

CHAPTER 4-07-11 REDUCTION-IN-FORCE

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4-07-11-01. Scope of chapter. This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective May 1, 1994; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

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

4-07-11-02. Definitions. The terms throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3, except "reduction-in-force" means the loss of employment by an employee as a result of a reduction in funding, lack of work, curtailment of work, or reorganization.

History: Effective May 1, 1994; amended effective November 1, 1996.

General Authority: NDCC 54-44.3-12

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

4-07-11-03. Reduction-in-force. An appointing authority, after giving written notice to a classified employee, may cause an employee to lose his or her employment due to a reduction-in-force. Prior to initiating a reduction-in-force, an appointing authority shall carefully conduct a written analysis of the affected employees in the agency or in a division or unit within the agency to determine those employees who will be subject to the reduction-in-force. Affected employees means those employees in the same classification identified to be reduced in force within the agency, division, or unit within the agency. The appointing authority shall consider a comparison of the knowledge, skills, number of years and months an employee has in the classified service, other experience, and level of performance employees have with the knowledge, skills, and experience that the

agency has determined it will need to accomplish the work to be done following the reduction-in-force.

History: Effective May 1, 1994; amended effective November 1, 1996; July 1, 2004.

General Authority: NDCC 54-44.3-12

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

4-07-11-04. Written documentation required. An appointing authority that initiates a reduction-in-force is required to maintain written documentation of the analysis required by section 4-07-11-03.

History: Effective May 1, 1994.

General Authority: NDCC 54-44.3-12

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

4-07-11-05. Emergency, temporary, or probationary employees. An appointing authority may not subject a classified employee who has satisfactorily completed the probationary period to a reduction-in-force while there are emergency, temporary, or probationary employees serving in the same class in the same agency location.

History: Effective May 1, 1994.

General Authority: NDCC 54-44.3-12

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

4-07-11-06. Nondiscriminatory. An appointing authority that initiates a reduction-in-force shall do so only in a nondiscriminatory manner in accordance with North Dakota Century Code section 14-02.4-01. Additionally, an appointing authority may not use a reduction-in-force as a substitute for disciplinary measures.

History: Effective May 1, 1994.

General Authority: NDCC 54-44.3-12

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

4-07-11-07. Reemployment following a reduction-in-force. An individual who has lost employment due to a reduction-in-force shall be offered reemployment by the former employing agency if all of the following conditions are present:

1. 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.
2. 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.

3. No more than one year has elapsed since the individual lost employment due to the reduction-in-force.
4. The individual is not currently employed in a regular position in state service.

History: Effective May 1, 1994; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

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

4-07-11-08. Applicant status following a reduction-in-force. 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.

History: Effective July 1, 2004.

General Authority: NDCC 54-44.3-12

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