

Instructions and Forms for Petition for Waiver of Administrative Appeal Filing Fees/Preparation of Record Costs

(Based on inability to pay.)

For Appeals or Petitions for Review of Administrative Agency decisions to North Dakota State District Court ONLY

IMPORTANT! READ BEFORE USING THIS PACKET

ND Legal Self Help Center staff and court employees can't help you fill out the forms in this packet. If you're unsure how to proceed, consult a lawyer.

To protect your rights, carefully read this information and any instructions to which you are referred.

You may go to court without a lawyer, but you must follow the state or federal laws that apply to your case, the appropriate court rules, including North Dakota Rules of Civil Procedure, North Dakota Rules of Court, North Dakota Administrative Rules and Orders, and any local court rules. Links to the rules and state laws can be found at www.ndcourts.gov.

A glossary with definitions of legal terms is available at www.ndcourts.gov/legal-self-help.

This information isn't a complete statement of the law. This covers basic procedure for asking a North Dakota state district court to waive the filing fee and/or the cost of preparation of the agency record in administrative appeals to a North Dakota state district court of an administrative agency decision. If the forms don't fit your circumstances, consult a lawyer. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. Use at your own risk.

This forms packet can't be used in appeals of an administrative agency decision to the North Dakota Supreme Court.

Important Notices

When a North Dakota Administrative Agency decision is appealed or petitioned for review to a North Dakota state district court, the Appellant/Petitioner may ask the District Court to waive two of the costs associated with the appeal or petition.

The two costs are:

- 1. Filing fees; and**
- 2. Preparation of the record of the administrative agency proceedings.**

The District Court may grant the waivers if the Appellant/Petitioner shows they are unable to pay.

You may use these forms if you are unable to afford the filing fees or the costs of preparing the record of the administrative agency proceedings.

- Every person who appears in court without a lawyer is expected to know and follow the laws, rules, and procedures.
- ND Legal Self Help Center staff and Court staff **can't** help you fill out the form(s) in this packet.
- You **must** fill out all forms included with this packet and you **must** follow the instructions included with this packet.
- You should see a lawyer if you don't know how to answer the questions on these forms or if you think the other party will hire a lawyer.
- Type your answers or hand-write neatly using dark ink. (Hand-written forms must be readable.)

Appeals of administrative agency final decisions to North Dakota state district court are publically accessible case records. Anyone can request to look at the case records in appeals of administrative agency final decisions.

This packet of forms to waive filing fees/transcript fees is filed as a public case record, which means anyone can request to look at the forms you file.

INSTRUCTIONS

STEP 1

FILL OUT PETITION FOR WAIVER OF ADMINISTRATIVE APPEAL FILING FEES/PREPARATION OF RECORD COSTS (*Form 1*)

Fill out the “Petition for Waiver of Administrative Appeal Filing Fees/Preparation of Record Costs” form (FORM 1) included in this packet.

This form asks the District Court to permit you to file your administrative appeal or petition for review without paying the required \$160.00 filing fee.

This form also asks the court to waive the costs of preparing the record of the administrative agency proceedings.

FILLING IN THE TOP PART OF THE FORM (this is known as “the caption”):

1. Write the name of the county where you’ll file your appeal or petition for review. The “Civil No.” (*or case number*) will be assigned by the clerk of court if your documents are accepted for filing.
 - For a map of Judicial Districts, go to www.ndcourts.gov/court-locations. Counties are within the Judicial District.
2. On the line marked “Appellant/Petitioner,” write your name.
 - If you are appealing the administrative agency decision, you are the Appellant.
 - If you are petitioning for review of the administrative agency decision, you are the Petitioner.
3. On the line marked “Appellee(s)/Respondent(s),” write the name(s) of the Appellee(s) or Respondent(s) that you listed on the caption of your Notice of Appeal or Petition for Review.
 - If you are appealing the administrative agency decision, you created a Notice of Appeal document.
 - If you are petitioning for review of the administrative agency decision, you created a Petition for Review.

4. On the Form title, use a checkmark (✓) or checkmarks to indicate if you are requesting the District Court waive filing fees, the costs of preparing the record of the Administrative Agency proceedings, or both.
5. On the first line of Form 1, use a checkmark (✓) to indicate if you are an Appellant or a Petitioner.
6. On the third and fourth lines of Form 1, use a checkmark (✓) or checkmarks to indicate if you are requesting the District Court waive filing fees, the costs of preparing the record of the administrative agency proceedings, or both.
7. On the sixth line of Form 1, use a checkmark (✓) to indicate if you are an Appellant or a Petitioner.
8. On the seventh and eighth lines of Form 1, use a checkmark (✓) or checkmarks to indicate if you are requesting the District Court waive filing fees, the costs of preparing the record of the administrative agency proceedings, or both.

DATE AND SIGN THE COMPLETED FORM 1: PETITION FOR WAIVER OF ADMINISTRATIVE APPEAL FILING FEES/PREPARATION OF RECORD COSTS.

STEP 2

FILL OUT THE FINANCIAL AFFIDAVIT IN SUPPORT OF PETITION FOR WAIVER OF ADMINISTRATIVE APPEAL FILING FEES/PREPARATION OF RECORD COSTS (*Form 2*)

Fill out the “Financial Affidavit in Support of Petition for Waiver of Administrative Appeal Filing Fees/Preparation of Record Costs” form (FORM 2) included in this packet.

This form tells the District Court your financial circumstances, which make it a hardship for you to pay the filing fees/preparation of record costs.

FILLING IN THE TOP PART OF THE FORM (this is known as “the caption”):

Fill in the top part (*caption*) of Form 2 the same way you did on your Petition for Waiver of Filing Fees/Preparation of Record Costs form (FORM 1) in Step 1.

FILLING OUT THE REST OF FORM 2:

You **MUST** answer all of Paragraphs 1-6.

If a line doesn’t apply to you, type or write “0,” for the dollar amount. Otherwise, type or write “N/A”

Paragraph 1:

Fill in your full name in the space provided.

Paragraph 2 – Assets:

In the first table for Paragraph 2, tell the Court the current amounts of:

- Cash you have on hand;
- Money deposited in financial institutions;
- Stocks and bonds; and
- Total amounts of cash, money deposited in financial institutions, and stocks and bonds.

In the second table for Paragraph 2, list all other assets and each asset's approximate value. Total the values of each asset you list. **Attach additional sheets if necessary and indicate that you have done so on the form.**

At the end of Paragraph 2, provide the court with a total of the value of all of your assets listed in the two tables.

Paragraph 3 – Liabilities:

Tell the court about your debts. List each one separately, naming the creditor, the unpaid balance and the monthly payment. **Attach additional sheets if necessary and indicate that you have done so on Form 2.**

On the "Total" line, enter your total unpaid balances and your total monthly payments.

On the "Total Liabilities" line, provide the District Court with the total of your unpaid balances.

Paragraph 4 – Income:

Tell the District Court about your monthly income and your spouse's monthly income. Write an amount for each category, even if the amount is "0."

However, if you don't have a spouse, type or write "N/A" in each line in the "Spouse's Income" row.

You may find the information requested on a pay stub, W-2 form, or your most recent income tax return. List all deductions taken from your paycheck or gross income. If you don't have a deduction for health insurance, for example, place a "0" on that line.

For "Total Deductions," provide the total of all of the deductions.

For "For "Net Income," subtract the "Total Deductions" total from the "Gross Income" total.

At the end of Paragraph 4, tell the court the how often you are paid. Do the same for your spouse if you have one. If you don't have a spouse, type or write "N/A."

Paragraph 5 – Expenses:

Tell the District Court about your monthly expenses, and the expenses of other members of your household.

Write the amount you spend each month for each category provided. If you don't have an expense for a category, type or write a "0" on that line.

On the "Total" line, provide the District Court with a total of your necessary monthly living expenses.

Paragraph 6, Date and Signature:

Read Paragraph 6 carefully!

By signing your name, you are telling the District Court that everything you included in this affidavit is true and correct, and you have a good faith reason for your requests. If you're not telling the truth, or if you're misleading the Court, or if you're filing this affidavit for an improper purpose, the Court could find you in contempt or you may be prosecuted for perjury.

You **MUST** fill in the name of the City, County, State and Country where you're physically located when you sign the affidavit.

Sign your name.

Fill in your printed name, address, telephone number, and email address.

STEP 3
FILL OUT THE ORDER WAIVING ADMINISTRATIVE APPEAL FILING FEES/PREPARATION OF RECORD COSTS (Form 3)

Fill out the "Order Waiving Administrative Appeal Filing Fees/Preparation of Record Costs" form (FORM 3) included in this packet. This is your proposed order. The District Court will decide whether to grant your petition. The District Court will also decide whether to use your proposed order.

Fill in the top part (caption) of Form 3 the same way you did on your Petition for Waiver of Filing Fees/Preparation of Record Costs form (FORM 1) in Step 1.

Don't write anything else on this form. If the District Court grants your petition and uses your proposed order, the District Court will fill out the remainder of this form. Proceed to Step 4.

STEP 4
MAKE COPIES OF COMPLETED FORMS

Make one copy each of the completed Petition for Waiver of Administrative Appeal Filing Fees/Preparation of Record Costs form (FORM 1) and the completed Financial Affidavit in Support of Petition for Waiver of Administrative Appeal Filing Fees/Preparation of Record Costs form (FORM 2). Keep the copy of each form for yourself.

Step 5 tells you what to do with the originals of the forms.

STEP 5
FILE THE FORMS WITH THE DISTRICT COURT

Take the originals of the Petition for Waiver of Administrative Appeal Filing Fees/Preparation of Record Costs form (FORM 1), the Financial Affidavit in Support of Petition for Waiver of Administrative Appeal Filing Fees/Preparation of Records Costs form (FORM 2), and the Order Waving Administrative Appeal Filing Fees/Preparation of Records Costs form (FORM 3) to the Clerk of Court's Office in the county where your case is located.

Tell the Clerk of Court that you wish to file the documents.

You may file the forms at the same time you file your administrative appeal/petition for review documents.

STEP 6
WAIT TO SEE HOW THE COURT DECIDES YOUR PETITION

The court will notify you if you can proceed without paying the filing fees or the costs for preparation of the record of the administrative agency proceeding, by sending a signed copy of an order to you.

If the District Court grants your petition and uses your proposed order, you'll receive a copy of the completed and signed Order Waiving Filing Fees/Preparation of Records Costs form. If the District Court grants your petition, but doesn't use your proposed order, you'll receive a copy of the District Court's order.

If you requested waiver of filing fees and the court grants your petition, you'll be able to proceed without paying the filing fees.

If you requested waiver of costs for preparation of the administrative agency record of proceedings, the District Court will allow the appeal/petition for review to continue to the scheduling order stage.

If the District Court doesn't grant your petition, you'll receive a copy of the District Court's order denying your petition. You'll have to pay the filing fees before your appeal/petition for review will be opened. You'll have to pay the costs of preparing the administrative agency record of the proceedings before the District Court will allow the appeal/petition for review to continue.

IN DISTRICT COURT, _____ COUNTY, STATE OF NORTH DAKOTA
(County where case is filed)

_____,)
Appellant/Petitioner,) **Civil No.** _____
) (Filled in by Clerk of Court)
vs.) **PETITION FOR WAIVER OF**
) **ADMINISTRATIVE APPEAL:**
_____,) **FILING FEES**
Appellee(s)/Respondent(s).) **PREPARATION OF RECORD COSTS**
)

1. COMES NOW, the Appellant Petitioner (*choose one*), and petitions the Court in the above matter for an Order:

waiving the filing fee pursuant to North Dakota Century Code Section 27-01-07.

waiving the costs associated with the preparation and filing of the record pursuant to North Dakota Century Code Section 28-32-44(3).

2. This petition is based upon the Appellant's Petitioner's (*choose same option as Paragraph 1*) inability to pay as more fully appears in the attached Financial Affidavit in support of Petition for Waiver of Administrative Appeal Filing Fees Preparation of Record Costs.

Dated: _____

Signature

Printed Name

Street Address

City/State/Zip

Telephone

Email

IN DISTRICT COURT, _____ COUNTY, STATE OF NORTH DAKOTA
 (County where case is filed)

_____,)
 Appellant/Petitioner,)
 vs.)
 _____,)
 Appellee(s)/Respondent(s).)

Civil No. _____
 (Filled in by Clerk of Court)

**FINANCIAL AFFIDAVIT IN SUPPORT
 OF PETITION FOR WAIVER OF
 ADMINISTRATIVE APPEAL:**
 FILING FEES
 PREPARATION OF RECORD COSTS

1. My name is _____, (name of individual petitioning for waiver of filing fees/preparation of record costs). I understand that I must tell the truth.

2. **ASSETS**

I have cash on hand:	\$
I have on deposit in financial institutions:	\$
I have stocks and bonds in the amount of:	\$
Total	

Other assets and approximate value are (list):

ITEM	VALUE	IN POSSESSION OF
	\$	
	\$	
	\$	
	\$	
	\$	
Total		

(Attach additional schedules as needed)

Total Assets \$ _____

3. LIABILITIES.

CREDITORS	UNPAID BALANCE	MONTHLY PAYMENT
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
	\$	\$
Total		

(Attach additional schedules as needed)

Total Liabilities: _____

4. INCOME. My monthly income, and that of my spouse, is as follows:

	MY INCOME	SPOUSE'S INCOME
GROSS INCOME	\$	\$
DEDUCTIONS	-\$	-\$
FEDERAL TAX	-\$	-\$
FICA	-\$	-\$
MEDICARE	-\$	-\$
STATE TAX	-\$	-\$
HEALTH INSURANCE	-\$	-\$
RETIREMENT	-\$	-\$
SAVINGS	-\$	-\$
OTHER	-\$	-\$
TOTAL DEDUCTIONS	-\$	-\$
NET INCOME	\$	\$

My pay period is every _____.

My spouse's pay period is every _____.

5. EXPENSES.

My current monthly expenses to support myself and my child(ren) are as follows:

HOUSE/RENT PAYMENT	\$
GAS/ELECTRICITY	\$
HOMEOWNER'S/RENT INSURANCE	\$
WATER	\$
TELEPHONE	\$
CABLE/SATELLITE TELEVISION	\$
FOOD AND HOUSEHOLD ITEMS	\$
CLOTHING	\$
LAUNDRY	\$
LIFE INSURANCE	\$
AUTOMOBILE INSURANCE	\$
MEDICAL INSURANCE	\$
TRANSPORTATION	\$
CHILD CARE	\$
SCHOOL EXPENSES	\$
UNREIMBURSED MEDICAL, DENTAL, OPTICAL	\$
NEWSPAPER AND MAGAZINES	\$
DONATIONS	\$
ENTERTAINMENT	\$
MISCELLANEOUS	\$
OTHER:	\$
OTHER:	\$
OTHER:	\$
OTHER:	\$
OTHER:	\$
OTHER:	\$
TOTAL	\$

6. I state, under penalty of perjury under the law of North Dakota, that everything I stated in this Financial Affidavit is true and correct.

Signed on _____, 20____, in _____ (city),
_____ County, _____ (state), _____ (country).

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address

IN DISTRICT COURT, _____ COUNTY, STATE OF NORTH DAKOTA

_____,)
Appellant/Petitioner,)
)
vs.)
)
_____,)
Appellee(s)/Respondent(s).)
)

Civil No. _____

ORDER WAIVING ADMINISTRATIVE APPEAL

FILING FEES

PREPARATION OF RECORD COSTS

1. The Court duly considered the Appellant’s/Petitioner’s Petition for Waiver of Administrative Appeal Filing Fees and/or Preparation of Record Costs and the Financial Affidavit seeking a waiver of the filing fees and/or preparation of record costs in the above matter and it appearing to the Court that the Appellant/Petitioner is unable to pay,

2. **IT IS HEREBY ORDERED:**

That the filing fees in the above matter be waived pursuant to North Dakota Century Code Section 27-01-07 and that the Clerk of District Court cause the same to be filed without a filing fee.

That the preparation of record costs in the above matter be waived pursuant to North Dakota Century Code Section 28-32-44(3) and that the administrative agency pay the costs of preparation and filing of the record.

BY THE COURT:

Judge of the District Court