivalent compensation and benefits as determined by management. If a layoff would have caused the position to be lost, this reinstatement provision does not apply. There are specific policy provisions that apply to highly compensated positions.
- K. 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. 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.
- L. 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 requested and approved.
- M. An agency must continue health benefits at the same level and coverage had the employee not taken leave. If the FMLA leave is without pay, the employee must contact human resources staff. If leave is approved beyond the 12 or 26 weeks, it is not covered under the FMLA and this provision will not apply.

The employee rights and responsibilities notice under the Family Medical Leave Act is available on the main page of the DOCR Intranet website within the DOCR News section.

2.5 MEDICAL EXAMINATIONS

An employee's poor health impacts on work performance, and from time to time, may require physical examinations. Applicants, upon selection for a position, may be required to take a health examination by the division of hire. An employee may be required to take a medical examination as a condition of continued employment if in the judgment of division director or their designee, the employee's health appears to adversely impact job performance (i.e., in that the employee is unable to perform essential job functions). Pending the results of the medical exam, the employee may be placed on leave with pay or assigned a different job within the division. The division requesting the exam will pay for all employee medical examinations required by the divisions within the Department of Corrections and Rehabilitation.

2.6 COURT/JURY LEAVE

The DOCR follows the Human Resource Management Service's Administrative Rules for jury and witness leave as indicated below.

- A. **Section 4-07-16-02. Jury duty.** An employee 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. "(The fee paid and statement received for the jury duty service must be submitted to payroll personnel within five work days from its receipt). "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.

DOCR employees may be summoned for jury duty each year. Your residential address may be given out upon request by the courts to other parties. To prevent this from happening and to keep your residential address information confidential, you should contact the Clerk of District Court and advise them you are a DOCR employee and they are not to disclose your home address to the defendant pursuant to ND Century Code 44-04-18.3.

- B. **Section 4-07-16-03. Witness on behalf of the employer.** When an employee is called or appears as a witness, or as an expert witness, on behalf of the employer, the employee's department reimburses the employee for mileage, meals, and lodging, then the employee must not submit an additional claim for mileage, meals, and lodging. Also, the employee must be paid the employee's regular rate of compensation for time spent as a witness.
- C. **Section 4-07-16-04. Witness fee.** An employee may retain a witness fee paid by a party only when each of the following apply:
- 1) The employee's agency did not reimburse the employee for mileage, meals, and lodging.
 - 2) The employee is on authorized leave.

- D. **Section 4-07-16-05. Witness fee and law enforcement personnel.** When a law enforcement officer performs duties as a witness during off-duty time, the officer may receive a witness fee and reimbursement for mileage, meals, and lodging, provided the officer is not otherwise reimbursed by the employer. When a law enforcement officer performs duties as a witness in an official capacity in a criminal case, the officer is regarded as performing normal duties, and consequently the officer may not retain a witness fee.
- E. **Section 4-07-16-06. Witness duties.** An employee who 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, 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."

2.7 MILITARY LEAVE

DOCR follows N.D.C.C. § 37-01-25 for military leave as indicated below. This section also applies to temporary employees.

Officers and employees of the state or political subdivisions in National Guard or federal service to retain status for period of active service. All officers and employees of this state or of a political subdivision thereof who:

- A. Are members of the National Guard;
- B. Are members of the Armed Forces Reserve of the United States of America;
- C. Shall be subject to call in the federal service by the President of the United States; or
- D. Shall volunteer for such 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. If such persons have been in the continuous employment of the state or political subdivision for ninety days immediately preceding the leave of absence, they shall receive twenty workdays each calendar year without loss of pay. In addition, any leave of absence necessitated by a full or partial mobilization of the reserve and national guard forces of the United States of America or emergency state active duty, shall be without loss of pay for the first thirty days thereof less any other paid leave of absence which may have been granted during the calendar year pursuant to this section. However, if leave is required for weekend, daily, or hourly periods of drill for military training on a day on which a public officer or employee is scheduled to perform the work for the state or of a political subdivision, the officer or employee must be given the option of time off with their choice of annual leave, compensatory leave, leave without pay for the period missed or must be given an opportunity to reschedule the work period so that the Reserve or National Guard weekend, daily, or hourly drill or period of training occurs during time off from work without loss of

status or efficiency rating. The chosen option of annual leave, compensatory leave, leave without pay, or rescheduling may not be changed at a later date.

Any rescheduling of work for the state for weekend, daily, or hourly periods of drill for military training must occur within 30 days prior to the military training period or within 30 days after the military training period.

Military leave shall be granted to all state employees in accordance with sections 37-01-25 and 37-01-25.1 of the North Dakota Century Code. Such employees upon returning from military duty shall be given their positions formerly held or one of like seniority, status (includes probation), and pay and shall be immune to discharge from a position except for cause, as defined by the Department of Veterans' Affairs, for a period of one year after entering upon the duties of a civilian position, provided such person applies within 90 days after receiving a discharge other than dishonorable from such active military service, and who is not physically or otherwise incapacitated to perform the duties of the position formerly held by them.

Requests for military leave must be accompanied by orders.

Employees returning from military leave following an extended period of active duty service have a protected right of return to their former position or one of like status and pay. Federal law provides specific timeframes for this action.

Contact your designated human resource staff for any divisional procedures on this policy.

2.8 FUNERAL LEAVE

Leave of absences may be allowed when a death occurs in the employee's or spouse's immediate family, namely:

Husband, wife, son, daughter, father, mother, father-in-law, mother-in-law, stepparents, sister, brother, stepsiblings, brother-in-law, sister-in-law, grandparents, grandchildren, stepchildren, foster parents, foster children, daughter-in-law, and son-in-law.

The division director or their designee may approve a reasonable amount of up to 24 hours of leave with pay for time necessary to travel, attend the funeral and make the necessary arrangements.

2.9 LEAVE OF ABSENCE WITHOUT PAY

Leave without pay may be granted at the discretion of the division director or their designee to employees who have maintained a satisfactory service record. An appointing authority may grant an employee's request for a leave of absence without pay provided that:

- A. The absence of the employee will not unduly disrupt the agency's operations or services.
- B. An employee will be required to use pertinent accrued leave prior to the approval of leave without pay.
- C. The employee is placed on leave without pay status and is not terminated. The employee does not accrue annual leave while on leave without pay status, but retains any unused annual leave hours, subject to other restrictions, and retains the employee's previous years of continuous service for the purpose of determining the employee's annual leave accrual rate.
- D. The employee does not accrue sick leave while on leave without pay status, but retains any unused sick leave hours.
- E. If the leave without pay status is scheduled to extend longer than 14 consecutive calendar days, the appointing authority and the employee must agree in writing, prior to the beginning of the leave, about the status of employee benefits, and the terms and conditions of the employee's return to work.

Leave without pay may not be granted for a period of longer than one year. Should an employee who is granted leave without pay fail to report for duty on the expiration of the leave granted, such employee shall be terminated unless other arrangements have been agreed to in writing between the employee and the appointing authority.

This is separate from Family and Medical leave.

2.10 EDUCATIONAL LEAVE

Educational leave (without pay) may be granted at the discretion of the division director or their designee to employees who have maintained a satisfactory service record. An appointing authority may grant an employee's request provided that:

- A. The absence of the employee will not unduly disrupt the agency's operations or services.
- B. The employee is placed on educational leave status and is not terminated.
- C. The employee does not accrue annual leave while on educational leave, but retains any unused annual leave hours, subject to other restrictions, and retains the employee's previous years of continuous service for the purpose of determining the employee's annual leave accrual rate.
- D. The employee does not accrue sick leave while on educational leave, but retains any unused sick leave hours.

- E. The appointing authority and the employee must agree in writing, prior to the beginning of the leave, about the status of employee benefits, and the terms and conditions of the employee's return to work.
- F. The educational leave does not exceed two years in duration.
- G. Should an employee who is granted educational leave (without pay) fail to report for duty on the expiration of the leave granted, such employee shall be terminated unless other arrangements have been agreed to in writing between the employee and the appointing authority.

2.11 SHORT-TERM EMERGENCY AND INCLEMENT WEATHER CONDITIONS

Adverse weather or other emergency events may suggest that for the safety and well-being of employees, work schedules be adjusted. This may include arriving late to work, leaving early from work, or other schedule adjustments as deemed appropriate by the DOCR Director. DOCR operations are essential to public safety and the agency is never closed. There is very little flexibility for adjustment of work schedules regardless of weather or other emergency conditions.

With this in mind, the following procedures are provided:

- A. During short-term emergency or inclement weather, all DOCR employees have the responsibility for reporting to work at the scheduled time unless otherwise notified by an authorized official.
- B. Employees reporting to work late or who are given the option to leave early while DOCR offices are still open, shall be charged appropriate leave for the time not worked. If an office is ordered closed or the Director of the DOCR or designee allows non-essential employees to leave prior to the employees scheduled shift ending period, due to safety precautions, employees will not be charged leave and will receive their normal rate of pay (office closure pay).
- C. Office closure pay may be granted only for non-essential, non-exempt employees for the number of hours the work location was closed, not to exceed the number of hours for which the employee was regularly scheduled to work.
- D. DOCR employees granted leave prior to the emergency or inclement weather event and do not work during the event shall have the approved leave deducted from their leave account.
- E. Divisions or facilities that must provide continuing or essential services during periods of short-term emergency conditions or inclement weather shall designate essential positions in writing. Designated essential positions that are required to remain on duty or are required to report to duty may be provided extra compensation in addition to the regular pay rate. The DOCR Director or designee will determine the appropriate compensation or overtime to be given for this purpose.

- F. Flexible work arrangements, such as flextime and telecommuting are an essential component of continuity of operations for the DOCR and are encouraged when appropriate and approved by the supervisor. Office closure pay does not apply when the employee has the option to telecommute or use flextime.

2.12 ANNUAL LEAVE SHARING PROGRAM

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

A. **Definitions:**

Extraordinary or severe means serious, extreme, or life threatening. These terms do not include conditions associated with normal pregnancy.

State employee means a non-probationary employee with over six (6) months of continuous service with the State. It does not include employees in probationary status or employees on temporary or other limited term appointments.

Household member means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This includes foster children and legal wards even if they do not reside in the household. It does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune.

Relative of employee is limited to spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of an employee.

B. **Conditions of Eligibility:** (Receiving Employee)

- 1) The division appointing authority or designee determines that the employee meets criteria described in the law.
- 2) Employee has abided by state policies regarding use of sick leave.
- 3) Employee's use of shared leave including both annual and sick leave cannot exceed four (4) months in any twelve (12) month period.
- 4) The employee must submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary status and the expected duration.

- 5) The DOCR requires that SFN 19929 (Requisition for Shared Leave) and SFN 50039 (FMLA Application) completed prior to approval.

C. **Conditions to Donate:**

- 1) The receiving employee has exhausted or will exhaust all annual leave, sick leave, or compensatory time off due to an illness, injury, impairment, physical or mental condition that is of an extraordinary or severe nature and involves the employee or eligible relative or household member.
- 2) The condition has caused or is likely to cause the recipient to go on leave without pay or terminate employment.
- 3) The donating employee must retain a balance of forty (40) hours of annual leave.

D. **General Conditions:**

- 1) Donated annual leave is transferable between employees in different state entities.
- 2) The donation of leave is voluntary. The donation is not to a leave bank.
- 3) One hour of donated annual leave is regarded as one hour of received leave.
- 4) Donated leave may only be used by the recipient for the specified purpose and is not payable in cash.
- 5) Once leave is donated it is not returnable.
- 6) All paid leave must be used prior to usage of donated leave.
- 7) State employees wishing to donate leave must complete SFN 19292 for approval.

2.13 SICK LEAVE SHARING PROGRAM

A state employee (as defined in Section 2.13) may donate sick leave to another state employee who is suffering from an extraordinary or severe illness (as defined in Section 2.13) that has caused or is likely to cause the employee to take leave without pay or terminate employment.

A. **Conditions of Eligibility:** (Receiving Employee)

- 1) The division appointing authority or designee determines that the

employee meets the eligibility criteria described in this section.

- 2) The employee has abided by the state policies regarding use of sick leave.
- 3) The employee's use of shared leave including both sick and annual leave may not exceed four months in any twelve-month period.
- 4) The employee must submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary status and the expected duration (SFN 50038).
- 5) The Department requires that SFN 19929 and SFN 50039 be completed prior to approval.

B. Conditions to Donate:

- 1) The recipient has exhausted or will exhaust all annual, sick, and compensatory leave due to an illness, injury, impairment, physical, or mental condition that is of an extraordinary or severe nature.
- 2) The condition has caused, or is likely to cause, the receiving employee to go on leave without pay or terminate employment.
- 3) The donating employee may not donate more than five percent (5 percent) of the employee's accrued leave hours.

C. General Conditions:

- 1) Donated sick leave is transferable between employees in different state entities.
- 2) The donation of leave is voluntary. The donation is not for a leave bank.
- 3) One hour of donated sick leave is regarded as one hour of received leave.
- 4) Donated leave may only be used by the recipient for the specified purpose and is not payable in cash.
- 5) Once leave is donated, it is not returnable.
- 6) All paid leave, available for use, must be used prior to using shared leave.
- 7) State employees wishing to donate leave must complete SFN 19292

for approval.

2.14 HOLIDAYS

A. Holidays as defined in the N.D.C.C. §1-03-01:

- 1) The first day of January, which is New Year's Day.
- 2) The third Monday of January, which is Martin Luther King Day in recognition of the life, legacy, and dream of Martin Luther King, Jr.
- 3) The third Monday in February, in recognition of the birthday of George Washington.
- 4) The Friday preceding Easter Sunday and commonly known as Good Friday.
- 5) The last Monday in May, which is Memorial Day.
- 6) The fourth day of July, which is the anniversary of the Declaration of Independence.
- 7) The first Monday in September, which is Labor Day.
- 8) The eleventh day of November, which is Veterans' Day.
- 9) The fourth Thursday in November, which is Thanksgiving Day.
- 10) The twenty-fifth day of December, which is Christmas Day.
- 11) Every day appointed by the President of the United States or by the governor of this state for a public holiday.

If any of the holidays indicated above fall on a Saturday, the Friday immediately before shall be the holiday. If the holidays fall on a Sunday, the Monday immediately after shall be the holiday.

B. **CLOSING OF STATE OFFICES:** State offices also close at noon on December 24, Christmas Eve day unless it is a weekend pursuant to N.D.C.C. § 1-03-02, 1-03-02.1.

2.15 DISASTER OR EMERGENCY SERVICES VOLUNTEERS LEAVE

When an order or proclamation declaring a disaster or emergency is issued pursuant to North Dakota Century Code Chapter 37-17.1 or a declaration of at least a level II disaster by the American Red Cross in this or any other state, the executive officer in charge of a state agency may grant a leave of absence to any full-time employee who is certified by the American Red Cross as a disaster services volunteer.

The leave of absence must be for the purpose of allowing the employee, upon request by the Red Cross, to participate in disaster relief services. The cumulative leave granted under this section may not exceed five working days in any calendar year. The leave may not result in a loss of compensation, seniority, annual or sick leave, or accrued overtime for which the employee is otherwise eligible.

A person on leave under this section is not deemed to be an employee of the State for the purposes of workforce safety and insurance.

2.16 STATE EMPLOYEE LEAVE FOR ORGAN OR BONE MARROW DONATION

“N.D.C.C. § 54-06-14.4 An executive officer in charge of a state agency may grant a leave of absence, not to exceed twenty workdays, to an employee for the purpose of donating an organ or bone marrow. Notwithstanding the limitations for the donation and use of donated leave under sections 54-06-14.1 and 54-06-14.2, an employee may request and use donated annual leave or sick leave for the purpose of donating an organ or bone marrow. If an employee requests donations of sick leave or annual leave, but does not receive the full amount needed for the donation of an organ or bone marrow, the executive officer of the state agency may grant a paid leave of absence for the remainder of the leave up to the maximum total of twenty days. The executive officer of the state agency may require verification by a physician regarding the purpose of the leave requested and information from the physician regarding the length of the leave requested. Any unpaid leave of absence under this section may not result in a loss of compensation, seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise eligible.”

CHAPTER 3: GENERAL PERSONNEL PRACTICES

3.1 OVERTIME/COMP TIME

The State of North Dakota, as an employer, is required to abide by the provision of the Fair Labor Standards Act (FLSA) concerning paying the minimum wage, record keeping, and the paying of overtime as provided for in the Act.

Exempt employee means an employee who is not subject to the overtime requirements of the Fair Labor Standards Act (FLSA).

Non-exempt employee means an employee who occupies a position that is subject to the minimum wage and overtime requirements of the FLSA.

Each division is responsible for analyzing their positions and making the determination whether their positions are exempt or non-exempt as defined by the FLSA.

Employees designated as exempt shall not normally receive monetary overtime compensation nor shall they normally be provided compensatory time off. On occasion, due to the nature of the position, these individuals may be expected to work beyond regular work hours. However, at the discretion of the division director or their designee, exempt employees who work significant overtime hours may be afforded compensatory time off. This will be reviewed on a case-by-case basis and generally not compensated on an hour for hour match. Employees designated as exempt will not be subject to a payroll deduction (leave without pay) for workplace absences of less than one day. If an exempt employee believes that an improper deduction in salary has been made, they must immediately report it to their supervisor or division director. However, an unpaid disciplinary suspension of one or more full days may be imposed in good faith for violations of workplace conduct rules.

Employees designated as non-exempt shall be provided monetary overtime compensation or compensatory time off at the time and one-half rate, in accordance with the Fair Labor Standards Act, when the hours worked exceed forty hours in a week, or in excess of a different number of hours permitted by the Act, whichever is applicable.

Monetary payment for overtime worked should normally be provided at the end of the pay period in which it is earned. Payment may not be delayed for a period longer than is reasonably necessary for the employer to compute and arrange for payment of the amount due, and in no event may payment be delayed beyond the next payday after such computation can be made.

At the agency discretion and with the employee's understanding prior to the time the work begins, non-exempt employees may receive in lieu of monetary

overtime compensation, compensatory time off at a time and one-half rate, for each hour of employment for which overtime compensation is required by the Fair Labor Standards Act.

All overtime and compensatory time for non-exempt positions must receive prior approval by the designated supervisory level. All overtime or compensatory time for exempt positions must receive prior approval by the division director or their designee. Compensatory time off shall be granted the employee at a time mutually agreed upon by the division and the employee and when such time off will least interfere with the efficient operation of the division.

A non-exempt employee who has accrued compensatory time off shall, upon termination of employment, be paid for the unused compensatory time. For an exempt employee all accumulated compensatory time not taken will be cancelled upon termination of employment.

3.2 TEMPORARY ASSIGNMENTS

As a standard policy, all classified employees are required to perform duties outside of their normal job classifications from time to time. A pay increase will not be warranted unless the duration of the temporary situation is longer than 30 consecutive days and in compliance with N.D.C.C. § 4-07-02-16.

3.3 CLASSIFICATION/RECLASSIFICATION

The classification plan of the Human Resource Management Services provides a complete inventory of all positions in the classified service. The plan standardizes titles each of which is indicative of definite range of duties and responsibilities and has the same meaning throughout the classified service.

The divisions within the DOCR maintain internal job descriptions on their positions. The description is generally reviewed during the annual evaluation process. If the changes in responsibilities necessitate a request for reclassification of their position, the supervisor and the employee should contact the designated division human resource staff for information on how to complete this process. Employees may request a review of their classification under certain circumstances. Not all job duty changes require a reclassification.

A classification/reclassification request may be submitted to Human Resource Management Services only if one of the following applies:

- A. A new position has been authorized.
- B. A significant amount of a position's responsibilities has been newly assigned, reassigned, or changed.
- C. A position has not been reviewed for at least three years and different duties and responsibilities have been assigned.

- D. A position is classified in a class or series that has been revised and the position's duties and responsibilities are no longer similar to the revised class or series.
- E. A position is vacant and has not been reviewed for at least seven years and will be filled.

An employee may request that an appointing authority submit the position for review if one of the reasons above applies. The appointing authority shall, within 60 calendar days, determine if any of the reasons above apply. If so, the appointing authority shall submit the request to Human Resource Management Services for review.

Employees and their supervisors may submit a written request for a salary review to their division director or designee. The request should contain specific justification including supporting data. For more information on this process, contact your designated division human resource staff.

3.4 PAY DATES

Employees are paid on the first working day of each month. The only exception to this is hourly employees who are paid on the supplemental payroll paid on the tenth calendar day, except if the tenth falls on a weekend or is a holiday then it is paid on the preceding working day.

All payroll employees are covered by Social Security, Worker's Compensation, and Unemployment Compensation. Employee contributions for Social Security, Federal Income Tax, and State Income Tax payments are deducted from salary checks.

If you have specific questions or concerns regarding payroll, contact the designated division human resource staff.

3.5 PERFORMANCE APPRAISAL

Performance appraisals provide a systematic way for each employee to participate in goal setting, understand expectations, measure his or her development, receive ongoing coaching from the supervisor, and to know how well he or she is meeting the job related requirements of the job.

The performance of classified employees is reviewed during the first six months on the job (probationary or review period). DOCR policy found on the Intranet sets guidelines for performance reviews. A division may have additions to the DOCR policy and will inform employees, in writing, at time of hire. Thereafter, a performance review is completed once each year. Individuals who satisfactorily complete the probationary period may be eligible to receive a salary increase. It is the supervisor's responsibility to inform the payroll staff of the employee's change in status.

Deficiency in performance of a non-probationary employee may result in further review of the employee's performance appraisal. If deficiencies in performance are demonstrated in particular areas, a performance improvement plan must be developed by the supervisor and employee, including action to be taken, by whom, and dates for review.

Failure to maintain satisfactory performance may result in disciplinary action up to and including termination of employment.

3.6 PERSONNEL RECORDS

The Human Resources division with the Department of Corrections and Rehabilitation maintains records showing certain personnel / payroll and medical (confidential) information including application, position held, salary, change of status, attendance records, leave records, performance appraisals, disciplinary actions and corrective actions, and such other information as is deemed necessary for effective personnel administration. All payroll information will be purged in accordance with state policies.

Performance appraisals will be maintained in the employee's personnel file or electronically in PeopleSoft ePerformance. Written warnings, reprimands, and suspension information will be maintained in the personnel file and not subject to purging. The supervisor may provide written employee performance progress reports on any actions that involve disciplinary actions to support or refute the employee performance documented on previous disciplinary actions.

No document that addresses an employee's character or performance can be placed in the official personnel file unless the employee has had a chance to read the material and acknowledge the material by signing the actual copy to be filed, with the understanding that the signature merely signifies the employee has read the material and does not necessarily indicate agreement with content. If employee refuses to sign the copy to be filed, the agency head or designee will indicate on the copy the employee was shown material, was requested to sign the material to verify that the material had been read, and that employee refused to sign the copy to be filed. In the presence of the employee and a witness, the agency head or designee will sign and date a statement verifying the refusal to sign. The material must then be placed in the 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 through an established internal grievance procedure, it will be removed. The human resources division will maintain a record of access to employee files and will provide this to the employee when the employee examines their file. Employees may review their personnel record by contacting the division human resources staff.

Telephone numbers and home addresses of DOCR employees are confidential and not subject to the open records law N.D.C.C. § 44-04-18.3. Other personnel information as cited in N.D.C.C. § 44-04-18.1 is exempt from the open records law. Records containing this information may be disclosed to the appropriate authorities following DOCR Personnel Policy on Personnel Files.

3.7 EMPLOYEE ASSISTANCE PROGRAM

The Department of Corrections and Rehabilitation recognizes that some employees may experience a wide range of personal problems that may adversely affect their job performance. It is also recognized that most personal problems can be dealt with successfully when identified early and referred to appropriate care. The purpose of the Employee Assistance Program is to provide these services leading to appropriate care.

The Employee Assistance Program is a confidential assessment/counseling/referral service staffed by trained professionals. It is designed to deal with a broad spectrum of human problems, such as personal problems, interpersonal problems, financial concerns, problems with addiction, family or marriage problems, work related problems and other concerns. Most employees may overcome personal problems without professional assistance, but at times, professional counseling and/or referral to appropriate community agencies may be beneficial. The Employee Assistance Program is provided through St. Alexius Medical Center. The program provides a limited number of counseling sessions (per identified problem area) without cost to the employee or their immediate family. If costs are incurred for other services that are not covered by group insurance or other benefits, those costs will be the responsibility of the employee. Employees will be given prompt, careful, confidential consideration.

Below are guidelines for utilizing the Employee Assistance Program:

- A. The Department of Corrections and Rehabilitation is concerned with an employee's personal problem when the problem adversely affects job performance.
- B. The Employee Assistance Program extends to all employees with the exception of temporary staff.

Since problems at home can affect job performance, the Employee Assistance Program is also available to each employee's immediate family on a self-referral basis. If an employee or immediate family member has personal problems that may benefit from assistance, the employee or immediate family member is encouraged to use the program. Immediate family is defined as spouse or dependent children under age living at home or children under age 26 who are attending a college or university. Individuals who retire or are impacted by a Reduction in Force (RIF) may be eligible to receive additional services. This eligibility will exist for a period of three months from the effective date of retirement or post RIF separation from the DOCR. Children under age 18 will be provided an initial assessment by phone, however, will be required to have parental permission to receive EAP services beyond the initial phone contact.

- C. Should a performance problem occur (i.e., performance of essential job

functions NOT serious misconduct) at work, employees may be encouraged to seek assistance to determine if personal problems are causing unsatisfactory job performance. Supervisors will not be able to insist that the employee seek Employee Assistance Program assistance. If performance problems are corrected, no further action will be taken. If performance problems persist, the employee will be subject to the normal progressive discipline procedures.

- D. All employees are responsible for using this program, when appropriate, to assist the resolving of job performance deficiencies related to personal problems. Employees will receive general information regarding the EAP. For more information, contact your division HR staff.
- E. When an employee voluntarily comes for assistance, no contact is made with the supervisor. When the employee comes for services at the request or referral of a supervisor, a request will be made of the employee to sign an authorization for Release of Confidential Information with the EAP so that there may be follow up contact with the Supervisor. The employee will have the opportunity to decline this request.
- F. Participation in the program will not jeopardize an employee's job security or promotional opportunities. All records and discussions of the personal problem will be handled in a confidential manner. These records will be considered as EAP records and will be maintained by the EAP at St. Alexius Medical Center. Records maintained by the EAP are not part of the St. Alexius patient medical records. They will not be released without the expressed written consent of the employee. These records will not become a part of the employee personnel file.
- G. Employees and members of their immediate families will receive a limited number of counseling sessions for the purpose of problem assessment, referral and/or short term counseling. These sessions, if provided by the EAP staff or their designated affiliates, will be provided at no charge. During the contract period, employees and members of their immediate families may experience multiple problems for which assessment, evaluation, or treatment by the program may be appropriate. Under the provisions of this program an eligible employee and/or member of his/her immediate family would receive additional services from the program providing the new problem is not related to a situation for which services have already been received. The employee and/or family member may receive an assessment of their new problem and limited additional sessions. Depending on the type of problem experienced, a referral to a community resource may be most appropriate service provided. If the employee should be referred to another community agency, the employee's health insurance or other resources may cover the service. The counselor will work with the employee to determine the best option to minimize the cost.
- H. Where necessary, leave will be granted in accordance with established

procedure. If a supervisor refers an individual based on performance concerns or an employee requests a referral, sick leave will be granted for these sessions.

- I. The employee may request that his/her supervisor attend counseling sessions with the employee.

3.8 RISK MANAGEMENT

The Office of Management and Budget (OMB) administers a risk management program. All State employees and officials are required to participate in establishing safe workplaces, following safe practices, limiting exposure to potential liability and loss, and carrying out the steps necessary to maintain effective and efficient risk management. Each State agency has designated a risk management contact person who will work with the Risk Management Division to implement the process in the agency.

- A. **REPORTING INCIDENTS AND ACCIDENTS:** Promptly reporting potential liability arising from someone having or claiming to have been injured or to have had damage to their property is critical. Late or inaccurate reporting could jeopardize the defense of a claim or lawsuit. When an incident occurs use the following guidelines:

- 1) **Non-Vehicle Incidents or Accidents (Work injuries)**

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. 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. These 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. A copy of an incident report filed online will be electronically provided to the contact person for the agency's records. See Chapter 4 – Reporting Work Injuries for more detailed information.

- 2) **Vehicle Accidents - In the event of an accident:**

- a. Call the Highway Patrol or local law enforcement using 9-1-1. All accidents involving personal injury, death, or extensive property damage must also 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 may 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. The reports must include the department location code.

Incidents involving serious bodily injury, death, or serious property damage covered under the Risk Management Fund must be reported immediately by telephone to State Radio as well as to the Risk Management Division. All other events should be reported within 24 hours of their occurrence.

- B. **REPORTING ONLINE:** When an accident or incident covered under the Risk Management Fund occurs, follow the steps listed below to file a report online at:



- 1) **Work Injuries or Incidents:**

- a. This form is used to report incidents involving alleged injuries (to non-employees and employees) OR property damage of any type which occurred at any location/building/property owned or managed by the State or that involved actions by State employee(s) that caused the alleged injury or property damage. *Use this form to make the first report of an employee's injuries to Risk Management Workers Compensation.*
- b. Report serious injury or damage accidents immediately by phone to Risk Management and follow-up by filing Incident Report Form SFN 50508 online.
- c. Report all other incidents or accidents within 24 hours to:
 - i. Agency Risk Management Contact
 - ii. State Risk Manager
- d. File Incident Report Form SFN 50508 online
- e. A copy of an incident report filed online (either by the agency's designated risk management contact or another employee of the agency) will be electronically provided to the contact person for the agency's records.

2) **Medical Services Incidents:**

- a. This form is used to report incidents involving any medical treatment or services provided by State employees or any injury to a third party at a State owned or managed medical facility. This form is not for reporting vehicle accidents or employee injuries (worker's compensation).

3) **Vehicle Accidents:**

- a. This form is used to report incidents involving any type of vehicle owned or driven by the State or State employees (including permitted drivers) and causing injuries to individuals or damage to property that is not owned/managed or leased by the State.
- b. Report serious injury or damage accidents to state radio and Risk Management and follow-up by filing Motor Vehicle Accident Report Form SFN 51301 online.
- c. Report all other vehicle accidents within 24 hours to:
 - i. Highway Patrol or local law enforcement

- ii. State Fleet Services
- iii. File Motor Vehicle Accident Report Form SFN 51301 online

A copy of an incident report filed online (either by the agency's designated risk management or another employee of the agency) will be electronically provided to the contact person for the agency's records.

C. **REQUEST FOR INFORMATION:** When someone requests any type of information concerning an incident for which a report has been filed or about a claim or potential claim:

- 1) Tell the member of the public that they should contact Risk Management concerning their request.
- 2) Notify the Risk Management Division that the information has been requested.

D. **REPORT LAWSUITS:** A state employee served with any legal documents asserting a claim against the employee related to his or her state employment should immediately contact the Risk Management Division, the Attorney General's Office, and his or her agency head, forwarding to each a copy of all documents received. Prompt action is necessary because attorneys have a limited time in which to prepare and file an answer on the employee's behalf.

E. **MAKING STATEMENTS:** Following an accident or incident that result in a claim, the involved State employee may be contacted by a number of people seeking information. The employee should give statements only to the Risk Management Division, law enforcement authorities, adjusters hired by the State, and attorneys for the State. If the employee is not sure whom to talk to, he or she should contact Risk Management before making a statement or discussing the case with anyone.

3.9 COMPUTER USAGE

The DOCR computer usage policy addresses employee assignment and usage of computers. This policy outlines the DOCR procedures covering hardware, software, workstation settings, operational issues and e-mail. New employees will be asked to review and sign a Personal Computer and Mainframe Computer Agreement regarding the usage of assigned workstation computers.

3.10 TRAINING/DEVELOPMENT

The DOCR's goal is to provide employees who are interested in continuing their education or improving their technical skills with an incentive. Training is the planned development of an employee's skills and knowledge within the

workplace. Funds may be made available through your Staff Development and Training Program to provide reimbursement for approved courses or training taken and successfully completed. Funding for continuing education of employees is subject to budget constraints and the availability of appropriations. All courses and training must have the prior approval of the supervisor and the DOCR Training Committee or designee. If the employee is pursuing a degree program, they must present a degree plan, which identifies the courses to be taken prior to any approval for reimbursement. For further information, please refer to the Training and Staff Development Continuing Education Policy for details on eligibility and reimbursement procedures.

3.11 REIMBURSEMENT FOR MEALS/LODGING

An employee may claim expenses for meals and lodging while away from their normal working and living residence. If a meal is included in a registration fee, the applicable quarter allowance cannot be claimed for the meal. More information on this is available in the Office of Management and Budget (OMB) Fiscal and Administrative Policy Manual available on the OMB website.

Verification of claims by receipt is not required for 1-3 quarters, but is required for lodging. The division the employee is hired within must approve authorization for this expense and all claims for reimbursement must be made to and approved by the business staff within the respective divisions. Reimbursements for meals that do not require overnight stay do not meet the business connection requirements and will be included in employee's gross income and subject to withholdings and must be reported on the W2. Out-of-state meals must follow the federal GSA rates that depend upon locality, and are equal to the per diem meals rate in the city for which a claim is made on that day as established by rule for federal employees by the United States general services administration. The meal rate must be allocated twenty percent (20%) to the first quarter, thirty percent (30%) to the second quarter, and fifty percent (50%) to the third quarter. Please contact DOCR business personnel for more information.
<http://www.nd.gov/fiscal/docs/fiscaladmin2013.pdf>

3.12 PUBLIC ACCESS TO PERSONNEL FILES

Generally, inquiries for employment reference verification should have a written release signed by the employee prior to release of any information other than dates and title.

For inquiries for reasons other than the aforementioned there should be a written request to include names of employee files to be reviewed. An appointment will be set up with human resources division staff to review the employee file. The human resources staff will inform the employee (if currently employed) of the review and they may request to be present at the review. The Department may charge \$0.25 per copy for requested pages. The human resources division will maintain a record of access to employee files.

3.13 HARASSMENT POLICY

DOCR prohibits harassment on the basis of race, color, religion, age, gender, disability or any other protected characteristic. Conduct that unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment constitutes unlawful harassment. Unlawful harassment can be verbal, non-verbal, or physical conduct or communication that shows hostility or aversion towards an individual because of race, color, religion, sex, age, national origin, disability or other protected status.

Sexual harassment is a form of sex discrimination and is prohibited by Title VII of the Civil Rights Act of 1964 and the North Dakota Human Rights Act of 1983. It is the policy of the state of North Dakota that sexual harassment is unacceptable conduct in the workplace and will not be tolerated. The state adheres to the philosophy that employees have the right to work in an environment free from sexual harassment and that individuals making application for employment with the state of North Dakota must be allowed to do so in an environment free from sexual harassment.

Sexual harassment includes unwelcome sexual conduct when:

- A. Submission to that conduct or communication is made a term or condition of employment, either explicitly or implicitly; or
- B. Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment; or
- C. That conduct or communication has the purpose or effect of substantially interfering with an individual's employment or work performance, or creates an intimidating, hostile, or offensive working environment.

Sexual harassment is a prohibited personnel practice. Complaints should be immediately reported to the supervisor or the division or department designated human resource staff who will initiate appropriate action. Complaints will be investigated in a timely manner, and action will be taken to end any existing sexual harassment.

Any employee who engages in conduct determined to be sexual harassment, either as a result of investigation by the agency or as a result of an appeal hearing through the Human Resource Management Services, will be subject to disciplinary action administered by the division director or designee, up to and including discharge from employment.

Retaliatory action against an employee who files a sexual harassment complaint is prohibited. Any person who engages in retaliatory action will be subject to disciplinary action, up to and including discharge from employment.

3.14 DRUG FREE WORKPLACE

The Department of Corrections and Rehabilitation follows Public Law 100-690, Title V, Subtitle D, Drug Free Workplace Act of 1988.

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. The federal government in 1988 enacted Public Law 100-690, the Anti-Drug Abuse Act. Title V, Subtitle D, the Drug-Free Workplace Act of 1988, is part of the overall act, which requires state agencies that 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 state of North Dakota that the unlawful manufacture, 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.

- A. The State of North Dakota 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.
- B. The term "controlled substance" means any drug listed in 32 U.S.C. 812 and other federal regulations. Generally, these are drugs, which 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 not prescribed by a licensed physician.
- C. Each employee is required to inform the division's appointing authority within five 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.
- D. The division's appointing authority must notify the U.S. government agency with which the grant was made within ten days after receiving notice from the employee or otherwise receives actual notice of such a conviction.
- E. 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.

- F. As a condition of further employment on any federal government grant, all employees are required to abide by this policy. All employees will be required to read and sign the "Drug-Free Workplace Acknowledgment". This form will be retained in the personnel file.
- G. Other departmental or divisional rules may require the employee to report arrests or convictions for violation of any federal or state criminal drug statute.

3.15 CONFLICT OF INTEREST

As a state employee, you can:

- A. Run for public office if your salary is not paid completely with Federal funds. (Hatch Act- Modernization Act of 2012).
- A. Hold a second job, with approval from the division director or warden. All employees of the DOCR have primary employment responsibility to the DOCR. Other employment outside of the DOCR is considered secondary employment. Secondary employment prohibited by statute or that presents a conflict of interest, or the appearance thereof, with duties performed for the DOCR as the primary employer will be denied. A DOCR employee must inform the respective division director or warden of the secondary employment, prior to beginning the secondary employment or immediately upon hire.
- B. The division director or warden shall approve or deny the request for secondary employment, in writing, within a reasonable time. The decision shall be placed in the employee's personnel file.

You cannot:

- A. Hold a position for public office if you are a state employee and your state position is paid completely by federal funds or federal grants. (Hatch Act-- Modernization Act of 2012.)
- B. Receive pay of any kind for services rendered while acting as an employee of the State.
- C. Have an interest in a public contract entered into by yourself or your office.
- D. Run for political office having potential conflict of interest problems.
- E. Engage in political activities while on duty or in uniform.

If you are a State employee whose position is financed in whole or in part by federal funds, you may:

- A. Express your opinions on political subjects and candidates.
- B. Engage in political management and campaigns.
- C. Be a candidate for political party office.

However, you may not:

- A. Use your authority or influence to interfere with or affect the result of an election or nomination for office.
- B. Force an employee to contribute to a party or candidate.
- C. Be a candidate for a public elective office in a partisan election.

The North Dakota Department of Corrections and Rehabilitation recognizes that employees, in their individual capacity, may participate in the political process by supporting political parties, candidates, or causes. The DOCR is prohibited from directly or indirectly participating in any political campaign and or political referendum of, support for, or opposition to, any candidate and their campaign activity or any referendum. Employees of the DOCR while on duty shall not contribute anything of value, including the employee's time, to political campaigns or referendums. While on duty the employee shall not publish or distribute material in support of or opposition to any candidate or referendum. Activity devoted to any of these political activities must be outside of the employees working hours or an employee must be on annual leave. (N.D.C.C. § 16.1-10-02)

The designated division human resource staff can provide further information on funding of positions and additional division procedures, should you need this information.

3.16 NEPOTISM

As defined in N.D.C.C. § 44-04-09 "A state official or state employee, in the exercise of the official's or employee's duties, may not serve in a supervisory capacity over, or enter a personal service contract with, that official's or employee's parent by birth or adoption, spouse, son, daughter by birth or adoption, stepchild, brother or sister by whole or half blood or by adoption, brother-in-law or sister-in-law, or son-in-law or daughter-in-law. As used in this section "supervisory capacity" means the authority to appoint, employ, hire, assign, transfer, promote, evaluate, reward, discipline, demote or terminate. As used in this section "evaluate" does not include evaluation by peers or subordinates. This section does not apply to an employment relationship or contract entered before August 1, 1999; nor any employment relationship or contract entered before the state official or employee assumed the supervisory capacity; nor any temporary work arrangement to meet a critical and urgent agency need."

3.17 REDUCTION IN FORCE

In the Department of Corrections and Rehabilitation a reduction in force means loss of employment due to reduction in appropriations, lack of funds, lack of work, curtailment of work, or reorganization. The division directors (appointing authorities) will determine the number of positions to be reduced and the classifications affected.

The order of separation from employment within a specific job classification in the same division and division location due to a RIF shall be in the following sequence:

- A. All vacant positions within the classification.
- B. Temporary employees.
- C. Probationary employees.
- D. Non-probationary employees.

Non-probationary employees in classified positions who have satisfactorily completed their probationary period and are in a job classification in the same division and division location to be reduced will then be RIF'd use the following factors.

- A. An analysis of the acquired knowledge, demonstrated skills, and versatility of the employees compared to the work to be done and the available funding. Employees lacking the necessary skills and versatility should be considered for RIF.
- B. An analysis of the level of demonstrated work performance. Employees with performance evaluations having consistently low level of performance should be considered for reduction.
- C. A review of the length of service of employees. The employer should list the number of years and months employees have been in classified service. Employees with fewest years of service should be considered for reduction.
- D. An analysis of the extent of required training needed to train a reassigned employee to full productivity in a different position. Employees requiring substantial retraining should be considered for reduction.

An appeal of a reduction-in-force may be made only on the basis that the above listed factors were not followed or the reduction-in-force was conducted in a discriminatory manner that would violate the state's policy against discrimination as cited in N.D.C.C. § 14-02.4-01.

Employees in classified positions who have satisfactorily completed their probationary status and are affected by a reduction in force action generally shall be notified in writing with a minimum of 30 days notice.

An employee who has lost employment due to a RIF shall be offered re-employment by the former employing agency if all of the following conditions are present.

- A. A regular position vacancy, in the same classification or lower classification in the same series, occurs in the former employing agency, and the appointing authority decides to fill the vacancy by appointing someone other than a current employee.
- B. The individual meets the qualifications determined to be necessary for successful performance of the position by the agency and successfully completes any examination specified by the agency, including an oral interview.
- C. No more than one year has elapsed since the individual lost employment due to the RIF.
- 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 shall for one year from the date of the reduction-in-force be considered an internal applicant for all positions within the former employing agency for which that individual applies pursuant to policies and practices established by that agency. If the offer is rejected, the employee's name shall be removed from the recall list. If the RIF'd employee rejects an offer of recall and later desires employment with the department, the employee must apply and compete as do other applicants. An employee who accepts a regular position in state service is no longer eligible for recall.

For purposes of this policy, a RIF'd employee who is rehired within two years of the RIF will be credited for previous years of continuous service for the purpose of determining the employee's annual leave accrual rate.

3.18 LEAVING EMPLOYMENT

An employee who resigns or is discharged from their position will be required to return all issued items as designated by the division. This could include clothing, ID card, handbooks, key tags, keys, and other work related materials. The DOCR will accept resignations of employees at any time. Employees are encouraged to consider informing supervisors of their plans or intent to resign as early as possible to facilitate orderly replacement planning and training. Employees resigning should submit a written letter of resignation to their supervisor a minimum of two weeks in advance of the final day of employment. The division director has the authority to modify the resignation date in an effort

to manage budget dollars. Resignation dates incorporating annual leave will be evaluated, but the division director has the right to approve or disapprove such requests.

Employees should contact their designated division human resource or payroll staff to insure that all necessary forms are completed for insurance and retirement benefits.

3.19 WORK RULES

The North Dakota Department of Corrections and Rehabilitation endeavors to provide fair and equitable work rules to assure an effective, efficient working environment. The primary responsibility for communication and administering work rules lies with the supervisors. The DOCR employees should always exercise good judgment in the activities they engage in and conduct themselves appropriately. Even while off duty an employee should remember that as an employee of a correctional agency, the employee's activities may reflect upon the DOCR and may affect their ability to do the job.

Following is a listing of general work rules for all divisions within DOCR. The work rules and corrective actions indicated below are not intended to be an all-inclusive list. Therefore, other acts, which violate the normal operating procedures for the divisions, could result in disciplinary action. The divisions within the DOCR, because of the diversity of work performed, may have additional work rules and/or corrective actions. The divisions will inform employees of these rules. Prohibited actions include, but are not limited to:

- A. Lateness to work
- B. Being absent from work without proper notification.
- C. Consuming alcohol on duty, during breaks; or being under the influence, as determined by a supervisor, when reporting to regularly scheduled work.
- D. Manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol at the work site. While on duty employees may not consume a controlled substance at any time unless the consumption is pursuant to a valid prescription for medical reasons. Employees shall use prescribed medication in a manner that is directed by the prescribing physician. (DOCR Policy 3A-14 Drug Free Workplace and Tobacco Use Policy)
- E. Abuse of sick leave as determined by supervisor.
- F. Falsifying reasons for absence from work.
- G. Insubordination (refusal to carry out reasonable directions of supervisors, gross disrespect, and other related actions.)

- H. Theft of property: State, employee, clientele, or other theft on State grounds.
- I. Willful destruction or abuse of State property or property of staff.
- J. Violating an established safety rule or safety practice (i.e., smoking in State buildings).
- K. Endangering the safety of or causing injury to personnel, clientele through carelessness or failure to follow instructions.
- L. Falsifying official department information such as forms, documents, investigation reports, records, and any other proper proceeding.
- M. Unauthorized dissemination of official information.
- N. Disclosure of confidential information to unauthorized persons.
- O. Harassment as defined in Chapter/Section 3.13.
- P. Failure or delay in carrying out orders, work assignments or instruction of supervisors, verbal or written.
- Q. Engaging in any conduct that violates local, state, or federal law, or applicable standards of conduct.
- R. Failure to report to the appointing authority (divisional) any significant changes in personal affairs which materially alter information on employment or applications such as arrests, court appearances, and other affairs which might in some way affect employment status. (Reporting the significant change in personal affairs to the appointing authority must occur within one hour of reporting to work on the scheduled work shift following the personal affairs incident).
- S. Abusive or threatening language, abusive behavior to any supervisor, employee, member of the public, or adult or juvenile offender.
- T. Vulgar or profane language to any supervisor, employee, member of the public, or adult or juvenile offender.
- U. Violations of the DOCR Value Statement or Code of Ethics.
- V. Sleeping on duty or putting one's self in a posture or state in which you appear to be sleeping is prohibited.

3.20 CONFIDENTIALITY

Employees, consultants, contract agencies, and volunteers who work with adult and juvenile offenders shall comply with the divisional policies on confidentiality.

Each division will be responsible to develop/maintain policies, and to insure that the aforementioned personnel are informed with respect to such confidentiality policies.

3.21 DOCR RESIGNATION INCENTIVES PLAN

Pursuant to N.D.C.C. § 54-14-04.3 The Department of Corrections and Rehabilitation may offer employees “severance” pay and voluntary early retirement incentives. The general purpose of providing these is to increase departmental efficiencies or to reduce or at a minimum neutralize expenses. Pursuant to N.D.C.C. § 54-52-27 the DOCR may offer Purchase of Service Credit. All actions must be used within the limits of available funds. All actions must be authorized by the division director and approved by the Director of the Department of Corrections and Rehabilitation or their designee.

3.22 AMERICANS WITH DISABILITIES ACT

The policy of the DOCR is to ensure compliance with the Americans with Disabilities Act and provide reasonable accommodation to known physical and mental limitations of a qualified applicant or employee with a disability. A qualified individual, as defined by the ADA, is an individual who, with or without accommodation, can perform the essential functions of the position that the individual holds or desires.

Managers shall identify essential functions/physical/ mental demands of a position. The director of DOCR has the final decision whether a request for an accommodation poses an undue hardship and for approving an accommodation agreement with financial impact to the DOCR.

Informal Discussion to Identify Reasonable Accommodation

If an applicant requests an accommodation to participate in the application and/or interview process, the hiring manager or human resources shall discuss with the applicant an appropriate accommodation. The hiring manager and human resources will determine the feasibility of the requested accommodation and provide an effective accommodation that would not be an undue hardship.

If a qualified DOCR employee with a disability identifies the need for an accommodation that is obvious, the supervisor shall make a reasonable attempt to provide an accommodation that will give the employee an equally effective opportunity to perform the job’s essential functions and enjoy equal benefits and privileges. The employee often is in the best position to suggest an appropriate accommodation, since the employee is generally most familiar with his or her own disability, the limitations it presents, and the best way to adjust the job and/or environment. When an appropriate accommodation is needed, the supervisor and individual should engage in what the EEOC calls an “informal interactive process” to determine what would be a reasonable accommodation. This process involves talking to the employee with the disability about the person’s particular abilities and limitations as they pertain to a job’s essential functions or the privilege or benefit at issue. The informal discussion should

identify the barriers to performance or participation in the benefit or privilege and should include discussion regarding how an accommodation might overcome these barriers. The employee with a disability should be encouraged to not only discuss the limitations involved, but also discuss the employee's own recommendations for accommodations.

Supervisors shall make a record of the following points arising from informal discussions with an employee regarding informal proposed accommodations:

- A. The employee's explanation of the work limitations that the employee believes exist because of the disability;
- B. The accommodations suggested by the employee; and
- C. The supervisor's agreement to provide such accommodations, if the informal discussions result in a tentative agreement about the reasonable accommodation provided. Before agreeing to an accommodation, the supervisor should consult with the warden or division director and human resources to ensure the accommodation will not pose an undue hardship for the division, facility, or DOCR.

Formal Steps to Identify Reasonable Accommodations

If the need for accommodation is not obvious or informal discussions between the supervisor and employee do not result in a resolution or the proposed accommodation seems significantly difficult, unduly costly, extensive, substantial or disruptive, or will fundamentally alter the business of the division or facility, a more formal analysis is required. The supervisor shall contact DOCR human resources. DOCR human resources are responsible coordinating the following four step approach.

- A. **Gathering Information:** The supervisor or human resources will provide the employee with the Reasonable Accommodation Request form. This form is to be returned to DOCR human resources.
- B. Human resources may provide the DOCR Reasonable Accommodation Health Care Provider Request form. The employee will give this form to his/her health care provider and return the completed form to human resources.
- C. **Identifying Accommodation Options:** In accordance with the employee and human resources, the supervisor will determine what reasonable accommodations are available. In consultation with the employee, the supervisor and human resources will consider the effectiveness of those identified possible accommodations. If several effective accommodations would provide equal employment opportunity, the supervisor will consider the individual's preference and select an accommodation that is most appropriate for both the division or facility and the employee. The supervisor may choose among the effective accommodations and pick one that is easier to provide or is less expensive. The employee need not

accept an accommodation that the employee has not requested and does not believe is necessary.

- D. **Choosing and Accommodation:** The supervisor and human resources, in consultation with the warden or division director, will determine whether the available accommodation is reasonable and not likely to result in an undue hardship.

In determining the appropriateness of an accommodation and whether the accommodation would result in an undue hardship, the DOCR will take the following considerations in good faith:

- 1) The net cost of the accommodation, taking into consideration the availability of funding.
- 2) The overall nature of the DOCR's operations with respect to the number of employees; the number, location and type of services; and the financial resources available.
- 3) The impact of the accommodation on DOCR operations or the employing division or facility, including its impact on other employees' ability to perform their duties and the DOCR's ability to continue safe and efficient operations.

Determinations regarding whether an accommodation constitutes an undue hardship will be made on a case-by-case basis. If the DOCR Director, Director of Administration, or designee determines that the cost of an accommodation is prohibitive, it will evaluate whether other public or charitable support is available. The employee may also be consulted concerning bearing part of the cost if the DOCR determines that the accommodation would be an undue hardship.

- A. **Implementing and Monitoring the Accommodation:** The supervisor will, in concert with the employee and human resources, determine whether the accommodations, once adopted, are working in practice. Progress should be closely monitored by the supervisor. The supervisor will document whether the accommodations are working. The situation will be evaluated until both the employee and the supervisor are comfortable with the results.

If the rejection of a proposed accommodation renders the employee unable to perform a job's essential functions and no other reasonable accommodation exists, then the person may no longer qualify for the position. The supervisor and warden or division director must discuss this situation with human resources before implementing any employer action.

CHAPTER 4: ACCIDENT/INCIDENT PROCEDURES

4.1 REPORTING WORK INJURIES

An employee who is involved in a work injury while on the job is required to take steps to immediately notify the employer orally or in writing that the work injury occurred and the general nature of the injury, if apparent. Absent good cause, the employee must give the notice within 24 hours of the date that the work injury occurred or the general nature of the injury became apparent. The notice must be given to the immediate supervisor or another supervisor authorized to receive the notice, preferably by the end of the workday. The employee and the supervisor will complete the Risk Management Fund Incident report form. The incident report serves as a record of notification to the employer pursuant to N.D.C.C. § 65-05-01.3 in the event the employee should require medical treatment at a future date. If the employee fails to notify the employer, Workforce Safety Insurance may consider that failure to notify in determining whether the claim will be accepted. If online written notice is not given to Risk Management and Workforce Safety and Insurance within 24 hours of when the incident occurred, it may jeopardize insurance discounts offered by Risk Management for the DOCR.

All State agencies and facilities are required to notify its employees of its Designated Medical Provider choice. Employees have the option of selecting a different provider but must make that selection known to the employer before they seek treatment for a workplace injury.

When the work related injury requires medical attention, the employee is required to seek treatment from the division's designated medical provider unless the employee has designated a separate Designated Medical Provider, in writing, prior to the injury. Contact the divisional safety or payroll staff for more detailed information about these requirements, and to obtain the First Report of Injury form along with information on how to complete the form.

Risk Management requires that the employer file a first report of injury with Workforce Safety and Insurance within 24 hours from the date the employer received notice of the injury from the employee or within 24 hours of receiving medical treatment. Failure of the employer to file a first report of injury is an admission by the employer that the alleged injury may be compensable and may affect how Workforce Safety and Insurance makes a determination. If an employee suffers an injury that is traumatic and will result in hospitalization, or temporary total disability, the supervisor or contact person must immediately file a First Report of Injury form to report and initiate medical management of the claim. In addition, Risk Management must be notified by phone.

If Workforce Safety and Insurance has not received a claim for compensation, but Workforce Safety and Insurance has received the notice of an employer's first report of injury, Workforce Safety and Insurance shall notify the employee

that the employer's first report has been received and will advise the employee of the claim filing requirements of N.D.C.C. § 65-5-01.

All employee requests to file Workforce Safety and Insurance claims should be accompanied by a signed incident report form completed by the employee's supervisor and other designated safety staff. Prior to authorizing a claim, the division payroll or business staff responsible for processing claims may request further information to verify the work injury.

4.2 WORKFORCE SAFETY AND INSURANCE

If an employee is receiving Workforce Safety and Insurance benefits, the employee may elect to use either the employee's accumulated sick leave, annual leave, or leave without pay during the period the employee is not able to work.

An employee receiving Workforce Safety and Insurance benefits who has either utilized all leave benefits, or who has elected not to use accrued leave benefits, must be placed in a leave without pay status for the remainder of the period that the employee is unable to work. An employee may remain in a leave without pay status for a time period not to exceed two years.

An employee who elects to use leave while receiving Workforce Safety and Insurance benefits must be paid by the employer an amount equal to the difference between the employee's regular base salary and the amount the employee receives from Workforce Safety and Insurance while on leave. An employee's leave account must then be charged with the number of hours that corresponds to the percentage of salary paid by the agency. If the employee is using their paid leave, they must submit a copy of the statement and check stub, received from WSI, to the payroll office so the proper payroll adjustments can be made.

For each Workforce Safety and Insurance injury that results in a "serious health condition", the employer may designate the leave as FMLA and promptly notify the injured employee. Refer to Family and Medical Leave in Section 2 of the Employee Handbook.

4.3 TRANSITIONAL DUTY PROGRAM

The Transitional Duty (return-to-work) Program is designed for employees who are able to continue working during the course of their recovery from an occupational injury or disease.

State Policy – The State of North Dakota has established a Transitional Duty Program that will enhance recovery, comply with the Americans with Disabilities Act, help minimize workers compensation costs, and provide a service to employees who are injured or contract an occupational disease in the scope of their employment with the State.

Employees will be placed in transitional duty positions, when feasible, during the course of recovery from an occupational injury or disease that precludes them from performing their normal job tasks. In the event of a permanent disability that prevents an employee from performing the essential functions of their regular position and for which reasonable accommodations cannot be made, every effort will be made to place the employee in an alternative vacant position that they are qualified to perform and that matches their physical limitations.

N.D.C.C. § 65-05-08(7) provides that if an employee refuses to return to work if the transitional duty does not work out for reasons not related to their medical condition (attendance, cooperation, etc.) the employee's compensation payments may be discontinued. Refer to Section 9 of the Risk Management manual available on the Risk Management website.

CHAPTER 5: GROUP BENEFIT PROGRAMS

5.1 BENEFITS

All group benefit programs are administered by the North Dakota Public Employees Retirement System (NDPERS). Additional information about each of the benefit plans can be obtained from the NDPERS website (<https://ndpers.nd.gov/active-members/>). To enroll in any of the benefits below, employees should go to the Member Self Service portal (<https://ndpers.nd.gov/login>) on the NDPERS website and enroll in the programs they wish to participate in. If employees need additional assistance, they may contact the DOCR payroll office or NDPERS office through the website or by calling 701-328-3900 or toll free at 1-800-803-7377.

Enrollment

Initial enrollment period is within 31 days of employment into an eligible position or within 31 days of a qualifying event.

NDPERS conducts an annual enrollment in the fall with coverage effective January 1 or upon approval by the carrier.

Health Insurance

Employees may participate in a health insurance program. 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 their covered dependents may apply for COBRA coverage within sixty days of their separation if eligible for COBRA coverage.

Life Insurance

Employees can participate in a group life insurance plan if they are 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 \$7,000 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. If eligible, participation in retirement is mandatory. The State contributes in the employees' behalf an amount equal to seven and twelve-hundredths percent (7.12%); the employer also contributes four percent (4%) of the employee contribution of seven percent (7%); and one and fourteen hundredths percent (1.14%) for the retiree health credit program. Employees become vested in thirty-six (36) months.

Deferred Compensation

Employees may elect to participate in a supplemental voluntary retirement plan that allows pre-tax deferrals subject to annual federal limits. Employees are eligible to begin, change contribution amounts or stop participation any time of year. The amount of income the employee elects to defer plus any earnings are subject to income tax only when the employee or their beneficiary receive a distribution at the time of death, retirement, disability, or termination of employment.

FlexComp

An employee may pay for eligible insurance payments, medical expenses, and dependent care expenses with pre-tax dollars through payroll deductions.

To continue participation, an employee must make an active election each year to participate in the FlexComp Plan.

The FlexComp Plan year is January 1 through December 31, with a grace period until March 15 of the following year.

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

Dental and Vision Insurance

Employees can participate in a group dental insurance plan for themselves and their dependents if they are eighteen years of age and work twenty hours per week for at least twenty 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 eighteen years of age and work twenty hours per week for twenty 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.

PERSLink MSS

PERSLink Member Self Service (MSS) provides employees with on-line access to benefit information, the ability to complete benefit enrollments and changes, including annual enrollment elections, as well as updating personal profile.

The following tools and features are available through PERSLink MSS:

Personal Profile	<ul style="list-style-type: none"> • View your personal information on record at NDPERS • Update your name and marital status • Update your address, telephone numbers, and email
NDPERS Plans	<ul style="list-style-type: none"> • Displays all the NDPERS benefit plans you are enrolled in or are eligible to enroll in • View Plan Details documents and video • Provides links to the individual plans
Member Account Balance	<ul style="list-style-type: none"> • Provides a direct link to Retirement Plan member account balance details
Benefits Estimates	<ul style="list-style-type: none"> • Request an official retirement benefit estimate from NDPERS • Calculate a benefit estimate on-line • View benefit estimate you performed
Service Credit	<ul style="list-style-type: none"> • Request an official service purchase cost from NDPERS • Calculate a service purchase cost estimate on-line • View any service purchase contracts you have

Employees can complete their benefit plan enrollment(s) using PERSLink Member Self Service (MSS) in three steps: 1) Go to NDPERS website; 2) Set up your ND Login ID; and 3) Log into MSS and see what you can do!

All benefits described in this chapter are subject to changes by the providers.

CHAPTER 6: OTHER BENEFITS/PROCEDURES

6.1 DIRECT DEPOSIT

All state employees are required to use direct deposit for their paychecks.

- A. Employees may NOT have a Direct Deposit distributed directly to a loan payment.
- B. Direct Deposits must be to a regular bank account (checking or savings).
- C. In PeopleSoft, Direct Deposit is distributed the same every time pay is processed. An employee, who receives pay on the advanced payroll along with additional pay on the supplemental payroll, will have the same direct deposit distribution on both.
- D. Employees will not receive a direct deposit stub; however, all employees will be granted access to view their payroll information on the PeopleSoft system.
- E. Direct deposit requests changes must be submitted through DOCR payroll office.
- F. Contact your division payroll staff for an effective date or for more information.

6.2 ACCESS TO BENEFITS PAYROLL INFORMATION

The current payroll system allows all employees access to their personal payroll information through the use of a PeopleSoft portal. Contact your division payroll staff for more information.

6.3 PAYROLL

Employee Payroll

- A. All Department of Corrections and Rehabilitation wardens and division directors are responsible for maintaining appropriate hourly attendance records or timesheets. Timesheets shall include:
 - 1) Daily hours worked
 - 2) Overtime hours worked
 - 3) Compensatory hours earned
 - 4) Hours of sick leave taken (including all types of sick leave)
 - 5) Hours of administrative leave, including temporary employee leave taken

- 6) Hours of annual or compensatory leave taken
 - 7) Leave without pay taken
- B. Each supervisor is required to ensure all PeopleSoft Time and Labor (timesheets) and Absence Management (leave request) records are accurate and submitted by the deadline. Rough Rider Industries supervisors forward time clock attendance records to the human resource representative.
- 1) All FLSA non-exempt employees shall submit timesheets on a weekly basis. The deadline to submit all weekly timesheets and leave for the month is 9:00 AM CST on the first working day of the following month.
 - 2) All supervisors of FLSA non-exempt employees shall approve timesheets on a weekly basis. The deadline to approve all weekly timesheets and leave for the month is 7:00 PM CST on the first working day of the following month.
- C. Time worked must be paid in the next appropriate payroll period.
- D. Rough Rider Industries uses the time clock method for tracking attendance records. Monthly time clock reports are generated by the human resource representative after the last working day of the month. These reports are signed by the employee and the appropriate supervisor and submitted to the human resource representative who reconciles the reports with Absence Management Leave Requests for accuracy.
- E. When staff needs to take leave without pay, the division director or warden, or designee, shall notify the payroll office. The payroll office will monitor the leave available to cover the absence. The division director or warden, or designee, must also notify the payroll office of the employee's return to work, unless otherwise specified. All leave without pay must be submitted on the employee's timesheet, in addition to the payroll office notification.
- F. All payroll reports will be reviewed and signed by the Director of Finance for the respective division.
- G. Before payroll is closed, payroll staff will verify on the payroll system all changes were processed properly and paychecks will be correct.
- H. Each employee is responsible for reviewing her/his monthly paycheck for accuracy. Payroll shall be notified immediately if any over or under payment is suspected.
- I. If payroll errors are found, such as over or under payments, the appropriate corrective action must be taken.

6.4 SERVICE AWARDS

To individually recognize dedicated employees whom complete certain total years of employment with the State, the DOCR has adopted the Service Award Program as outlined in the Administrative Rules of the Human Resource Management Services (subject to change).

- A. **Length of service required for receiving an award:** An employee must have completed three, five, ten, fifteen, twenty, twenty-five, thirty, thirty-five, forty, forty-five, or fifty years of employment with the state in order to receive a service award. An employee who leaves employment with the state and then returns again begins to accumulate time. That time must be added to the employee's previous service and applied to any future service award.
- B. **Service Award Types:** The types of service awards that are given to employees are provided as follows:

Years of Service	Certificate or Plaque	Gift Not To Exceed A Value Of:
3	Yes	\$25.00
5	Yes	\$50.00
10	Yes	\$100.00
15	Yes	\$150.00
20	Yes	\$200.00
25	Yes	\$250.00
30	Yes	\$300.00
35	Yes	\$350.00
40	Yes	\$400.00
45	Yes	\$450.00
50	Yes	\$500.00

Every five-year increment thereafter, a certificate or plaque and a gift, not to exceed a value of five hundred dollars.

Service awards may be delayed if there are documented problems with an employee's performance.

- C. **Retirement awards:** A retirement award shall be provided to an employee who has a minimum of fifteen years of state service, and who has not been previously recognized for a retirement by the state, as follows:

- 1) A retirement certificate signed by the governor and/or a plaque.
- 2) A gift with a value not to exceed two hundred dollars.
- 3) A farewell party may be provided upon agreement of the employee and the agency.

Retirement awards may be withheld if there are documented problems with an employee's performance.

Service/Retirement awards may be taxable and may be subject to IRS regulations.

CHAPTER 7: PERSONNEL GRIEVANCE PROCEDURES

7.1 GENERAL STATEMENT

The following procedures have been implemented as a method through which employees who believe they have a grievance with their supervisor, fellow employees, or other conditions of their employment can have their views aired through administrative channels.

The purpose of the Employee Grievance Procedure is to provide an orderly process for hearing employee grievances and reaching a fair and equitable decision in a timely manner.

The employee and his/her immediate supervisor should make a reasonable effort to resolve any grievance/complaint informally and expeditiously before a written grievance is filed. If such informal efforts do not produce a satisfactory solution, the employee may proceed to the next level of supervision, or the employee may file a written grievance as outlined in the following procedure.

It is the policy of the Department of Corrections and Rehabilitation that every full-time non-probationary classified employee and part-time classified non-probationary employee eligible to file a complaint/grievance, as defined, has the right and responsibility to file and process a grievance as provided in this procedure if the action/inaction may not be corrected informally. Employees shall be free to use the grievance procedure without fear of unlawful discrimination or reprisal. Upon submission of a grievance, reasonable effort shall be made to reach a clear understanding of the exact nature of the grievance, the issues involved and the remedy requested, and to achieve resolution of the matter at the lowest possible step in the grievance procedure.

7.2 EMPLOYEE ELIGIBILITY

The appointing authority determines that the following employees may file a grievance.

- A. Full-time regular employees
- B. Part-time regular employees
- C. Probationary (classified) employees and temporary employees may grieve issues of discrimination in employment because of sex, race, color, national origin, religion, age, disability in employment, or political affiliations.

Group grievances reflecting a similar or common complaint should be accepted and processed as one grievance.

7.3 DEFINITIONS FOR PURPOSES OF THIS POLICY ARE

- A. Grievance: Means any complaint to the appointing authority (except where a separate written complaint procedure exists to cover such areas as classification or pay grade) by an employee involving conditions of work, work relationship, or the interpretation or application of policies, rules, regulations, and/or legislation which have been adopted to cover personnel practices in an agency, department, or institution. A grievance must concern a matter, which is subject to the control of the appointing authority.
- B. Director: Means the Director of the Department of Corrections and Rehabilitation (DOCR).
- C. Division Director: Means the respective director of the Division of Juvenile Services, the director of the Division of Adult Services, the Director of Administration or the Director of Human Resources.
- D. Regular Employee: Means a person who has completed the probationary period and who is in a position classified by Human Resource Management Services.
- E. Probationary Employee: Means an employee who is in a position classified by Human Resource Management Services and is in the final stage of the selection process so that the employee/agency/appointing authority may assess ability to perform a given job. The probationary period is most often six months.
- F. Temporary Employee: Means an employee who is not in a position classified by Human Resource Management Services and whose tenure is generally limited in nature.
- G. Supervisor: Generally means an employee who is responsible for and has the authority to assign the work of others; who hires, fires, schedules and evaluates work; or effectively recommends all or most such actions.
- H. Group Grievance: Means a grievance filed by a group of aggrieved persons reflecting a common complaint. A group grievance will be processed as one.

7.4 NONGRIEVABLE ITEMS

The following is not meant to be an exhaustive list of nongrievable items:

- A. Issues which are pending or have been concluded by direct appeal through the Human Resource Management Services or through other administrative or judicial procedures;

- B. Temporary work assignments;
- C. Relocation of employees, except for forced relocations;
- D. Budget and organizational structure, including the number or assignment of employees in any organizational units;
- E. The manner and method of performing work assignments;
- F. Statutorily provided benefits (i.e., holidays, annual leave, etc.).

7.5 GENERAL PROVISIONS

- A. **Establishment and Approval of Procedure:** the Department of Corrections & Rehabilitation shall establish an employee grievance procedure as called for in 54-44.3-12.2, of the North Dakota Century Code. The procedure shall provide for definite steps in processing grievances with a final agency decision by the appointing authority or department head and shall give due consideration for the organizational structure, size, location, geographic spread, and operations of the department, agency, or institution. The procedure should be designed to allow for fair representation of the interests of the parties involved to completely present their case and for processing of employee grievances as expeditiously as practicable.
- B. **Method of Counting Days:** Time shall generally be counted in working days (Monday through Friday exclusive of holidays).
- C. **Filing Cut-off Date:** Grievances shall be filed in writing and delivered to the appropriate supervisor no more than ten working days after the occurrence upon which the grievance is founded, the employee becomes aware of the problem or the informal efforts have been exhausted. (Informal efforts must be concluded no more than 30 working days after the occurrence upon which the grievance is founded.) Internal grievances of employer actions of forced relocation, reduction in force (limited), discrimination, or reprisal shall follow time limits given in 7.5(l).
- D. **Forfeiture of Grievance Rights:** Failure of the grievant to proceed within the time limit set forth for any step of the procedures shall constitute a waiver of his/her rights to proceed further with the grievance under this procedure unless an extension is granted by the appointing authority or designee. The division director or designee may extend the time limitations for the employee. Requests for extensions must be received and approved prior to the established deadline.
- E. **Management's Obligation to Respond:** Upon failure of the appropriate supervisor to act within the time limits set forth in any step of the procedure (unless there are grounds for the delay), the grievant shall have the option to proceed to the next step in the procedure. The time

limitations for the supervisor may be extended by the division director or designee and the time limitations for the division director and the DOCR director may be extended by the DOCR Director or designee. Requests for extensions must be received and approved prior to the established deadline.

- F. Representation: An employee who is a party to a work related grievance proceeding may be accompanied, advised, and represented throughout the proceeding by another employee or by a representative chosen by the employee involved in the proceeding.
- G. Preparation Time: The grievant shall be allowed reasonable and necessary time during regular work hours without loss of pay or leave credits to make necessary contacts for processing a grievance in accordance with the provisions of this procedure. The appointing authority shall insure that work processes and shifts are sufficiently covered in respective work areas at all times. Normally the time allotted for this purpose will not exceed two (2) hours.
- H. Assistance in Processing: The appointing authority shall make available the necessary resources to assist the employee in filing the grievance.
- I. For internal grievances of employer actions of forced relocation, reduction in force (limited), or discrimination, the employee shall file the grievance in writing and deliver it to the appropriate supervisor within 15 working days from the date of notice of the employer action. The employee grieving reprisal action shall file the grievance in writing and deliver it to the appropriate supervisor within 15 working days from the date of the action.

Failure to begin the procedure within time limitations may cause the employee to lose the right to appeal to the Human Resource Management Services.

A waiver of the agency grievance procedure is allowed by mutual agreement of the employee and appointing authority. The waiver must be signed by both parties within 15 working days of the employer action. Upon obtaining the waiver, the employee may appeal directly to the Human Resource Management Services in accordance with section 4-07-20.1-08 and 4-07-20.2-07.

- J. Pre-Action Hearing Process: Whenever an eligible employee faces discharge, demotion, or suspension without pay, the division will provide the employee a pre-action hearing process. The internal grievance procedure for this process is enumerated in Section 7.7.

7.6 INTERNAL GRIEVANCE STEPS AND TIME PROVISIONS

Step 1. When an employee has a problem or complaint, the employee should first discuss it with their immediate supervisor. If discussion fails to effectively

resolve the problem, the employee may present a written grievance using SFN 18776. The written grievance must be presented to the immediate supervisor within 10 working days after the occurrence upon which the grievance is founded or the informal efforts have been exhausted. (Informal efforts must be concluded no more than 30 working days after the occurrence upon which the grievance is founded). Internal grievances of employer actions of forced relocation, reduction in force (limited), discrimination, or reprisal shall follow time limits given in Section 7.5(l). The supervisor shall investigate as needed and respond in writing to the grievance within five working days of the receipt of the written grievance from the employee.

Step 2. If dissatisfied with the response or action taken by the immediate supervisor, the employee may continue the grievance by presenting the written grievance to the respective division director, Warden, Director of the Youth Correctional Center, or designee within five working days from receipt of the supervisor's response. The division director, Warden, Director of the Youth Correctional Center, or designee shall investigate the grievance as needed and respond in writing to the grievance within 10 working days of the receipt of the grievance. If the division director, Warden, or Director of the Youth Correctional Center is also the immediate supervisor, staff under the Division of Juvenile Services will have their grievances reviewed by the Director of Juvenile Services or a designee; and the staff under the Division of Adult Services will have their grievances reviewed by the Director of Human Resources or a designee; and the staff of the Central Office will have their grievances reviewed by the respective Director of Administration or Human Resources or a designee. Staff who report directly to the Director of the Division of Juvenile Services, Adult Services, Administration or Human Resources may have their grievances reviewed by an individual designated by the DOCR Director.

Internal grievance procedures of demotion, suspension without pay, or dismissal are described in Section 7.7. Upon conclusion of the department's internal grievance process, if the aggrieved party is not satisfied with the decision, regular employees (in a classified position and who have satisfactorily completed their probationary periods) may appeal to the Human Resource Management Services to consider issues relating to: demotion, suspension without pay, dismissal, discrimination, reduction-in-force (limited), forced relocation, reprisal actions. Time frames for appeals to the Human Resource Management Services are covered in Section 7.7 (Appeals to Human Resource Management Services). Employees should use SFN 3096 (available from Human Resource Management Services) when appealing to the Human Resource Management Services.

7.7 PRE-ACTION HEARING PROCESS

Whenever a full or part-time regular employee, of any division of the North Dakota Department of Corrections and Rehabilitation, whose position is classified and who has satisfactorily completed the probationary period, faces possible discharge, demotion, or suspension without pay, the division will provide the employee with a pre-action hearing. All divisions within the North

Dakota Department of Corrections and Rehabilitation will use a paper review process for this hearing. The following steps will be followed:

Pre-Action Procedure

- A. The employee will receive a written notice of the intent to take action from the division director or their designee; a statement of the specific charges against the employee, citing the employee's behavior, dates, and/or occurrences, witnesses and other evidence against the employee; and a statement of specific policies violated or a statement citing what employer expectation was violated, and how the employee knew of the employer's expectation.
- B. The employee will be given a minimum of five working days to respond in writing to any of the information and evidence presented and will be informed of their status in the interim. A date for the response will be included.
- C. The written notice will include a notice that the employee will be informed of the decision in writing.
- D. The division director or their designee will review the written response presented and make a decision whether the proposed action is necessary.
- E. There will be a one-step internal grievance procedure for the internal grievance of employer actions of discharge, demotion or suspension without pay.

Appeals to the Director

- A. The employee must initiate the internal grievance procedure within 15 working days from the date of the employer action. The divisions within the Department will specify the contact person for information regarding how to start the process.
- B. All divisions of the North Dakota Department of Corrections and Rehabilitation will use the Department of Corrections and Rehabilitation Internal Grievance Resolution form SFN 18776.
- C. The employee will be informed where within the division to obtain the form. Using this form, the employee will complete Parts I, II and IV and forward as directed below.
- D. In this one step internal grievance process, the Director of the Department of Corrections and Rehabilitation will review only the issues that were presented by the employee and the employer during the pre-action hearing process.
- E. The employee may request that the Director of Corrections and Rehabilitation review the division director or designee's decision by using step VI. The completed form must be received by the Director,

Department of Corrections and Rehabilitation, P.O. Box 1898, Bismarck, ND 58502-1898 within 15 working days from the date of notice of the employer action. Failure to begin the procedure within the time limitations may cause the employee to lose the right to appeal to Human Resource Management Services. The Director will be provided with any information provided by the employee and employer as part of the pre-action process. The Director or a designee will review the documents and notify the employee of a decision in writing within 15 working days.

Appeals to Human Resource Management Services

- A. If the employee is dissatisfied with the Director's decision, the employee may appeal to the Human Resource Management Services. Appeal form SFN 3096 must be received in the Human Resource Management Services office by 5:00 PM within 15 working days of service of notice of the results of the internal grievance procedure. The date of service of notice shall be considered to be the date notice was mailed (certified) or the actual date the notice was given to the employee. The Director of Human Resource Management Services shall, within two days, submit a written request to the Director of the Office of Administrative Hearings, to conduct a hearing on behalf of the division and shall forward a copy of the appeal form to the appointing authority.
- B. If the employee has been subject to a discharge, demotion, or a suspension without pay, he or she may request to waive the internal grievance procedure and appeal the action directly through the Human Resource Management Services. To do so, they must complete SFN 18776, Parts I, II, III. Both the employee and the appointing authority must sign a written agreement to waive the internal grievance procedure within 15 working days from the date of the employer action. An additional 15 working days is not available if the requested waiver is denied. Therefore, an employee should act early to allow for a possible waiver denial and still allow time to initiate the internal grievance process within 15 working days of the appealable employer action. If the waiver is approved, an appeal may then be made to the Human Resource Management Services. Appeal form SFN 3096 (available from Human Resource Management Services) must be received in the Human Resource Management Services office by 5:00 PM within 15 working days from the date of the waiver.
- C. For more information on the location of forms, timeframes or the process, employees should contact their designated division human resource staff.

7.8 ALTERNATIVE DISPUTE RESOLUTION

Mediation is a method of alternative dispute resolution, which enables people in conflict to reach a mutually agreeable solution to their problem with the assistance of a neutral third party called a mediator.

- A. The Human Resource Management Services is making this service

available to help agencies and employees resolve a variety of disputes. The parties in the dispute may contact their designated division human resource staff for more information on this process. Both parties (employee and employer) must agree to the mediation prior to starting the process. If the parties agree to mediate, the mediator will coordinate with the parties to establish a convenient time and place for mediation.

- B. During the time period when employees involved in a dispute are utilizing alternative dispute resolution, the time limits of the internal grievance procedure must be suspended. If a resolution is not agreed to by the participants at the conclusion of the mediation process, the time limits of the DOCR grievance procedure must be activated. The mediator shall determine the date of conclusion of the mediation process and notify the parties.