

## INTRODUCTION

The Employee Handbook has been established to communicate employment policies, procedures and work rules in order to ensure the efficient and effective functioning of the Court System, and to provide, within the bounds of the law, protection and fair treatment of all Court System employees and persons coming in contact with the Court System.

The Court System encourages employees to ask questions and recommend additions or changes to this handbook. Suggestions can be made to the employee's supervisor, appointing authority, the Human Resource Director or the Personnel Policy Board.

Additional resources and forms referenced in this handbook can be found on the Intranet by following this link: <http://admin.ndcourts.gov/hr/default.htm>.

Approved by the Supreme Court 4/1/12

## MISSION STATEMENT

***" TO PROVIDE EQUAL ACCESS TO JUST, IMPARTIAL, AND TIMELY  
RESOLUTION OF DISPUTES UNDER LAW "***

## VISION STATEMENT

The North Dakota court system will be a system that excels at delivering justice for all through the rule of law and will be fair, effective, responsive, accessible, accountable, and collaborative.

To be *fair*, the North Dakota court system will respect the dignity of every person and apply the law impartially to the circumstances of each case.

To be *effective*, the court system will uphold the law and apply rules and procedures consistently and in a timely manner.

To be *responsive*, the court system will anticipate and respond to the needs of society and the court system.

To be *accessible*, the court system will be convenient, understandable, timely, and affordable to everyone.

To be *accountable*, the court system will work to maintain public trust and confidence and use public resources efficiently.

To be *collaborative*, the court system, while maintaining its status as a co-equal branch of government, will identify and seek opportunities to work cooperatively with other branches of government to address common issues.

## DEFINITIONS

1. **AAERT** is American Association of Electronic Reporters and Transcribers.
2. **Alternate work location** is a designated work location at a courthouse or office other than the city of the employee's principal place of employment or an office in the employee's home or alternate location that has been designated as the employee's work location.
3. **Alternative work schedule** is a set schedule outside normal working hours.
4. **Appointing authority** is a person authorized by policy to make human resource decisions. An appointing authority is a supervisor unless the appointing authority has otherwise delegated supervisory authority to another employee.
5. **At will employment** is employment that may be terminated by the Court System or an employee at any time, without cause and without notice.
6. **Career ladder advancement** is advancement to a higher pay grade. It is advancement from an entry level position to a full performance position.
7. **Career ladder series positions** are positions eligible for career ladder advancements.
8. **Cause** is conduct related to the job performance of a classified employee or judicial referee. The conduct may relate to job performance or working relationships that are determined to be detrimental to performance of an employment position.
9. **CER** is Certified Electronic Court Recorder.
10. **CET** is Certified Electronic Transcriber.
11. **Child** is defined as a biological, adopted, or foster child; a step-child; and a legal ward under the age of 18 or, if older than 18, incapable of self care because of a mental or physical disability at the time the leave is requested.
12. **Classified employee** is an employee who serves in a position for which there must be cause for dismissal after completion of the introductory period.
13. **Compensatory time** is time off for which a non-exempt employee is paid because the employee worked more than a standard 40-hour work week.
14. **Corrective action** is an improvement plan that addresses an employee's conduct in the workplace.
15. **Demotion** is the involuntary reduction of an employee's salary or the involuntary movement of the employee to a lower job classification.
16. **Dismissal** is termination or separation from employment initiated by the Court System.
17. **Domestic partner** is a person who is not married or otherwise related to the employee; is the employee's sole domestic partner; resides with the employee and intends to do so indefinitely; and is responsible for the employee's welfare.

18. **Exempt employee** is an employee who is not subject to the overtime requirements of the Fair Labor Standards Act.
19. **Full-time employee** is an employee who is regularly scheduled to work at least 40 hours each week.
20. **Introductory period** is a period of time used to evaluate whether an employee is able to meet the performance requirements of the position for which the employee has been hired.
21. **Lateral transfer** is a transfer from one classification to another within the same pay grade.
22. **Non-classified employee** is an employee who is an at will employee.
23. **Non-exempt employee** is an employee who is subject to the Fair Labor Standards Act.
24. **North Dakota Court System (Court System)** includes the Supreme Court and the District Courts.
25. **On-call** is when an employee is required to be accessible by telephone, pager, or other means for scheduled periods of time other than regularly scheduled work hours to respond to requests for service.
26. **Overtime** is time that a non-exempt employee works in excess of a standard 40-hour week.
27. **Part-time employee** is an employee who is regularly scheduled to work fewer than 40 hours each week.
28. **Pay grade adjustment** is the adjustment of a classification because of the requirements of market conditions or because the salary level of the classification requires adjustment.
29. **Preliminary notice** is a written formal notice to an employee under the corrective action procedure that an employment issue exists which must be addressed. A preliminary notice is documented and provided to the employee, appointing authority, and Human Resource Director.
30. **Principal place of employment** is the fixed location to which an employee is required to report for employment duties when not working in an alternate work location.
31. **Promotion** is the movement to a position in a higher pay grade.
32. **Reclassification** is the movement of a classified position to a higher or lower position because of a substantial and permanent change in duties.
33. **Reduction in force** is the reduction in the number of employees for reasons including reduction in funding, lack of work, curtailment of work, or reorganization.
34. **Regular employee** is an employee who holds a position funded by the Legislature and is entitled to state benefits paid for by the Court System. A regular employee must be employed more than 20 hours per week for more than 20 weeks per year.

35. **Referral List** is a list of candidates for a position who are deemed to be qualified and who are ranked above a cutoff level determined by the appointing authority or designee.
36. **Regular rate of pay** is the hourly rate of pay calculated using a 40-hour work week.
37. **Supervisor** is an employee or an appointing authority who has the ability or whose suggestions and recommendations are given particular weight to undertake a majority of the following supervisory functions in the interests of the Court System: appoint, employ, hire, assign and direct work, transfer, promote, evaluate, reward, discipline, suspend, demote, or terminate an employee.
38. **Suspension** is temporary removal of an employee from the employee's position. A suspension may be unpaid with temporary loss of accrual time for annual and sick leave or paid leave.
39. **Temporary employee** is an employee who is employed at will and occupies a position which is not funded as full-time employment by the Legislature.
40. **TQAP** is Transcript Practice & Quality Assurance Program.
41. **Underfill** is filling a position at a training wage with a candidate who is within two years of the minimum experience qualifications.]
42. **Work week** is the time from 12:01 a.m. on each Monday until 12 midnight the following Sunday.
43. **Written reprimand** is written notice given to an employee indicating there is a serious problem related to employment. A written reprimand is documented on a corrective action memo and placed in the employee's personnel file.

Approved by the Supreme Court 4/1/12; amended 3/6/13; amended 5/6/20 effective 6/1/20; amended 8/26/20; amended 10/1/22

## 100 – DISCLAIMER

- A. **The policies and procedures described in this handbook are not conditions of employment and do not create a contract between the North Dakota Court System (Court System) and its employees.** This handbook applies to all employees of the Court System and does not guarantee employment for any definite period of time.
- B. In accordance with applicable state and federal laws, the Supreme Court reserves the right to change or terminate any policies and benefits, and may revise any statements made in this handbook, at any time for any reason. Updates to this handbook will be distributed as necessary.
- C. This handbook is intended to cover a number of personnel subjects. It may not contain all of the policies in force in the Court System. This handbook supersedes the provisions of all previous personnel policies, procedures, manuals, or handbooks. If any section of any policy in this handbook is declared invalid or unenforceable by a court or government regulation, all other sections will remain in effect.

Approved by the Supreme Court 4/1/12

## 101 – EQUAL EMPLOYMENT OPPORTUNITY

- A. The Court System prohibits discrimination. Except when a bona fide occupational qualification exists, the Court System provides equal employment opportunities to all employees and applicants for employment without regard to:
1. Race;
  2. Color;
  3. Religion;
  4. Sex (including sexual orientation and gender identity or expression);
  5. National origin;
  6. Age;
  7. Genetic Information, including family medical history;
  8. Presence of any mental or physical disability;
  9. Marital or public assistance status; and
  10. Participation in any lawful activity away from the Court System premises during non-working hours not in direct conflict with the essential business-related interests of the Court System.
- B. Bona fide occupational qualification. It is not a discriminatory practice to consider any of the factors listed above, except race and color, when that factor is an actual and reasonably necessary qualification for performing the job in the normal operation of the Court System.
- C. Any incidents of discrimination must be reported to a supervisor, appointing authority, or the Human Resource Director. Once a supervisor is notified of an issue, the supervisor must contact the Human Resource Director.

Approved by the Supreme Court 4/1/12; amended 9/24/20



## 102 – EMPLOYMENT STATUS

### A. Regular Employee

1. A regular employee is an employee who holds a position funded by the Legislature and is entitled to state benefits paid for by the Court System. A regular employee must work more than 20 hours each week for more than 20 weeks each year.
2. The three types of regular employees are: classified, non-classified, and judicial referee.
  - a. A classified employee serves in a position for which there must be cause for dismissal after completion of the introductory period.
  - b. A non-classified employee is an at will employee. At will employment is employment which may be terminated by the Court System or an employee at any time, without cause and without notice.

Employees in the following positions are non-classified:

- (1) State Court Administrator;
  - (2) Assistant State Court Administrator for Trial Courts;
  - (3) Court Administrator;
  - (4) Clerk of Supreme Court; and
  - (5) Law Clerk
- c. A judicial referee serves at the pleasure of the presiding judge of the judicial district.

### B. Temporary Employee

1. A temporary employee is an employee who is employed at will and occupies a position that is not funded as a full-time employee by the Legislature. A temporary employee normally does not receive state benefits. If a temporary employee meets eligibility requirements, the employee may participate in the retirement plan and life insurance at the employee's expense. The Court System will pay for the health insurance of a temporary employee who works an average of 30 hours or more per week.
2. A temporary employee who becomes regular employee is given credit for the temporary service for the purpose of determining the accrual date for the employee's annual leave, sick leave, service awards, and retirement awards.

Approved by the Supreme Court 4/1/12; amended 12/17/14 effective 1/1/15; amended 7/2/15; amended 7/21/21

## 103 – INTRODUCTORY PERIOD

- A. The introductory period is a period of time used to evaluate whether an employee is able to meet the performance requirements of the position for which the employee has been hired.
- B. A new regular employee, except a law clerk, is eligible for a salary increase on the successful completion of the introductory period.
- C. All employees in the introductory period are at will employees.
  - 1. At will employment is employment that may be terminated by the Court System or an employee at any time without cause, notice, and the right to use the Dismissal or Reduction in Force Appeal process of the Conflict Resolution policy.
  - 2. A supervisor must seek approval from the employee's appointing authority and guidance from the Human Resource Director whenever the supervisor plans to terminate employment or extend the introductory period.
- D. The following additional provisions apply:
  - 1. All new regular employees will be on an introductory period for at least six months following their employment, except:
    - a. Judicial referees will be on an introductory period for one year.
    - b. Employees in positions that require becoming TQAP and AAERT CER certified and pass the CET knowledge exam, AAERT CER and CET certified or CER certified will be on an introductory period until all certification requirements have been met, but at least six months.
  - 2. During the introductory period, a supervisor will continually review the performance and suitability of the new employee. Whenever the new employee fails to show satisfactory progress and demonstrate work habits and an aptitude necessary for success in the job, the supervisor may initiate action to terminate employment. At the end of the introductory period, a supervisor must complete an introductory period evaluation form and make a decision to conclude the introductory period or terminate employment.
  - 3. If the initial introductory period does not allow sufficient time to thoroughly evaluate the employee's performance, the introductory period may be extended for a specified period up to six months. The employee must be notified of an extension on the introductory period evaluation form.

Approved by the Supreme Court 4/1/12; amended 5/6/20; amended 9/24/20

## 104 – SUPERVISORY STATUS

- A. Supervisor. A supervisor is an employee or an appointing authority who has the ability or whose suggestions and recommendations are given particular weight to undertake a majority of the following supervisory functions in the interests of the Court System: appoint, employ, hire, assign and direct work, transfer, promote, evaluate, reward, discipline, suspend, demote, or terminate an employee.
- B. Appointing Authority. An appointing authority is a supervisor unless the appointing authority has otherwise delegated this authority to another employee. Appointing authorities include:
1. *Chief Justice* for the State Court Administrator, Supreme Court Law Librarian, and Executive Judicial Assistant.
  2. *Justices of the Supreme Court* for the Clerk of Supreme Court and Staff Attorney-Central Legal.
  3. *Justice* for the Justice's Judicial Assistant and Supreme Court Law Clerk.
  4. *Presiding Judge* for Judicial Referees, District Court Law Clerks, Court Reporters, Staff Attorney-District Court, District Court Paralegal, Electronic Court Recorder/Transcriptionist, and Electronic Court Recorders.
  5. *Clerk of Supreme Court* for the Chief Deputy Clerk of Court and all Supreme Court Clerks.
  6. *Supreme Court Law Librarian* for all Law Library staff.
  7. *State Court Administrator* for the Assistant State Court Administrator for Trial Courts, Court Administrators, Staff Attorney-State Court Administrator, Staff Attorney-Joint Procedure Committee, State Directors, and all Supreme Court administrative staff.
  8. *Court Administrators* for all trial court positions except for those appointed by the presiding judge.

Approved by the Supreme Court 4/1/12; amended 3/17/21; amended 4/28//21

## 105 – WORK SCHEDULE

### A. Work Week

The Court System's work week is from Monday through Sunday.

1. A full-time employee is regularly scheduled to work at least 40 hours each week.
2. A part-time employee is regularly scheduled to work fewer than 40 hours each week.

### B. Alternate Work Schedule

1. The Court System is interested in alternative work schedules as a method of staff retention through work/life balance. The Court System recognizes alternative work scheduling is an opportunity to maintain employee productivity through various forms of creative work scheduling.
2. The alternate work schedule must be pre-approved by the employee's supervisor. The approved schedule depends on the nature of the work of the individual, section, or unit. The alternate work schedule must ensure that:
  - a. Service to the public remains available between the hours of 8 a.m. and 5 p.m.;
  - b. Adequate supervisory personnel are available; and
  - c. Sufficient knowledgeable staff is available to respond in a timely manner to service requests.
3. An alternate work schedule may not result in accrual of overtime under the Fair Labor Standards Act.
4. In weeks containing paid holiday hours, adjustments will need to be made for employees on alternate work schedules. The employee and the employee's supervisor will need to work together to determine the work schedule during those weeks.
5. A supervisor may adjust work schedules to accommodate staff absences, workload fluctuations, or unusual employee circumstances.

### C. Breaks and Lunch Periods

1. An employee is allowed one paid 15-minute break for every four hours of work. An employee may not use a break to start work late, leave work early, or extend the lunch period. If an employee is unable or chooses not to take a break, it may not be made up at a later date.
2. An employee will be scheduled for one unpaid lunch period during each regular workday. The lunch period can be 30-60 minutes long, as agreed to by both the employee and the supervisor.

D. Nursing Mother Breaks

1. An employee will receive reasonable break time to express breast milk for a nursing child for one year after the child's birth. The location must be in a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public.
2. An employee may use the employee's paid 15 minute breaks. Because the frequency and duration to express milk will vary, annual leave or a flexible schedule to make up any additional time needed must be used. Use of annual leave or a flexible schedule must be pre-approved by the supervisor.

Approved by the Supreme Court 4/1/12; amended 4/4/12 effective 4/15/12

## 106 – OVERTIME

### A. Exempt Employee

1. An exempt employee working over 40 hours in a work week is not eligible for overtime pay.
2. In exceptional circumstances, a supervisor, with the approval of the appointing authority, has the discretion to allow an exempt employee compensatory time when the exempt employee works beyond the regular work week.

### B. Non-Exempt Employee

1. A non-exempt employee working over 40 hours in a work week is eligible for compensatory time equal to one and a half times the employee's base hourly salary for the excess hours worked.
2. An employee will work overtime or compensatory time only when it is in the best interest of the Court System and only with prior approval within guidelines issued by the supervisor.
3. Compensatory time must be given in lieu of overtime compensation and must be at a rate of one and one-half hours for each hour of employment for which overtime pay would normally be required.
4. Hours worked in a work week do not include leave or holiday hours within the work week.
5. An employee may not accrue more than 40 hours of compensatory time at any given time.
6. Earned compensatory time must be used prior to using annual leave and approved by the supervisor. A request may be denied if the employee's absence would unduly disrupt the operation or services of the office.
7. When an employee terminates employment, unused compensatory time must be paid at the employee's final regular rate or the average regular rate received by the employee during the last three years of employment, whichever is higher.

Approved by the Supreme Court 4/1/12; amended 10/2/19 effective 10/1/19

## 107 – PAY DEDUCTIONS

- A. A non-exempt employee is paid only for actual hours worked unless the employee receives benefits under the Court System’s annual, sick, or other leave policies.
- B. An exempt employee is paid on a salary basis and, in general, must be paid the employee’s full salary for any work week in which the employee performs work. An exempt employee’s pay may be reduced in the following circumstances:
  - 1. Absence from work for one or more full days for personal reasons (other than sickness or disability) unless the employee has accrued annual or other leave benefits.
  - 2. Absence from work for one or more full days due to sickness or disability unless the employee has accrued annual or sick leave benefits.
  - 3. To offset any amounts received as payment for jury fees, witness fees, or military pay.
  - 4. Unpaid leave taken under the Family and Medical Leave Act. Pay will be reduced by the hours missed even if the absence is less than a full day.
  - 5. Unpaid disciplinary suspension of one or more full days imposed in good faith for workplace misconduct. See Conduct policy.
  - 6. An employee who works less than 40 hours during the first or last week of employment will be paid a proportionate part of the full salary for time actually worked.
- C. The Court System may deduct advances and other individual items authorized in writing by exempt and non-exempt employees.
- D. An employee must report any improper pay deductions to the finance department. The Court System prohibits any form of discipline or retaliation for reporting such incidents and will handle all complaints promptly.

Approved by the Supreme Court 4/1/12

## 108 – PART-TIME EMPLOYEES

- A. A regular part-time employee is regularly scheduled to work fewer than 40 hours per week.
- B. Benefits
  - 1. A regular part-time employee working at least 20 hours per week for more than 20 weeks each year are eligible to participate in the benefits administered by the Public Employees Retirement System (PERS).
  - 2. A regular part-time employee working an average of 20 hours or more per week may participate in the Court System's non-PERS benefits available to full-time regular employees on a prorated basis of a 40-hour work week.
- C. Work Schedule
  - 1. A regular part-time employee must receive prior approval from the supervisor to work more than the regularly scheduled part-time hours.
  - 2. An employee who works over the regularly scheduled part-time hours may not receive overtime compensation unless the hours worked are over 40 hours in a work week.
  - 3. Hours worked in a work week do not include leave or holiday hours within the work week.

Approved by the Supreme Court 4/1/12



## 109 – ON-CALL REQUIREMENTS

- A. An employee may be designated to provide on-call support services. If an employee is designated to provide on-call services, the employee's supervisor must provide advance notice, in writing, of the period of time during which the employee will be on-call.
- B. An employee who is on-call must be available to respond to the work place within one hour after a request for service has been made.
- C. A non-exempt employee who is required to be on-call will be compensated at the rate of one hour for each six hours the employee is on-call.
- D. If a non-exempt employee is required to respond to a request for service, the employee will be paid for the time spent in travel and time spent working. Compensatory time is earned if the employee has worked more than the regular 40-hour work week.
- E. A non-exempt employee who is required to be on-call on a holiday will be compensated as provided in sections C. and D.
- F. While an employee is on-call, the employee must adhere to the Court System's policies, including Policy 117 Alcohol and Drugs. Failure to do so may result in disciplinary action including dismissal.

Approved by the Supreme Court 4/1/12

## 110 – CODE OF CONDUCT

- A. A fair and independent court system is essential to the administration of justice. Proper conduct by a Court System employee inspires public confidence and trust in the court system. An employee, faithful to that trust, must observe high standards of conduct so that the integrity and impartiality of the courts may be preserved.
- B. There are certain principles that govern the conduct of all employees. This Code of Conduct provides uniform standards for the conduct of all employees other than judicial officers (justices, judges and referees) who are subject to the Code of Judicial Conduct. It is intended to complement the Code of Judicial Conduct that governs the conduct of judicial officers and the Rules of Professional Conduct for Lawyers and should be interpreted in a manner consistent with the applicable code.
- C. The minimum standards contained in this code do not preclude the adoption of more rigorous standards by law, court order, or policy. Violations of this code may lead to corrective action.
- D. An employee must uphold the integrity and impartiality of the Court System.
  - 1. Impartiality. An employee must maintain high standards of conduct so the independence of the Court System is preserved.
  - 2. Integrity. An employee must maintain and observe high standards of integrity, honesty, and truthfulness in the employee's professional dealings.
- E. An employee must avoid impropriety and the appearance of impropriety in all of the employee's activities.
  - 1. Compliance with Law. An employee must respect and comply with the law and must act, at all times, in a manner that promotes public confidence in the integrity and impartiality of the Court System.
  - 2. Gifts. An employee must not accept, solicit, or agree to accept any gift, favor, or anything of value based on any understanding, either explicit or implicit, that the official actions, decisions, or judgment of an employee would be influenced.
  - 3. Extra Compensation. An employee must not request or accept any fee or compensation, beyond that received by the employee in the employee's official capacity, for advice or assistance given in the course of the employee's public employment.
  - 4. Abuse of Position. An employee must not use or attempt to use the employee's position to secure special privileges or exemptions for the employee or any other person.
  - 5. Use of Public Property. An employee must not use public funds, property or resources wastefully or for private purpose not allowed by the Court System or other administrative authorities.
- F. An employee must perform duties impartially and diligently.

1. Professionalism. An employee must be patient, prompt, and courteous to litigants, jurors, witnesses, lawyers, and others who come in contact with the Court System.
  2. Impartiality. An employee must perform duties impartially, and must not be influenced by kinship, social or economic status, political interests, public opinion, or fear of criticism or reprisal.
  3. Prejudice. An employee must perform duties without bias or prejudice, and must not manifest, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.
  4. Information and Records. An employee, when authorized, must furnish accurate, timely information and must provide access to public court proceedings and records according to established procedures. An employee must not disclose any confidential information received in the course of official duties, except as required in the performance of such duties, or use such information for personal gain or advantage.
  5. Legal Assistance. An employee may assist citizens in identifying available procedural options and in understanding and complying with court procedures. An employee must not advise a particular course of action.
  6. Communication with Judicial Officers. Except in the case of normal duties, an employee must not communicate personal knowledge about the facts of a pending or impending matter to the judicial officer assigned to the case and must not make or repeat remarks about a pending or impending matter that might affect the fairness or improperly influence the outcome of the matter.
  7. Duty to Report. An employee must report to a supervisor, administrator, or judicial officer any violation of the law or this code by another employee. An employee will not be subject to retaliation for reporting or failing to report violations if such report or failure to report is made in good faith.
  8. An employee who has knowledge of or reasonable cause to suspect that a child is abused or neglected, based on images of sexual conduct by a child discovered on a workplace computer, shall report the circumstances to the Department of Human Services or its designee, and the employee must report the circumstances to the employee's supervisor.
- G. An employee must conduct personal activities as to minimize conflicts with the employee's employment responsibilities.
1. General Activities. An employee must conduct personal activities so as to avoid a negative effect on the Court System or the employee's ability to perform duties.
  2. Financial Activities. An employee who is a lawyer, regardless of the position the employee holds within the Court System, may not engage in the private practice of law while employed by the Court System. With the approval of an employee's appointing authority, an employee may engage in any business activity or

secondary employment as long as that business activity or secondary employment does not:

- a. Involve an organization or a private employer that regularly conducts business with the court.
  - b. Involve employee time or attention during the employee's normal working hours.
  - c. Place the employee in a position of conflict with the employee's official role in the judicial department.
  - d. Require the employee to appear regularly in judicial or administrative agency proceedings.
  - e. Identify the employee with the Court System or give an impression the employment or activity is on behalf of the Court System.
  - f. Require use of employee access to case management software, court equipment, materials, supplies, telephone services, office space, computer time, or facilities.
3. Conflict of Interest. An employee must manage personal and business matters so as to avoid situations that may lead to conflict, or the appearance of conflict, in the performance of the employee's employment.
- a. An employee must inform the appropriate supervisor of any potential conflict of interest involving the employee's duties.
  - b. An employee must withdraw from participation in a court proceeding or court business in which the employee has a personal, business, or family interest that may actually or appear to influence the outcome of the court proceeding or business.
  - c. An employee who accepts an offer of employment for a law firm, regardless of the nature of the future position, must notify the employee's immediate supervisor of the potential conflict of interest upon confirmation that the employee has been accepted for hire by the law firm.
4. Solicitation. Unless authorized, an employee must not use the employee's position or office to solicit funds.

#### H. Political Activity

1. An employee may not engage in inappropriate political activity during work hours or use court facilities or property for inappropriate political activity. Inappropriate political activity means:
  - a. Campaigning, arranging for campaign meetings or events, transporting candidates or workers engaged in campaigning, displaying campaign

literature, badges, stickers, signs or other items of political advertising on behalf of any party, committee, agency or candidate for political office.

- b. Actively soliciting signatures for political candidacy.
  - c. Actively soliciting or receiving funds for political purposes.
2. An employee retains the right to vote as the employee chooses and is free to participate in political activity during non-working hours and outside court facilities. An employee who chooses to participate in political activity during non-working hours may not use the employee's position or title within the Court System in connection with such political activities and the activity must not be incompatible with the employee's duties.
3. An employee who runs for elective office must notify the employee's supervisor or appointing authority on the filing of nomination papers or election, whichever is earlier. An employee may hold an elected office provided the requirements of that elected office:
  - a. Are fulfilled outside of normal working hours and are not incompatible with the performance of the employee's duties and responsibilities.
  - b. Do not require or induce the employee to disclose confidential information acquired in the course of and by reason of official duties.
  - c. Do not create a conflict of interest or any reasonable appearance of such conflict or reflect adversely on the integrity of the court.
4. No employee may use official authority or position, directly or indirectly, to influence or attempt to influence any other employee of the Court System to become a member of any political organization or to take part in any political activity.
5. An employee may not discriminate in favor of or against any other employee of the Court System or applicant for employment based on political contributions or other permitted political activities.

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## 111 – AMERICANS WITH DISABILITIES ACT

### A. Discrimination Prohibited

1. The Court System prohibits discrimination against any qualified individual on the basis of disability with regard to any terms or conditions of employment because of that individual's disability or perceived disability.
2. Consistent with this policy of nondiscrimination, the Court System will provide reasonable accommodations to qualified individuals who have made the Court System aware of the disability and the need for accommodation.
3. A qualified individual is an individual who, with or without reasonable accommodations, can perform the essential functions of the employment position that the individual holds or desires.

### B. Accommodation Request

1. A qualified employee or applicant with a disability who believes a reasonable accommodation is necessary to perform the essential functions of the job, participate in the application and hiring process, or to enjoy equal benefits and privileges of employment must inform the supervisor as soon as the need for accommodation becomes apparent. The supervisor will then contact the Human Resource Director.
2. A qualified applicant requiring accommodation must inform the Human Resource Director of the need for accommodation as early in the applicant process as possible.
3. On receipt of an accommodation request from a qualified employee, the supervisor must meet with the employee to discuss the request, possible accommodations, and determine if additional information is necessary.
  - a. The Court System may ask for additional medical information from an employee requesting reasonable accommodation to assist in responding to the accommodation request.
  - b. In such instances, the Court System may seek authorization from the employee to contact the individual's health care provider(s) directly and may:
    - (1) Ask the employee to provide the requested information from the health care provider; or
    - (2) Suggest a joint discussion involving the employee, the employee's medical provider, and the Court System.

### C. Accommodation

1. The Court System will determine the feasibility of the requested accommodation considering such information as:

- a. The nature and cost of the accommodation;
  - b. The Court System's overall financial resources; and
  - c. The effect on expenses and resources and the impact of the requested accommodation on its operations, among others.
2. The Court System is not required to provide the following:
- a. The best possible accommodation;
  - b. Reallocation of essential job functions;
  - c. Personal use items (e.g., eyeglasses, hearing aids, wheelchairs, etc.);
  - d. An accommodation that would be an undue hardship; or
  - e. An accommodation that would pose a direct threat to the safety of the employee or others.

D. Inquiries or Complaints

An employee or applicant who has questions regarding this policy or believes that discrimination on the basis of disability has occurred must notify the Human Resource Director. All such inquiries or complaints will be treated as confidential to the extent possible and as required by law.

Approved by the Supreme Court 4/1/12

## 112 – ABSENTEEISM AND TARDINESS

- A. The Court System recognizes the need for employees to be absent from work due to illness or the need to take care of personal business during the normal workday. Sick and annual leave have been provided for those needs.
- B. Absenteeism and tardiness are expensive, disruptive, and place an unfair burden on other employees and supervisors. Being consistently present at the job, while arriving and leaving as scheduled, is an essential element of proficient overall individual performance.
- C. An employee is expected to be at the employee's desk ready to begin work at the scheduled starting time. An employee who anticipates late arrival to work or who will be absent is required to call if possible and speak with the employee's supervisor or designee before the employee's scheduled starting time. The employee is required to call each morning for each day of absence unless the supervisor provides an exception. The call must be made by the employee unless the medical condition makes communication impossible.
- D. Excessive Absence or Tardiness
  - 1. Excessive absence or tardiness is defined as a documented pattern of unscheduled absences or tardiness regardless of the reason.
  - 2. Unscheduled absences are absences that have not been prescheduled or preapproved by the employee's supervisor.
  - 3. Scheduled absences include the following:
    - a. Paid holiday (except when scheduled to work on the holiday);
    - b. Approved scheduled vacation;
    - c. Approved scheduled medical appointments;
    - d. Leave of absence authorized prior to the absence;
    - e. Being required to serve on jury duty;
    - f. Funeral leave;
    - g. Suffering a work-related injury which prevents working;
    - h. Leave of absence under the Family and Medical Leave Act;
    - i. Military leave; or
    - j. Other reasons approved in advance by the supervisor.
- E. The supervisor may request a physician's note for an unscheduled absence due to illness. The Human Resource Director must be notified by the supervisor of an employee's unscheduled absence of more than three consecutive full calendar days including



intervening weekend and holidays unless the supervisor knows that the Family Medical Leave Act is not implicated.

F. Violation of this policy may lead to corrective action.

Approved by the Supreme Court 4/1/12; amended 7/13/22

## 113 – NEPOTISM

- A. A person must not enter a personal service contract or be employed, promoted, transferred, or retained in a position in the Court System when, as a result, the person would be placed in the line of supervising or receiving supervision from the person's:
1. Parent or stepparent;
  2. Child or step-child;
  3. Spouse;
  4. Sibling, half-sibling, or step-sibling;
  5. Brother-in-law or sister-in-law;
  6. Son-in-law or daughter-in-law;
  7. Grandchild or grandparent;
  8. Nephew or niece;
  9. Uncle or aunt; or
  10. Domestic partner.
- B. This policy does not apply to a temporary work arrangement necessary to meet a critical and urgent need.

Approved by the Supreme Court 4/1/12

## 114 – FRATERNIZATION

- A. The Court System intends to provide a work environment free from intimate, romantic, or dating relationships between employees in a supervisor/subordinate work relationship.
- B. If an intimate, romantic, or dating relationship develops between a supervisor and subordinate, the employees in the relationship must report this relationship immediately to the Human Resource Director. Once the Human Resource Director becomes aware of a relationship, a modification in the work relationship may be implemented by transferring at least one of the employees within the organization, or through other available options.
- C. Violation of this policy may lead to corrective action.

Approved by the Supreme Court 4/1/12

## 115 – HARASSMENT

A. In order to maintain a positive work environment for all employees, sexual harassment or harassment on the basis of sex (including sexual orientation, gender identity or expression), age, race, color, religion, national origin, genetic information including family medical history, or disability is prohibited.

B. Sexual Harassment

1. Sexual harassment is any unwelcome verbal, nonverbal, or physical conduct of a sexual nature when:
  - a. Submission to such conduct is made, either explicitly or implicitly, a term or condition of employment;
  - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
  - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
2. Sexual harassment may include requests for sexual favors, sexual advances, verbal abuse of a sexual nature, displays in the workplace of sexually suggestive objects or materials or other conduct or communication of a sexual nature.

C. Other Prohibited Harassment

Other prohibited harassment includes verbal, nonverbal, or physical conduct that denigrates or shows hostility or aversion toward an individual because of race, color, religion, sex (including sexual orientation, gender identity or expression), national origin, age, genetic information including family medical history; the presence of any mental or physical disability; or status with regard to marriage or public assistance.

D. Reporting and Investigation Procedures

1. Employees must report any incidents of harassment toward them or another employee to an immediate supervisor, appointing authority, or the Human Resource Director. Once notified of an issue, the supervisor or appointing authority must contact the Human Resource Director or designee, unless the complaint is against the Human Resource Director in which case the State Court Administrator must be notified.
2. The Human Resource Director or designee will investigate all complaints promptly, thoroughly, and impartially in as confidential a manner as possible and allowed by law. If the complaint is against the Human Resource Director, the State Court Administrator or designee will investigate.

E. Retaliation Prohibited

1. The Court System prohibits retaliation of any kind against employees, who, in good faith, report harassment or assist in investigating such complaints.
2. Any employee who engages in conduct determined to be harassment or who makes false accusations of harassment will be subject to corrective action up to and including dismissal.

Approved by the Supreme Court 4/1/12; amended 9/24/20

## 116 – WORKPLACE VIOLENCE

- A. It is the policy of the Court System to maintain a working environment free from violence or the threat of violence. Acts or threats of physical violence, including intimidation, harassment, or coercion, which involve or affect the Court System or which occur where Court System employees are working will not be tolerated.
- B. Employees must immediately report any incidents of violence, threat of violence, or any behavior that may threaten an employee's safety or the safety of others to the employee's immediate supervisor, appointing authority, or the Human Resource Director. Once notified of an incident of workplace violence, the supervisor or appointing authority must contact the Human Resource Director.
- C. The Court System prohibits any form of discipline or retaliation for reporting such incidents and will handle all complaints promptly. Any employee who engages in such conduct or who makes false accusations of violence or threats of violence will be subject to corrective action. In appropriate cases, the Court System may seek criminal prosecution or cooperate with the prosecution.

Approved by the Supreme Court 4/1/12

## 117 – ALCOHOL AND DRUGS

- A. The Court System is an alcohol and drug-free workplace. Any unlawful or unauthorized transfer, sale, distribution, manufacture, possession, or use of a controlled substance or alcohol by a Court System employee on the job, in the workplace, or where Court System work is performed, will subject that employee to corrective action.
- B. Any employee convicted of violating any federal or state criminal drug statute in the workplace must notify the employee's supervisor and the Human Resource Director within five days of the date of the conviction. The Human Resource Director will notify any U.S. government agency providing grant funds to the Court System of the conviction within 10 days after receiving notice by the employee or the court of conviction.
- C. This policy protects the lives and safety of all Court System employees and property. If a supervisor reasonably suspects that an employee may be under the influence of a controlled substance or alcohol while on Court System property or during the employee's scheduled work hours, the supervisor after consultation with the appointing authority or designee will request the employee to submit to a screening or test at a designated testing facility at the Court System's expense. If the appointing authority or designee is not available, the supervisor must consult the Human Resource Director or the State Court Administrator prior to requesting the employee submit to screening. An employee who fails to consent to the request is subject to corrective action.
- D. An employee who uses medication is responsible for being aware of any effect such substances may have on the performance of the employee's duties. If an employee finds that certain medications impair the employee's performance, the employee should report this to the Human Resource Director along with acceptable medical documentation. The hiring authority, in conjunction with the Human Resource Director, will determine whether the employee is able to perform the employee's job safely and properly.
- E. As a condition of continued employment, an employee in violation of this policy may be required to successfully complete an inpatient or outpatient treatment program sponsored by an approved private or governmental institution.

Approved by the Supreme Court 4/1/12; amended 11/6/19 effective 12/1/19

## 118 – INCLEMENT WEATHER

- A. During inclement weather conditions, each employee must, if safely possible, report to work as scheduled. Any employee who reports to work late or leaves work early while the Court System is open must use annual leave.
- B. If the employee's office is officially closed, the employee will be paid for the hours the employee was originally scheduled to work. If an employee is on scheduled paid leave during the office closure, the employee will not have to use the scheduled paid leave.
- C. If a remote working employee's principal place of employment is closed due to an emergency, inclement weather, or other closures including additional closures around holidays, the employee will continue to work at the assigned alternate work location or take leave.
- D. In the event the courts are closed but a judge or justice chooses not to cancel court, any non-exempt staff remaining to assist the judge or justice is entitled to additional compensatory time.

Approved by the Supreme Court 4/1/12; amended 10/2/19 effective 10/1/19; amended 10/1/22



## 119 – TIME TO VOTE

- A. The Court System encourages voting by all eligible voters at all special, primary, and general elections.
- B. When an employee's regular work schedule conflicts with the time polls are open, the Court System will grant the employee annual leave to vote.

Approved by the Supreme Court 4/1/12

## 120 – PERSONNEL RECORDS

### A. Personnel Files

1. The State Court Administrator’s Office maintains a personnel file for each employee.
2. The following records constitute a personnel file.
  - a. Hiring Records: application and attachments, interview notes, performance and skills test results, candidate justification summary, and job classification description.
  - b. Acknowledgments.
  - c. Performance Documentation: performance evaluations, corrective action memos, and dismissal letters or memos and any attachments.
  - d. Personnel Action Documentation: memos, letters, or forms related to any personnel action affecting the employee.
  - e. Training Attendance Records: list of titles of trainings and dates completed.
  - f. Salary History: list of salary amounts and dates of changes.
3. Supervisors are encouraged to provide records of a positive nature received from outside, competent, and responsible sources. Anonymous letters or other information may not be placed in the employee’s file.
4. Any document addressing an employee’s character or performance or a grievance filed against the employee may be placed in the personnel file with the employee’s signed acknowledgment stating that it has been read. The employee’s signed acknowledgement does not signify agreement with the contents.

If the employee refuses to sign the acknowledgment, both the person who discussed the document with the employee and a witness must verify in writing on the document that the employee was shown the document, was asked to sign the document, and refused to sign the document.
5. An employee has the opportunity to respond to the document that is to be placed in the employee’s personnel file. The employee’s response must be attached to the file copy. This information may not be used as a basis for subsequent adverse personnel action.
6. If the employee takes this matter through the grievance procedure, any material found to be without merit or unfounded must be removed from the file and may not be used against the employee.

### B. Working Files

1. A supervisor will not maintain a separate personnel file regarding any employee. However, a supervisor may keep a working file on an employee to track work in progress, conduct, and performance-related information. A supervisor's working file typically contains documents of ongoing work such as notes of conversations, assignments, status reports, and milestones to support annual performance evaluations. A supervisor's working file is not part of the employee's official personnel file and should be kept sparingly only in situations involving close and direct supervision.
2. The supervisor's working file is a confidential file that is typically kept in a secure area near the employee's immediate supervisor. It should be stored in a locked area when not in use. The contents of a working file should be destroyed once the information is no longer needed.
3. Because a supervisor's working file is not considered part of the official personnel file, any personnel action can only be based on what is in the personnel file. If any information in the supervisor's working file is to be used as the basis for a timely personnel action, it must be placed in the employee's official personnel file. Any information on which the supervisor intends to take formal action should be moved into the personnel file in the form of a performance evaluation, preliminary notice, or other documentation relating to commendation or corrective action, and a copy given to the employee.

#### C. Removal of Records

1. An employee may request the removal of records related to a corrective action from the employee's personnel file if it has been more than three years since the corrective action ended and there have been no further corrective actions within the same timeframe.
2. A written request must be made to the Human Resource Director. The Human Resource Director, in consultation with the appointing authority, shall decide whether to grant the request.

#### D. Personal Information

1. Personal information may not be released without the written consent of the employee.
2. Personal information means an employee's month and day of birth; home address; home telephone number or personal cell phone number; photograph; medical information; motor vehicle operator's identification number; public employee identification number; payroll deduction information; the name, address, telephone number, and date of birth of any dependent or emergency contact; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution. Information regarding the type of leave taken by an employee is exempt, although the amount of leave taken or accrued, and the dates of the leave taken, is public record. Information regarding leave applied for but not yet taken is exempt until the leave is taken.

E. Review of Personnel Files

1. Employee Access

An employee may review the employee's personnel file by contacting the Human Resource Director during business hours. An employee is entitled to see all records in the file. An employee may obtain a complete copy of the file on request but a complete copy will not be provided more than once per year.

2. Supervisor Access

A supervisor in the employee's chain of command or another supervisor who is considering an employee's application for another position within the Court System may review the employee's personnel file on request to the Human Resource Director. A supervisor may view all records except restricted personal information.

3. Other Access

A person who is not the subject of the file may request to review an employee's personnel file by filing a written request with the Human Resource Director. When access is gained under Section E.3., the employee must be notified by the Human Resource Director.

Approved by the Supreme Court 4/1/12; amended 7/2/15; amended 9/27/17; amended 12/18/19 effective 1/1/20

## 121 – ELECTRONIC COMMUNICATION DEVICES

### A. Business Communication

1. The Court System provides Electronic Communication Devices (ECDs) and an IT infrastructure designed to facilitate business communications among employees and other business contacts.
2. These devices include telephone (including cell phones), fax and copy machines, all computer and network related hardware, software, and peripheral devices (including e-mail and Internet), and any other type of electronic communication.
3. These devices are Court System property and must not be used in a manner that will damage the reputation of the Court System, nor jeopardize the systems' integrity.
4. A user's violation of Court System policy may lead to corrective action.

### B. Authorized Use

1. An employee is authorized to use ECDs for a purpose related to employment or official position. However, an employee may use ECDs for a non-governmental purpose provided the use:
  - a. Does not interfere with the performance of the user's public duties;
  - b. Is of nominal cost or value;
  - c. Does not create the appearance of impropriety;
  - d. Is not for a political or personal commercial purpose;
  - e. Is reasonable in time, duration, and frequency;
  - f. Makes minimal use of hardware, software, and network resources; and
  - g. Is in compliance with the Standards of Conduct outlined below.
2. Remote Access
  - a. All external connections and remote access to the Court System network must be requested through the State Court Administrator's office. External connections will be provided, based on an existing need that addresses the objectives of the Court System.
  - b. Remote Access will be provided within the services readily available and within budgetary constraints. This may be done in cases where it is necessary to carry out the work of the office or to facilitate the efficient use of equipment or employees.

- c. Without the supervisor's approval, a non-exempt employee may not use the Remote Access to work in excess of the standard 40-hour week.

C. Standards of Conduct

1. An employee's use of an ECD is a privilege, not a right.
2. An employee is solely responsible and will be held personally liable (legally, financially, or otherwise) for the use of ECDs outside the scope of the employee's employment.
3. An employee's use within the scope of employment will be treated as other activities undertaken by the employee within the scope of employment.
4. An employee's inappropriate conduct may lead to corrective action, including restricting the employee's access and use of the Internet or other appropriate action including dismissal.
5. An employee:
  - a. Must use ECDs in a professional and ethical manner;
  - b. Must not use ECDs to distribute or access material that is harassing, discriminatory, defamatory, immoral, obscene, threatening, defrauding, violent, insulting, sexually explicit, pornographic or unlawful;
  - c. Must use only software that has been licensed by the Court System. Must not install and download software/shareware without authorization;
  - d. Must not create, distribute, copy or knowingly use unauthorized copies of copyrighted material or software, store such copies on Court System computers, or transmit them over the Court System networks;
  - e. Must use the Internet only to access information that is publicly available or to which the employee has authorized access;
  - f. Must not use ECDs for the purpose of probing or hacking;
  - g. Must not use ECDs for any illegal activity: gambling, trading in illegal substances, etc.;
  - h. Must not create or distribute a computer virus or intentionally cause damage to any personal computer or bypass any Court System virus detection system in place;
  - i. Must conform to the Court System procurement policies when making business related purchases through an ECD;
  - j. Must conform to records retention policies; and

- k. Must not use non-business related “streaming” audio and video (including Internet radio, stock/news tickers, and software such as Weather Bug, etc.) that use significant amounts of the Court System’s network bandwidth.

D. Measuring and Monitoring

1. Except where precluded by law, the Court System has the right to monitor the usage of ECD’s including but not limited to storing, accessing, and reviewing information received or sent through email or over the Internet.
2. The Court System reserves the right to block out any Internet sites deemed by the Court System to be unrelated to the Court System’s responsibilities.
3. The Court System reserves and intends to exercise the right to review, audit, intercept, access and disclose all messages created, received, or sent over the electronic mail system. Violations will be reported to the employee’s supervisor.
4. The Court System will disclose ECD records to law enforcement, management, government officials, or third parties through subpoena or other process.

Approved by the Supreme Court 4/1/12

## **122 – HONOR GUARD LEAVE**

Honor guard leave is an approved absence from work, with pay, of up to twenty-four working hours per calendar year for an employee to participate in an honor guard for a funeral service of a veteran. Honor guard leave is not annual leave.

Approved by the Supreme Court 4/1/12



## 123 – PROFESSIONAL DEVELOPMENT

- A. The Court System supports the continued professional development and education of an employee as a means of providing an employee with the skills necessary to fulfill the employee's duties.
- B. Training
1. The professional development of an employee is encouraged through attendance and participation in approved meetings, classes, seminars, workshops, conferences etc. As training and development opportunities become available, employee participation may be requested or required as determined by the employee's supervisor.
  2. In-State Training  

The employee's supervisor will determine that the training is related to the employee's job duties and forward the request, along with the supervisor's recommendation, to the appointing authority.
  3. Out-of-State Training
    - a. The employee must submit an [authorization for out-of-state travel](#) form to the employee's supervisor.
    - b. The employee's supervisor will determine that the material is not otherwise available in-state and that the training is related to the employee's job duties. The supervisor must consider the educational needs of the position and previous attendance at out-of-state programs prior to making a recommendation and seeking approval of any request from the appointing authority.
    - c. If approval is recommended and is outside the budget guidelines for the biennium, the appointing authority will submit the travel request to the Chief Justice for consideration.
    - d. The training may be fully funded, partially funded, or not funded as determined by the appointing authority and Chief Justice based on available funding and priorities. If the training is not funded, a decision as to time off with pay to attend the program will be indicated in the event that the employee desires to provide personal funding.

Approved by the Supreme Court 4/1/12; amended 1/8/14 effective 2/1/14

## 124 – SERVICE AND RETIREMENT AWARDS

### A. Service Awards

1. Service awards are a uniform method of recognizing a temporary employee who works an average of 20 hours or more per week and a regular employee for the employee's service to the Court System. An employee must have completed the equivalent of three, five, ten, fifteen, twenty, twenty five, thirty, thirty-five, forty, forty-five, or fifty years of employment with the Court System in order to receive a service award.
2. An employee's years of service with the Court System under this policy also includes employment with the county or district clerk of court's offices prior to absorption into the Court System. An employee who leaves employment with the Court System 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.
3. For three years and then every five years of service a certificate and gift certificate up to the following values will be awarded.

<b>3 years</b>	\$25	<b>30 years</b>	\$300
<b>5 years</b>	\$50	<b>35 years</b>	\$350
<b>10 years</b>	\$100	<b>40 years</b>	\$400
<b>15 years</b>	\$150	<b>45 years</b>	\$450
<b>20 years</b>	\$200	<b>50 years</b>	\$500
<b>25 years</b>	\$250		

4. Awards will be presented during the year the employee becomes eligible for an award or during the first quarter of the subsequent year. Cash and gift cards are taxable.

### B. Retirement Awards

1. A retirement award will be provided to a regular employee or a temporary employee who works an average of 20 or more hours per week and who has a minimum of fifteen years of service, and who has not been previously recognized for a retirement by the state, as follows:
  - a. An engraved plaque or an equivalent recognition, not to exceed \$100;
  - b. A gift or gift certificate with a value not to exceed \$200;
  - c. A farewell coffee party, provided that the employee agrees to participate; and
  - d. Up to \$200 will be provided for party expenses.
2. Awards are awarded as specified above and may not be combined or substituted for cash. Cash and gift cards are taxable.

## 125 – PERS BENEFITS

A. The following are benefit programs contained in the Public Employees Retirement System (PERS). Benefits are subject to change. In the event of a discrepancy between the handbook and the plan documents, the plan documents control. Regular employees working at least 20 hours per week for more than 20 weeks each year are eligible for the following benefits:

1. Medical Insurance

Medical insurance coverage is available on the first day of the month following the start of employment with the Court System. The Court System pays the full premium for individual and family coverage for the Dakota PPO/Basic Plan or contributes to a Health Savings Account which is offered with a High Deductible Health Plan.

2. Dental Insurance

Dental insurance coverage is available on the first day of the month following the start of employment. The employee must pay the premium for the employee and the employee's qualifying dependents.

3. Vision Insurance

Vision insurance coverage is available on the first day of the month following the start of employment. The employee must pay the premium for the employee and the employee's qualifying dependents.

4. Life Insurance

Life insurance coverage is available on the first day of the month following the start of employment. Each employee automatically receives a set amount of Basic Life Insurance protection paid for by the Court System. In addition, an employee may purchase supplemental life insurance. An employee may also purchase life insurance coverage for the employee's spouse and dependents. Life insurance premiums are based on age and the amount of coverage purchased.

5. Long-Term Care Insurance

Long-term care insurance is available at the employee's expense the first day of the month following approval. Long-term care is care received when someone needs assistance, either at home or in a facility, with daily living activities due to an accident, illness, or advanced age. Long Term Care premiums are based on an employee's insurance age and the options chosen.

6. Retirement Plan

Regular employees must participate in the retirement plan.

7. Flex Comp Plan

The Flex Comp Plan is available the first day of the month following the start of employment. Under the Flex Comp Plan, an employee can set aside a portion of the employee's income, before taxes, to be placed into accounts that draw tax-free reimbursements. Eligible expenses include medical expenses, which are not covered by health insurance, qualifying premium expenses, and dependent care expenses, which enable the employee and spouse to be gainfully employed.

8. Deferred Compensation 457 Supplemental Retirement Plan

The Deferred Compensation 457 Supplemental Retirement Plan is available for enrollment at any time. The Deferred Compensation 457 Supplemental Retirement Plan is a voluntary, supplemental retirement savings program designed to increase an employee's personal savings for retirement and reduce an employee's current taxable income.

- B. For more information, please refer to PERS website:  
<http://www.nd.gov/ndpers/forms-and-publications/index.html>

Approved by the Supreme Court 4/1/12; amended 6/5/19

## 126 – HOLIDAYS

- A. The following full days are observed as paid holidays for regular employees:
1. The first day of January - New Year's Day;
  2. The third Monday of January - Martin Luther King, Jr. Day;
  3. The third Monday of February - Presidents' Day;
  4. The Friday preceding Easter Sunday - Good Friday;
  5. The last Monday in May - Memorial Day;
  6. The fourth day of July - Independence Day;
  7. The first Monday of September - Labor Day;
  8. The eleventh day in November - Veterans' Day;
  9. The fourth Thursday in November - Thanksgiving Day;
  10. The twenty-fifth day of December - Christmas Day; and
  11. Every day appointed by the President of the United States or by the governor of this state for a public holiday.
- B. Court System offices close at noon on December 24. This is an office closure, not a holiday. Noon closure applies on December 24 only and is not moved to the preceding Friday or following Monday as referenced below for holidays.
- C. If a holiday falls on a Saturday or Sunday, the preceding Friday or the following Monday, respectively, is considered the holiday.
- D. If a courthouse is closed for a holiday not observed by the Court System or a non-weather related closure, except for emergencies, employees stationed at that courthouse will be required to work or take leave.
- E. If a remote working employee's principal place of employment is closed due to an emergency, inclement weather, or other closures including additional closures around holidays, the employee will continue to work at the assigned alternate work location or take leave.
- F. An employee may not substitute observed holidays for other days off with the exception that an alternate day off will be provided when an employee is scheduled by the employee's supervisor to work a holiday for necessary business reasons.

Approved by the Supreme Court 4/1/12; amended 10/1/22

## 127 – ANNUAL LEAVE

A. Annual leave is an approved absence from work for regular employees, with pay, for personal reasons.

B. New Employee Transfers

1. Annual leave accumulated while employed by the state or by the county in the clerk of court's office may be transferred to the Court System. However, no compensatory time or obligation will be transferred.
2. For those clerks employed by the county in the clerk of court's office who have not participated in a leave system which permits accumulation, the Court System will recognize a beginning balance on the employee's first day of employment according to years of service with the county in the clerk of court's office as follows:

Months of Service	Annual Leave
0 through 108	80 Hours
Over 108	160 Hours

C. Accrual

1. Leave accrual rates are determined by the number of years of service with a North Dakota agency of state government and clerk of court's office employed by the county, subject to section G.
2. A regular employee working an average of 20 hours or more per week is eligible to earn annual leave. A regular employee accrues annual leave from the employee's date of hire.
3. A temporary employee does not earn annual leave. However, if a temporary employee fills a regular position, the years of service, for purposes of calculating the annual leave accrual rate, may be calculated from the employee's first day of temporary employment.
4. Annual leave is accrued on a prorated basis for a fraction of a month.
  - a. In accordance with the following schedule, a regular full-time employee earns annual leave at the rate between 8 and 16 hours a month.

Months of Service	Hours per Month	Hours per Year	Days per Month	Days per Year
0 through 24	8	96	1	12
25 through 48	10	120	1 ¼	15
49 through 72	12	144	1 ½	18
73 through 96	14	168	1 ¾	21
Over 96	16	192	2	24

- b. A regular part-time employee accrues leave prorated on the basis of a 40-hour work week.

D. Scheduling

1. An employee needs to request annual leave through the employee's immediate supervisor. Supervisors need to exercise discretion in granting leave based on business and staffing requirements. Annual leave may be taken in quarter hour increments.
2. At the discretion of the employee's supervisor and appointing authority, an employee during the first year of employment with the Court System may take 24 hours of annual leave in advance of accrual which is a payroll advance. On notice of termination the Court System will deduct the amount of the payroll advance that has not been earned from the employee's paycheck(s). The employee will be responsible to reimburse the Court System all remaining amounts owed to it. A request for an advanced accrual must be made on the [advanced accrual](#) form.

E. Carryovers

A maximum of 240 hours of annual leave may be carried over from one year to the next. Hours in excess of 240 will be forfeited if not used by April 30 of each year.

F. Terminations/Transfer

An employee will be paid for unused current annual leave when the employee terminates employment with the Court System. If an employee transfers from the Court System to another state agency, the employee may retain only as many hours as the receiving agency accepts. The Court System will then pay the transferred employee for current unused hours the receiving agency did not accept.

G. Reinstatements

If an employee leaves state or clerk of court office county employment and returns to the Court System within three years, the employee will be credited with previous years of service for calculating the annual accrual rate.

H. Policy Violations

Violation of this policy may lead to corrective action up to and including dismissal.

Approved by the Supreme Court 4/1/12

## 128 – SICK LEAVE

A. Sick leave has been provided for the occasional illness or injury with the expectation employees will reserve sick leave for serious health conditions.

B. New Employee Transfers

1. Sick leave accumulated while employed by the state or by the county in the clerk of court's office may be transferred to the Court System. However, no compensatory time or obligation will be transferred.
2. For those clerks employed by the county in the clerk of court's office who have not participated in a leave system which permits accumulation, the Court System will recognize a beginning balance on the employee's first day of employment according to years of service with the county in the clerk of court's office as follows:

Months of Service	Sick Leave
0 through 108	80 Hours
Over 108	160 Hours

3. On exhaustion of sick leave within the first three years of Court System employment, an additional 176-hour bank of sick leave will be available with certification by the employee's doctor in the event of a major illness requiring hospitalization or extended recuperation. The 176-hour bank of sick leave will not be included in the calculation of any pay on termination.

C. Accrual

1. Leave accrual rates are determined by the number of years of service with a North Dakota agency of state government and clerk of court's office employed by the county, subject to section H.
2. A regular employee working an average of 20 hours or more per week is eligible to earn sick leave. A regular employee accrues sick leave from the employee's date of hire.
3. A temporary employee does not earn sick leave. However, if a temporary employee fills a regular position, the years of service, for purposes of calculating the sick leave accrual rate, may be calculated from the employee's first day of temporary employment.
4. Sick leave is accrued on a prorated basis for a fraction of a month.
  - a. In accordance with the following schedule, a regular full-time employee earns sick leave at the rate of between 8 and 12 hours a month.



<b>Months of Service</b>	<b>Hours per Month</b>	<b>Hours per Year</b>	<b>Days per Month</b>	<b>Days per Year</b>
0 through 12	8	96	1	12
13 through 24	10	120	1 ¼	15
Over 24	12	144	1 ½	18

- b. A regular part-time employee accrues sick leave prorated on the basis of a 40-hour work week.

D. Utilization

1. Personal Illness

An employee may use accrued sick leave for personal illness (both physical and mental), bodily injuries, and medically related disabilities resulting from pregnancy and childbirth when the employee is unable to work.

2. Medical Appointments

An employee may use accrued sick leave for personal medical (physical or mental) appointments, which cannot be scheduled at times other than during working hours.

3. Family Sick Leave

- a. Up to 80 hours of an employee’s accrued sick leave per calendar year may be used to care for the medical condition or illness or a medical or health related service of an eligible family member (parent, spouse, child, grandparent, grandchild, sibling, domestic partner, or an individual who is verifiably dependent on the employee for care).
- b. With the approval from an employee’s appointing authority, an additional 10% of sick leave may be used per calendar year to care for the medical condition or illness or a medical or health related service of an eligible family member (parent, spouse, child, grandparent, grandchild, sibling, domestic partner, or an individual who is verifiably dependent on the employee for care).

If allowed the additional sick leave may not exceed 10% of an employee’s accrued sick leave balance as of January 1 of the calendar year.

- c. An employee who qualifies under the Family and Medical Leave Act or Non-Family and Medical Leave Act for leave to care for an eligible family member with a serious health condition, qualifying exigency, or to care for a covered service member may take up to 480 hours of the employee’s accrued sick leave. An employee who qualifies for leave for the bereavement for the death of a child may take up to 160 hours of the employee’s accrued sick leave.

- d. The definition of child includes adult children for purposes of this policy only.

4. Bonding

An employee who qualifies under the Family and Medical Leave Act for leave to care for the employee's child by birth or to care for a child placed with the employee by a licensed child-placing agency for adoption may take up to six weeks of the employee's accrued sick leave. The sick leave will run concurrently with the leave under the Family and Medical Leave Act.

5. Domestic Violence, a Sex Offense, Stalking or Terrorizing

Under the provisions of the N.D.C.C. § 54-06-14.6, an employee may use sick leave for the following situations relating to domestic violence, a sex offense, stalking, or terrorizing.

- 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 services 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 immediate family members;

Immediate family member means spouse, domestic partner, parent, child, or sibling. At the discretion of the employee's supervisor, the sick leave hours may be limited to 40 hours per calendar year.

E. Scheduling

- 1. An employee is expected to make every reasonable effort to schedule appointments in advance. Unscheduled appointments will be evaluated on a case by case basis. Sick leave may be taken in quarter hour increments.
- 2. On the exhaustion of an employee's sick leave and at the discretion of the employee's supervisor and appointing authority, an employee during the first year of employment with the Court System may take 48 hours of sick leave in advance of accrual which is a payroll advance. On notice of termination the Court System will deduct the amount of the payroll advance that has not been earned from the employee's paycheck(s). The employee will be responsible to reimburse the Court System all remaining amounts owed to it. A request for an advanced accrual must be made on the [advanced accrual](#) form.

F. Carryovers

All accrued unused sick leave is carried over from one year to the next.

G. Termination/Transfers

1. If an employee transfers from one state agency to another including the Court System, the employee retains all accrued unused sick leave hours.
2. If an employee leaves employment with the state including the Court System after ten continuous years of State employment, the employee must be paid for 10% of the unused sick leave, subject to the provisions of the N.D.C.C. § 54-06-14 and Ch. 54-52.

H. Reinstatements

1. If an employee leaves state or clerk of court office county employment and returns to the Court System within three years, the employee will be credited with previous years of service for calculating the sick leave accrual rate.
2. If an employee leaves state or clerk of court office county employment and is hired by the Court System within one year (two years if the employee was affected by a reduction in force), the employee 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 previously been paid.

I. Policy Violations

Violation of this policy may lead to corrective action.

Approved by the Supreme Court 4/1/12; amended 7/2/14; amended 7/2/15; amended 10/12/16 effective 11/1/16; amended 7/17/17; amended 10/16/19 effective 11/1/19; amended 6/20/23 effective 7/1/23

## 129 – LEAVE SHARING

- A. An employee may participate in the annual and sick leave sharing program. The leave sharing program allows employees under certain serious conditions that has caused or is likely to cause an employee to take leave without pay or terminate employment to receive donated leave from other Court System employees or state employees.
- B. Receiving Employee
1. Within the following requirements, the State Court Administrator will determine if an employee is eligible to receive donated leave.
    - a. The employee must be a regular employee with a minimum of six months of continuous service who has or will exhaust all of the employee's leave.
    - b. For an annual leave request, the employee must be suffering from or have a relative or household member suffering from a serious illness, injury, impairment, or mental condition that has caused or is likely to cause the employee to take leave without pay or terminate employment.
    - c. For a sick leave request, the employee must be suffering from a serious illness, injury, impairment, or mental condition that has caused or is likely to cause the employee to take leave without pay or terminate employment.
    - d. The submission of medical certification is required.
  2. An employee wishing to participate in the leave sharing program must contact the Human Resource Director.
  3. If approved, an employee may receive up to four months (694 hours) of shared leave in any 12-month period.
- C. Donating Employee
1. The donation of leave from one individual to another is voluntary.
  2. Donated leave must be in one hour increments.
  3. When donating annual leave, the donating employee must retain an annual leave balance of at least 40 hours.
  4. When donating sick leave, the donating employee may not donate more than five percent of the employee's accrued sick leave hours.
  5. Donated leave is not returnable.
  6. The donation of leave form must be completed and forwarded to the Director of Finance unless the employee is on the statewide list in PeopleSoft. Donations to Court System or other state employees on the statewide list may be completed in PeopleSoft.

Approved by the Supreme Court 4/1/12; amended 6/6/13; amended 3/9/22

## 130 – FUNERAL AND BURIAL LEAVE

- A. A leave of absence with pay up to 24 working hours for a regular employee is allowed for funeral and burial when death occurs in the employee's family.
- B. "Family" means the relatives of the employee and the employee's spouse or domestic partner including in-laws, step-relatives, foster, or equivalent relationship as follows:
  - 1. Spouse, domestic partner;
  - 2. Children;
  - 3. Parents;
  - 4. Siblings;
  - 5. All levels of grandparents;
  - 6. All levels of grandchildren;
  - 7. Niece, nephew; or
  - 8. Aunt, uncle.
- C. Funeral and burial leave is not sick leave or annual leave. For the death of someone not covered by this policy, it is appropriate to request annual leave.
- D. An employee using funeral and burial leave must give as much notice as possible to the employee's supervisor.

Approved by the Supreme Court 4/1/12; amended 3/17/21

## 131 – EMERGENCY AND DISASTER SERVICES LEAVE

A. The Chief Justice may grant the following leave of absences to full-time, regular employees.

1. Disaster Service Leave

On issuance of an order or proclamation declaring a state of disaster or emergency pursuant to 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, this leave of absence may be for:

- a. An employee who is certified by the American Red Cross as a disaster services volunteer and has been requested by the American Red Cross to participate in disaster relief services.
- b. An employee who wishes to volunteer the employee's time toward public prevention or recovery efforts.
- c. An employee who is personally affected by a declared disaster or emergency when the employee's life, the lives of immediate household members, or the employee's property is endangered.

Requested leave is at the supervisor's discretion and cumulative leave may not exceed 40 hours per calendar year.

2. Emergency Service Leave

On issuance of an order or proclamation declaring a state of disaster or emergency pursuant to chapter 37-17.1, a search emergency by the air force rescue coordination center or by the department of emergency services, or a declaration of at least a level II disaster by the American Red Cross in this or any other state, this leave of absence may be for:

- a. An emergency medical service provider, a member of the civil air patrol, a firefighter, police officer, volunteer member of the North Dakota army or air national guard, emergency radio operator, or an employee who performs other services necessary in an emergency.
- b. The leave of absence must be for the purpose of allowing the employee to provide voluntary emergency services.

Requested leave is at the supervisor's discretion and cumulative leave may not exceed 80 hours per calendar year.

3. Emergency Medical Service and Firefighter Volunteer Leave

On request of an emergency medical services operation or fire department, this leave of absence must be for the purpose of allowing an employee who is an emergency medical services personnel or firefighter volunteer to respond to an emergency.

Requested leave is at the supervisor's discretion and cumulative leave may not exceed 40 hours per calendar year.

- B. The leave will be with pay and will not require the use of annual leave or compensatory time. The leave may not result in a loss of compensation, seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise eligible.
- C. A person who is on leave under this policy is deemed not to be an employee of the Court System for the purposes of workers compensation.

Approved by the Supreme Court 4/1/12; amended 11/6/19 effective 12/1/19

### **132 – ORGAN OR BONE MARROW DONATION**

- A. The Chief Justice may grant a leave of absence, not to exceed 20 workdays, to a regular employee for the purpose of donating an organ or bone marrow.
- B. Notwithstanding the limitations for the donation and use of donated leave under the Leave Sharing policy, an employee may request and use donated annual leave or sick leave for the purpose of donating an organ or bone marrow.
- C. 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 Chief Justice may grant a paid leave of absence for the remainder of the leave up to the maximum of 20 workdays.
- D. Verification by a physician regarding the purpose of the leave requested and information from the physician regarding the length of the leave requested will be required.
- E. Any paid leave of absence granted under this section will not result in a loss of compensation, seniority, annual leave, sick leave, or accrued overtime for which the employee is otherwise eligible.

Approved by the Supreme Court 4/1/12



## 133 – JURY DUTY AND WITNESS LEAVE

### A. Jury Duty

1. Regular employees called for jury duty will be allowed leave with pay, minus any jury duty fee received. Travel or other allowances are not included. If an employee chooses to use annual leave to perform jury duty, the employee may keep all jury duty pay.
2. An employee on jury duty is expected to work as much of the regularly scheduled workday as the jury duty schedule permits.

### B. Witness Leave

1. Witness leave is an approved absence with pay to appear as a witness on behalf of the Court System or the State of North Dakota.
2. An employee may not retain the witness fee. An employee serving as a witness may only be reimbursed for mileage, meals, and lodging from one source.
3. An employee who performs witness duties unrelated to the employee's official duties must do so using annual leave.

Approved by the Supreme Court 4/1/12

## 134 – MILITARY LEAVE

- A. An employee who has at least 90 days of continuous service and is a member of the guard, reserves, subject to call to service by the president, or who volunteers for service, is entitled to up to 20 workdays each calendar year of military leave of absence with pay when ordered to service by proper authorities. This includes active duty training.
- B. In the event of mobilization or activation for more than 20 working days by federal or state officials, the employee will be granted a military leave of absence. The first 30 workdays in a calendar year, less any leave taken under section A, will be with pay.
- C. An employee who takes a military leave of absence will be reinstated to the former position or a position of like status and pay if the employee completes the service and is released, deactivated, or discharged in any manner other than dishonorably.
  - 1. The employee must not be physically or otherwise incapacitated from performing the duties of the position and must apply for reinstatement within 90 days of being deactivated, released, or discharged.
  - 2. The employee must not be discharged from the position for a period of one year unless the discharge is for cause.
- D. Leave taken under this section is subject to the provisions of sections 37-01-25 and 37-01-25.1, N.D.C.C. The employee must contact the Human Resource Director for clarification on application of the law.

Approved by the Supreme Court 4/1/12; amended 1/8/14 effective 2/1/14; amended 11/6/19 effective 12/1/19

### **135 – EMPLOYEE ORGANIZATION LEAVE**

On approval from an employee's appointing authority, an employee who is an officer or delegate of a recognized employee group, may receive employee organization leave not to exceed two working days per year to attend a state conference or convention.

Approved by the Supreme Court 4/1/12

## 136 – LEAVE WITHOUT PAY

- A. Leave without pay means an approved absence from work without pay. Leave without pay is limited to one year in duration.
- B. Educational leave means the approved leave of absence from work without pay to attend school. Educational leave is limited to two years in duration.
- C. Approving a leave without pay or educational leave is discretionary with the appointing authority and the State Court Administrator or Chief Justice. A request for leave without pay or educational leave must be made by completing the [leave without pay](#) form. It may be granted provided:
  - 1. The employee has maintained a satisfactory service record;
  - 2. The absence will not unduly disrupt the Court System's operations or services;
  - 3. An agreement in writing is made about the terms and conditions of the employee's return to work if the leave without pay is for more than 14 consecutive calendar days, or if the leave is educational leave; and
  - 4. The employee has exhausted all earned annual leave prior to the effective date of any leave without pay except that at the discretion of the appointing authority, up to 80 hours may be retained.

Approved by the Supreme Court 4/1/12

## 137 – FAMILY AND MEDICAL LEAVE

A. The Family and Medical Leave Act (FMLA) allow employees to balance their work and family life by taking reasonable unpaid leave for certain family and medical reasons. An employee is required to use all eligible paid leave, according to the leave policies, in conjunction with FMLA leave before taking unpaid leave.

B. Eligibility

Employees are eligible if they have worked for the State of North Dakota for at least one year and for 1,250 hours over the previous 12 months.

C. Qualifying Reason for FMLA

1. Certain Serious Family and Medical Reasons

a. Up to 12 weeks of unpaid leave must be granted:

- (1) For incapacity due to pregnancy, prenatal medical care or child birth;
- (2) To care for the employee's child after birth or placement for adoption or foster care;
- (3) To care for the employee's spouse, child or parent who has a serious health condition; or
- (4) For a serious health condition that makes the employee unable to perform at least one essential function of the employee's job.

b. Serious Health Condition. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either:

- (1) An overnight stay in a medical care facility; or
- (2) Continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment includes any one or more of the following:
  - (a) A period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider within a 30-day period (unless extenuating circumstances exist) or one visit and a regimen of continuing treatment; or
  - (b) Any period of incapacity due to prenatal care or pregnancy; or

(c) Incapacity due to a chronic condition.

2. Military Family Leave for a Qualifying Exigency

- a. Eligible employees with a spouse, child, or parent on active duty or call to active duty status in the regular Armed Forces, National Guard, or Reserves to a foreign country may use their 12-week leave entitlement to address certain qualifying exigencies.
- b. A “qualifying exigency” is defined as at least one of nine categories of events:
  - (1) *Short notice deployment* - leave is limited up to seven calendar days or less.
  - (2) *Military events and related activities* such as official, sponsored, or promoted ceremonies, programs, events or information briefings related to active duty or a call to active duty.
  - (3) *Childcare and school activities* – includes when the call to active duty necessitates a change in childcare arrangements, and to provide childcare on an urgent, immediate (but not routine, everyday) basis.
  - (4) *Financial or legal arrangements.*
  - (5) *Counseling*, provided that the need for the counseling arises from the call to active duty.
  - (6) *Rest and recuperation* – up to 15 days to spend time with a covered military member on short-term, temporary, rest and recuperation leave.
  - (7) *Post-deployment activities* – attending events such as arrival ceremonies for up to 90 days after termination of the military member’s active service, and to address issues arising from the death of a covered military member.
  - (8) *Care of the military member’s parent* who is incapable of self-care.
  - (9) *Additional activities*, as mutually agreed by the employer and employee.

3. Military Family Leave to Care for a Covered Service Member

- a. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member with a serious injury or illness.
  - (1) A serious injury or illness is one that was incurred or aggravated in the line of duty on active duty that may render the service member

medically unfit to perform the duties of his or her office, grade, rank, or rating.

A serious injury or illness also includes an injury or illness that qualifies the veteran for benefits from the Department of Veterans Affairs or substantially impairs the veteran's ability to work. Those benefits are:

- (a) a physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the need for military caregiver leave is related to that condition; *or*
  - (b) a physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; *or*
  - (c) an injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
- (2) Next of kin of a covered service member means the nearest blood relative other than the covered service member's spouse, parent, or child, in the following order of priority:

Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, siblings, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

b. A covered service member is defined as one of the following:

- (1) A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness that manifested itself before or after active duty.
- (2) A veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, who was discharged or released under conditions other than dishonorable at any time during the period of five years preceding the first date the eligible employee takes FMLA leave to care for the veteran undergoing medical treatment, recuperation, or therapy for a serious injury or illness that manifested itself before or after the member became a veteran.

4. Bereavement Leave for the Death of a Child

Up to four weeks of unpaid leave may be granted, and may be taken intermittently, if approved and must be concluded within six months of the child's death.

D. Requirements

1. Notice

- a. An employee must provide 30 days advance notice when the leave is foreseeable. When leave is not foreseeable, the employee must provide notice as soon as practicable.
- b. If an employee's leave may potentially qualify as FMLA, the supervisor must immediately contact the Human Resource Director whether or not the employee has requested FMLA leave. An employee may not choose that qualified leave not be considered FMLA leave.

2. Certification

- a. In most cases the Court System will require certification to support a request for leave. Employees may also be required to provide periodic recertification supporting the need for continued leave.
- b. For medical certifications the Court System may require a second or third opinion (at the Court System's expense) and a fitness-for-duty report to return to work.
- c. Certification forms may be obtained on the intranet under the Human Resource page. <http://admin.ndcourts.gov/hr/default.htm>

3. Paid Leave

- a. An employee is required to use all eligible paid leave, according to the leave policies, in conjunction with FMLA leave before taking unpaid leave.
- b. On exhaustion of all paid leave, an exempt employee's pay will be reduced by the hours missed even if it is less than a full day.

4. Use of Leave

- a. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the Court System's operations.
- b. Leave can be taken intermittently or on a reduced leave schedule when medically necessary.
- c. Leave due to qualifying exigencies may also be taken on an intermittent basis.



5. Leave Measurement
  - a. The 12-month leave period is measured as a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave.
  - b. The 26 weeks of Military Family Leave to Care for a Covered Service Member is available during a single 12-month period.
  - c. During any single 12-month period, the employee's total leave entitlement is limited to a combined total of 26 weeks for all qualifying reasons under FMLA.
  
6. Spousal State Employment
  - a. If both the employee and the employee's spouse are employed by the State of North Dakota and are eligible for FMLA leave, their combined leave may not exceed 12 weeks if the leave is taken to care for the employee's parent with a serious health condition, for the birth of the employee's child or to care for the child after the birth, or for placement of a child with the employee for adoption or foster care or to care for the child after placement.
  - b. Even if the employee and spouse are employed by the State of North Dakota, an employee with the Court System may take 12 weeks of FMLA leave if needed to care for a newborn child or an adopted or foster child with a serious health condition.
  - c. The employee and the spouse are limited to a combined total of 26 weeks of leave when care for a covered service member with a serious injury or illness is taken as military family leave in addition to leave for birth of the employee's child or to care for the healthy child after birth, for placement of a healthy son or daughter with the employee for adoption or foster care, to care for the child after placement, or to care for the employee's parent with a serious health condition during a single 12-month period.
  
7. Outside Employment
  - a. An employee may not engage in similar outside employment, while on FMLA leave, if it interferes with the proper and complete discharge of the employee's responsibilities and duties to the Court System. For the purposes of this section the term "outside employment" means any gainful employment other than the performance of functions and duties related to the Court System, including, but not limited to, management or operation of a business or consulting work.
  - b. Prior to pursuing outside employment, an employee must seek the written approval of the State Court Administrator or Chief Justice to determine whether such outside employment presents a conflict of interest or the appearance thereof, or interferes with the employee's responsibilities and duties.

- c. The State Court Administrator or Chief Justice will give or deny approval, in writing, within a reasonable time. The decision will be placed in the employee's personnel file.

E. Job Benefits and Protection

1. During FMLA leave, the Court System must maintain the employee's health coverage. The Court System may recover the premiums paid for an employee if the employee does not return from leave.
2. When an employee returns from FMLA leave, an employee must be reinstated to the employee's original or equivalent position with equivalent pay, benefits, and terms and conditions of employment.
3. However, if the employee's former position is eliminated because of a reduction-in-force, and the position would have been eliminated if the employee was not on such absence, the employee is not entitled to reinstatement.

Approved by the Supreme Court 4/1/12; amended 4/4/12 effective 4/15/12; amended 6/6/13; amended 10/12/16 effective 11/1/16; amended 7/17/17; amended 10/16/19 effective 11/1/19; amended 6/20/23 effective 7/1/23

## 138 – EMPLOYEE ASSISTANCE PROGRAM

- A. The Court System provides an Employee Assistance Program (EAP) to regular employees and members of their household. This benefit is offered to help Court System employees resolve concerns that may impact their personal lives or their job performance.
- B. The EAP is a free, confidential and independent counseling program that offers professional guidance and services to employees. The EAP provides an avenue of help for employees whose emotional, relationship, financial, legal, workplace or chemical dependency concerns are affecting their personal or professional lives.
- C. The Court System encourages employees and their household members to make full use of this benefit, which is designed to promote employee health and well-being on and off the job. Employees can contact The Village Business Institute's EAP 24 hours a day, seven days a week to arrange a confidential appointment with a specialist or to learn more about the services available. The EAP can be reached by calling 1-800-627-8220 or TTY 1-888-510-4733.
- D. Employees may use sick leave or family sick leave for EAP appointments.

Approved by the Supreme Court 4/1/12

## 139 – LAWSUITS INVOLVING EMPLOYEES

- A. Notification. An employee must notify their supervisor and appointing authority within 7 days if, based on actions arising out of the employee’s employment with the Court System:
1. criminal charges are filed against the employee;
  2. a civil claim or demand is received by an employee; or
  3. the employee is required to appear or testify in a criminal or civil case.

The notification must include a copy of the legal documents received by the employee and state the date of service on the employee.

- B. Legal Assistance. The appointing authority must review the documents provided and immediately notify the State Court Administrator. If the matter involves a civil claim or demand, the State Court Administrator must ensure that the requirements of N.D.C.C. 32-12.2-03(6) are timely followed. If the matter involves a criminal charge or a requirement that the employee appear to testify, the State Court Administrator may consult with the Attorney General about legal assistance for the employee.

Approved by the Supreme Court 4/1/12; amended 6/10/15; amended 11/6/19 effective 12/1/19

## 140 – CONDUCT

- A. All actions relating to employee conduct will be handled in a fair and consistent manner. Employees are expected to maintain proper standards of conduct at all times.
- B. Listed below are examples of actions that could lead to corrective action up to and including immediate dismissal.
  - 1. Unsatisfactory job performance.
  - 2. Destruction, damage, misuse, or theft of state property.
  - 3. Falsification or misrepresentation of the Court System information or personnel records.
  - 4. Unauthorized disclosure of confidential information.
  - 5. Violating the alcohol or drug policy.
  - 6. Removal of state property or information without prior consent.
  - 7. Disruptive or offensive behavior on the job.
  - 8. Failure to carry out the directions of a supervisor or insubordination of any kind.
  - 9. Violation of safety or security regulations.
  - 10. Excessive absenteeism or tardiness.

Approved by the Supreme Court 4/1/12

## 141 – CORRECTIVE ACTION

- A. When it becomes necessary to address a regular employee's conduct in the workplace, general guidelines of acceptable business conduct will govern. The corrective action process is a guideline – it is not intended to change non-classified employee's at will employment status.
- B. Corrective Action For Classified and Non-Classified Employees
1. Depending on the nature and seriousness of an employee's conduct, corrective action may be any type of corrective action listed below.
    - a. Preliminary Notice
      - (1) The supervisor of the employee must meet with the employee and inform the employee of the specific conduct that is unacceptable.
      - (2) The conduct must be clearly identified and a time set by which the situation must be rectified.
      - (3) Preliminary notices must be documented on a preliminary notice memo and forwarded to the employee, appointing authority, and the Human Resource Director.
      - (4) If further issues of a similar nature occur, a more severe action will be taken and any previous preliminary notice(s) must be attached.
    - b. Written Reprimand
      - (1) Written reprimands must be approved by the appointing authority and notice must be given to the Human Resource Director as soon as practicable. Written reprimands must be documented on a [written reprimand memo](#).
      - (2) The supervisor of the employee must meet with the employee and inform the employee of the specific conduct that is unacceptable.
      - (3) The conduct must be clearly identified and a time set by which the situation must be rectified.
      - (4) The employee's signature indicates the employee has reviewed and discussed the corrective action memo with the employee's supervisor.
      - (5) The employee will have the option to reply to a written reprimand within five working days of receiving the reprimand. Such written reply must be placed in the employee's file with the written reprimand.
      - (6) Written reprimands must be filed in the employee's personnel file in the State Court Administrator's Office.

- (7) An employee may appeal the written reprimand through the Conflict Resolution policy.

c. Dismissal

- (1) All dismissals must be in writing and approved by the appointing authority and reviewed by the Human Resource Director before the action is taken.
- (2) Non-Classified Employees and Employees in the Introductory Period
  - (a) A non-classified employee or an employee in the introductory period may be dismissed at will - employment may be terminated by the Court System or an employee at any time, without cause and without notice.
  - (b) A non-classified employee or an employee in the introductory period is not subject to the Conflict Resolution policy's dismissal or reduction in force appeal review by the Personnel Policy Board.
- (3) Classified Employees
  - (a) For a classified employee who has successfully completed the introductory period a dismissal from employment must follow a written notice.
  - (b) An employee must be notified in writing of the contemplated dismissal, the reasons constituting cause for the dismissal, and the time and place where the employee will have an opportunity for a meeting with the supervisor and appointing authority to present evidence and argument in support of the employee's position. The employee must be given adequate time to prepare for the meeting, however the meeting must be held no later than the end of the next business day after receipt of the notice of contemplated dismissal.
  - (c) After the employee has been given an opportunity for a meeting, the supervisor must notify the employee, in writing, of the decision. If the decision is to dismiss the employee, notice of the decision must include a copy of the employee's right to the Conflict Resolution policy's dismissal or reduction in force appeal review by the Personnel Policy Board.
  - (d) Exception: An employee who engages in violence or threats of violence against a judicial officer or another employee, or against a member of the public while on work premises may be dismissed without prior written notice. At the discretion

of the appointment authority, the employee's right to a meeting under section (3)(b) may be conducted on the premises with security present or by telephone or other remote means.

C. Corrective Action For Judicial Referees

1. Judicial referees serve at the pleasure of the presiding judge in the district they serve, and are subject to corrective action under N.D.Admin.R.13. The corrective action process below is an optional method of addressing a judicial referee's conduct.
2. Imposition of corrective action against a judicial referee may commence with a written recommendation for corrective action and the reasons justifying it from a district court judge in the judicial district. The recommendation will be sent to the presiding judge of the judicial district.
  - a. Within ten days of receiving the written recommendation for corrective action, the presiding judge shall notify the referee and all district court judges in the judicial district of the recommendation and set a time and place for review of the recommendation by all district court judges in the judicial district.
  - b. At the review meeting the referee shall have a reasonable opportunity to present evidence and argument in support of the referee's position.
  - c. The presiding judge shall notify the referee in writing of any corrective action imposed by the review panel and the reasons for it.
  - d. The decision of the majority of the review panel is final and not subject to the Conflict Resolution policy's grievance procedure or dismissal or reduction in force appeal review by the Personnel Policy Board.

D. EAP Referrals

A supervisor may refer a regular employee to the Employee Assistance Program (EAP) when addressing employee job performance or conduct in the workplace.

E. Suspension

1. Suspension may take place at any time during the corrective action process. A suspension must be approved by the appointing authority and prior notice must be given to the Human Resource Director if practicable.
2. An employee may appeal a suspension through the Conflict Resolution policy.

Approved by the Supreme Court 4/1/12; amended 1/8/14 effective 2/1/14; amended 7/21/21; amended 9/21/22



## 142 – CONFLICT RESOLUTION

A. Open lines of communication are critical to the success of the Court System. Differences and disagreements will be handled in a prompt, fair, impartial, and consistent manner.

1. The conflict resolution process is intended to ensure consideration for issues including, but not limited to:
  - a. Interpretation or administration of established policy;
  - b. Differences regarding the application of corrective action measures;
  - c. Disagreements with other employees or supervisory employees;
  - d. Feelings regarding unfair treatment; or
  - e. Any other issue that has not been resolved to the satisfaction of the employee.
2. The conflict resolution options are guidelines - they are not intended to change non-classified employees at will employment status.
3. The conflict resolution options may be utilized for resolution without fear of retaliation when dealing with a conflict at the Court System.

B. Human Resource Consultation

Employees and supervisors may consult with the Human Resource Director at any time for counsel, coaching, or clarification of this or any policies and procedures.

C. Direct Communication

1. The interests of both employees and the Court System are best served when problems relating to the workplace are resolved at an early stage. Many problems can be resolved by communicating directly with the individual(s) with whom the problem exists, whether it is with a fellow employee, subordinate, or supervisor.
2. If the situation is inappropriate or the conflict was unable to be resolved by talking to the individual source(s), the involvement of a neutral, third party (such as a mediator) is available. Another option is filing a grievance.

D. Mediation – Alternative Dispute Resolution (ADR)

1. Anytime during the conflict resolution process, the Employee Assistance Program offers mediation as an optional method of resolving workplace conflicts. Employees or supervisors can contact Human Resource Director to inquire or initiate this service.
2. Mediation is a fair and efficient process that is also voluntary, discreet, and requires commitment of the parties to attempt to settle a dispute with the assistance of an external, skilled, impartial third party - the mediator. The process involves assisting

parties collectively and privately to identify the issues in dispute and develop proposals to resolve conflict in a way that serves the best interest of both parties and encourages a harmonious working relationship.

3. Mediation is a completely voluntary alternative. It can be used only when both parties and management agree this process is appropriate for potential resolution of an issue.
4. During the time when mediation is being utilized, the time limits of the Court System grievance procedure must be suspended. If the participants at the conclusion of the resolution process do not achieve resolution, then the time limits of the grievance procedure must be activated. The mediator will determine the date of conclusion of the alternative dispute resolution process and notify the parties.

#### E. Grievance Procedure

1. The Court System has developed the following grievance procedure in order to formally consider employee problems or complaints. It is the intent of the Court System to try to resolve any grievance at the lowest possible level.
2. Only regular employees who have successfully completed their introductory period may use the grievance procedure.
3. There are three steps to the grievance process. Grievances are to proceed until the employee is satisfied, does not file a timely appeal, or exhausts the right of appeal. If a grievance is not answered by the Court System within the required time limits, the employee may go immediately to the next step.

##### a. Step One

- (1) The employee within three months of the alleged incident must first notify, in writing, the employee's supervisor about the grievance, describing the conduct being aggrieved and the relief sought.
- (2) The supervisor, within ten days of receipt of the written grievance from the employee, will investigate and respond to the grievance in writing detailing the proposed resolution of the matter and the reasons for the proposed action.
- (3) If the grievance is against the State Court Administrator or Supreme Court department head, Step Two will be bypassed.

##### b. Step Two

- (1) If dissatisfied with the response or action taken by the supervisor, the employee may continue the grievance by sending it to the State Court Administrator or Supreme Court department head within ten days from receipt of the supervisor's response.
- (2) The State Court Administrator or Supreme Court department head will investigate the grievance, confer with the employee and the

supervisor and, within twenty days, will either affirm in writing the appealed decision or issue an alternative resolution of the matter, stating the reviewer's reasons.

- (3) If the grievance is against the State Court Administrator or Supreme Court department head, step two will be bypassed.

c. Step Three

- (1) If dissatisfied with the response or action taken by the State Court Administrator or Supreme Court department head, the employee may continue the grievance by sending it to the Personnel Policy Board within ten days of receiving the decision made under Step Two.
- (2) The Personnel Policy Board will promptly investigate the grievance or complete a review of the record, and give the employee a written decision resolving the matter. The decision of the Personnel Policy Board is final.

4. Assistance

- a. At any time during the grievance process, the Human Resource Director may be asked to assist in investigating, mediating, or resolving the grievance.
- b. With the approval of the State Court Administrator, an out-of-house expert in the subject area being aggrieved may be secured to investigate, mediate, or provide recommendations concerning the grievance.

5. Confidentiality

- a. Records relating to an internal investigation of a grievance or appeal are exempt from disclosure in response to public records requests until the investigation of the grievance or appeal is complete, but no longer than seventy-five calendar days from the date of the receipt of the grievance or appeal, whichever date is later.
- b. Except as provided in subdivision a., persons processing a grievance must discuss it only with those individuals who have the need to know about it.

F. Dismissal or Reduction In Force Appeal

In the event of a dismissal or reduction in force, a former classified employee who has successfully completed the employee's introductory period may use the dismissal or reduction in force appeal procedure below.

1. A former employee will have ten working days from the date of dismissal to appeal the decision.

2. After receiving a timely request for review in writing, the Personnel Policy Board will notify the dismissed employee and the dismissed employee's supervisor and appointing authority of the time and place where the employee and the supervisor will have an opportunity to appear before the Personnel Policy Board to present evidence and argument in support of their respective positions. The meeting must be held within 30 days of receipt of the request for review.
3. The Personnel Policy Board may not reverse the dismissal imposed by the supervisor unless five board members vote to do so. The decision of the Personnel Policy Board is final.
4. The Chair of the Personnel Policy Board may ask the Chief Justice to appoint a substitute for any current member who is unable to participate in the meeting due to a conflict of interest or an inability to attend the meeting because of scheduling conflicts.

G. Personnel Policy Board Review Standard

In reviewing a grievance or dismissal or reduction in force appeal, the Personnel Policy Board will determine if:

- a. Applicable policies, laws, or rules were interpreted and applied correctly, consistently, and fairly and
- b. The action taken by the appointing authority was without bias or discrimination.

The Board may not substitute its judgment for the judgment of the appointing authority.

Approved by the Supreme Court 4/1/12; amended 1/8/14 effective 2/1/14; amended 12/18/19 effective 1/1/20; amended 5/6/20 effective 6/1/20

## 143 – REDUCTION IN FORCE

- A. A reduction in force (RIF) is the reduction in the number of employees. Some RIF reasons may be a reduction in funding, lack of work, curtailment of work, or reorganization.
- B. Procedures
  - 1. If the Supreme Court determines a reduction in force is necessary, the State Court Administrator will work with the appointing authority to develop a reduction in force plan which includes an analysis of business needs to determine the appropriate job-related criteria to use. The Supreme Court must receive the plan within 60 days of notification and may approve, reject, or amend the plan.
  - 2. If a judgeship is eliminated, the reduction of one district court support staff position for each judgeship eliminated is required unless unique circumstances are demonstrated by the affected district.
    - a. The presiding judge of any district in which a judgeship is eliminated will submit the reduction in force plan within 60 days notification of abolishment of the judgeship.
    - b. If the judgeship eliminated is in a single judge chamber, the court recorder or court reporter associated with that judgeship will be identified for reduction in force.
    - c. If the judgeship is in a multi-judge chamber, the presiding judge will identify the classification of the position(s) to be eliminated according to the job-related criteria in the next section.
    - d. If the presiding judge believes that unique circumstances exist and a position should be retained, a request to retain the position with accompanying documentation may be forwarded to the State Court Administrator within 60 days of notification.
- C. Job-Related Criteria
  - 1. In selecting the employees who will remain with the Court System, only job-related criteria will be used. The criteria used will be determined based on the reason for the reduction force and the determination of the business area's needs.
  - 2. Job-related criteria may include:
    - a. The duties or workload of the employees which have been eliminated or substantially reduced;
    - b. The acquired knowledge and demonstrated skills of the employees;
    - c. The demonstrated work performance of the employees;
    - d. The length of service of the employees; and

- e. The extent of training needed to be fully productive in different jobs.

D. Notice

1. An employee who will be terminated as a result of a reduction in force will be given a written notice at least 60 days prior to termination. The written notice will state:
  - a. The reason the employee's position was selected for elimination;
  - b. The effective date of the termination; and
  - c. Any services provided by the Court System to assist the employee in obtaining another job.
2. The appointing authority may authorize the expenditure of up to \$500 to assist the employee in preparing resumes, or other expenses related to seeking employment.
3. The termination will be recorded as a reduction in force. A copy of the decision and the reasons will be placed in the personnel file.
4. A regular employee who has successfully completed the employee's introductory period may, in accordance with the Court System Conflict Resolution - Dismissal or Reduction in Force policy, file a grievance regarding a reduction in force.

E. Preference for Reemployment

1. Prior to termination, an employee being terminated due to reduction in force has the right to transfer to a vacant position being filled for which the employee is qualified. If more than one employee requests a transfer to a vacant position, the appointing authority will select the candidate.
2. Within two years after an employee has been terminated as a result of a reduction in force, the employee will be considered an internal employee for the purpose of applying for a position for which the employee is qualified.
3. An employee who is transferred or rehired under this section to a lower classification will be placed at a step in the lower classification consistent with the employee's years of service in the terminated position.

Approved by the Supreme Court 4/1/12

## 144 – ASSISTING SELF-REPRESENTED PARTIES

### A. Policy

The Court System's policy is that those seeking access to trial court services receive appropriate assistance and direction from clerks of court, clerk staff, and other court personnel. Assistance and direction will be provided in a manner that ensures adequate information is available, but acknowledges limitations concerning the scope of assistance that can be provided.

### B. General Guidelines

Assistance and direction made available to self-represented parties must comply with the following general guidelines:

1. An employee must be prepared to explain court administrative and procedural processes to parties, the media, and other interested citizens.
2. An employee cannot advise parties whether to bring their problems before the courts, or what remedies to seek.
3. An employee must abide by the absolute duty of treating all equally.
4. An employee must adhere to the basic principle that neither parties nor their attorneys may communicate with the judge without the opportunity for the other party to be present.

### C. Implementation of General Guidelines - Limitations

1. An employee may explain how the court works and answer questions about court operations.
2. An employee may provide general information about court rules, procedures, and practices and may provide information regarding case scheduling.
3. An employee may provide samples of available court forms.
4. An employee cannot tell a person what specific words must be used in court filings.
5. An employee cannot offer guidance to a party concerning what to say in court, nor can court staff offer an opinion about the consequence of filing a particular case.
6. An employee cannot contact a judge on behalf of a party or potential party regarding the substance or merits of a case, nor can court staff change an order signed by a judge.

### D. Education and Support

Appropriate educational programs for employees and supporting written materials must be developed to ensure adequate implementation of this policy. The Chief Justice will designate the entity responsible for developing supporting written materials for assistance

provided under this policy. The Continuing Judicial Education Commission is responsible for development of appropriate educational programs based on the written support material.

- E. Appellate court services are governed by N.D. Supt. Ct. Admin. R. 5.

Approved by the Supreme Court 4/1/12



## 145 – EDUCATION REIMBURSEMENT

- A. The Court System supports the continued education of its employees.
- B. General
  - 1. The purpose of education reimbursement is to encourage the development of all regular full-time and regular part-time employees. The Court System may provide reimbursement of tuition and fees paid to accredited schools, colleges, and universities up to a lifetime maximum of \$15,000 for regular full-time employees. The lifetime maximum for regular part-time employees will be pro-rated. The Court System is under no obligation to provide education reimbursement.
  - 2. Reimbursement may be granted for courses which benefit the Court System in the employee's present position or for a future position. The course or degree must be applicable to a position within the Court System.
  - 3. Only tuition and fees are reimbursable. Expenses such as late fees, books, and transportation to and from classes are not reimbursable.
  - 4. Reimbursement is not available for prior learning credits or auditing a course.
  - 5. Reimbursed education benefits may be subject to taxation.
  - 6. The time spent completing education courses will not be used in computation of overtime or compensatory time.
  - 7. Attendance at courses must be during off-duty hours.
  - 8. The Court System may limit the reimbursement to less than what is outlined in this policy, if reimbursement requests exceed budget availability. The State Court Administrator and Chief Justice will establish additional parameters for approval of education reimbursement requests when it becomes necessary to limit the reimbursement to less than what is outlined in this policy.
  - 9. Reimbursement Levels
    - a. Reimbursement for 100 percent of technical school, correspondence course, on-line course, undergraduate, or graduate course is possible when the course is directly related to the type of work the employee is currently performing and the training equips the employee to better perform his or her present duties.
    - b. Reimbursement for 80 percent of course is possible when the course is not considered directly related to the work the employee is currently performing, but is a requirement toward the degree recommended in the employee's current career ladder. A degree plan must be submitted to and approved by the supervisory and appointing authority. If pursuing a degree, it must be a requirement for that position.

- c. Reimbursement for 80 percent of course is possible when the course is for future classifications within the Court System. The employee must identify the potential classification and explain the benefit of the course. A degree plan must be submitted to and approved by the supervisory and appointing authority. If pursuing a degree, it must be a requirement for the future classifications.

10. Eligibility

- a. An employee must have been a regular full-time employee or regular part-time employee for two consecutive years prior to registering for a class.  
  
Reimbursement to a regular part-time employee will be pro-rated accordingly
- b. An employee must have satisfactory performance. If an employee receives corrective action following pre-approval of education reimbursement and prior to reimbursement, the Court System may revoke the education reimbursement despite the pre-approval.
- c. An employee must be employed as a regular full-time or regular part-time employee at the Court System at the time of course completion in order to receive education reimbursement.

11. Reimbursement

- a. Reimbursement will be made after an employee successfully completes the course with a grade of “C” or better or a “pass” for a pass/fail course for an undergraduate course. Reimbursement will be made if an employee successfully completes the course with a grade of “B” or better or a “pass” for a pass/fail course for a graduate course. In order to receive payment, the employee must provide a copy of the official grade report and all relevant receipts. This information must be submitted within 60 days of completion of the course to be eligible for reimbursement.
- b. If an employee who receives education reimbursement resigns or is terminated within one year of the completion date of a course or degree plan, the employee is required to refund the Court System 100% of the education reimbursement. The reimbursement amount may be deducted from the employee’s paycheck(s) as approved by the employee’s signature on the education reimbursement form. The employee will be responsible to reimburse the Court System all remaining amounts owed to it.
- c. If an employee who receives education reimbursement resigns or is terminated within two years of the completion date of a course or degree plan, the employee is required to refund the Court System 50% of the education reimbursement. The reimbursement amount may be deducted from the employee’s paycheck(s) as approved by the employee’s signature on the education reimbursement form. The employee will be responsible to reimburse the Court System all remaining amounts owed to it.

- d. If an employee who receives education reimbursement resigns or is terminated within three years of the completion date of a course or degree plan, the employee is required to refund the Court System 25% of the education reimbursement. The reimbursement amount may be deducted from the employee's paycheck(s) as approved by the employee's signature on the education reimbursement form. The employee will be responsible to reimburse the Court System all remaining amounts owed to it.
- e. If an employee does not complete a degree plan and has received any reimbursement, the employee's supervisor and appointing authority will determine what, if any, reimbursement must be repaid to the Court System.

12. Approval Process

- a. Prior to registering for a course, an employee must receive approval from the employee's supervisor and appointing authority by completing the Court System's tuition education reimbursement form, including a degree plan if appropriate.
  - (1) A degree plan must include, at a minimum:
  - (2) Explanation of the employee's eligibility for education reimbursement for the degree;
  - (3) Name of the school the employee intends to attend;
  - (4) A list of all course titles, descriptions, credits, and numbers required for the degree;
  - (5) Explanation of how the degree benefits the Court System;
  - (6) Estimated duration of the degree plan; and
  - (7) A schedule of reimbursement outlining when reimbursement will be made during the degree plan.
- b. An employee must disclose all other sources of financial assistance. If an employee is receiving other assistance that does not require repayment (i.e. scholarships or grants), the Court System may reimburse the employee for eligible costs incurred while participating in the program as long as the reimbursement and the other assistance received does not exceed the total cost of the course(s) taken.

Approved by the Supreme Court 1/8/14 effective 2/1/14

## 146 – TRAINING REQUIREMENT

### A. Sexual Harassment and Discrimination

1. Annually, all employees must participate in educational and preventative training on Court System policies prohibiting sexual harassment and discrimination.
2. The training will be appropriate to the position and designed to minimize both the time required of each employee and impact on office operation. Unless required by a supervisor to address a particular training need, the time required will be no more than four hours every two years.

### B. Information Technology Security Awareness

To protect information technology infrastructure, the Court System requires employees and non-court personnel with access to the court's technology infrastructure to complete:

1. The State ITD Information Security Awareness Training on the first day of employment or non-employee access; and
2. The State ITD Information Security Awareness Training (Refresher) annually.

### D. Employees not participating in required training will be subject to corrective action under Policy 141.

Approved by the Supreme Court 7/2/15; amended 9/21/16 effective 10/1/16; amended 9/24/20

## 147 – NON-FMLA MEDICAL LEAVE

A. The Non-FMLA Medical Leave (NFML) policy provides the same protections as the FMLA to regular, part-time employees and allows care for family members beyond parent, spouse and child. FMLA and NFML allow employees to balance their work and family life by taking reasonable unpaid leave for certain family and medical reasons. An employee is required to use all eligible paid leave, according to the leave policies, in conjunction with NFML before taking unpaid leave.

### B. Eligibility

Employees are eligible for NFML if they are a regular, full-time or part-time employee who have worked for the State of North Dakota for at least one year and worked at least 1,040 hours over the previous 12 months and are ineligible for FMLA leave. Temporary employees and employees who have exhausted any eligible leave under the FMLA are not eligible for NFML.

### C. Qualifying Reason for NFML

#### 1. Certain Serious Family and Medical Reasons

a. Up to 12 weeks of unpaid leave must be granted:

- (1) For incapacity due to pregnancy, prenatal medical care or child birth;
- (2) To care for the employee's child after birth or placement for adoption or foster care;
- (3) To care for the employee's spouse, child, parent, grandchild, sibling, or domestic partner who has a serious health condition; or
- (4) For a serious health condition that makes the employee unable to perform at least one essential function of the employee's job.

b. Serious Health Condition. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either:

- (1) An overnight stay in a medical care facility; or
- (2) Continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment includes any one or more of the following:
  - (a) A period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider within a 30-day period (unless extenuating

circumstances exist) or one visit and a regimen of continuing treatment; or

(b) Any period of incapacity due to prenatal care or pregnancy; or

(c) Incapacity due to a chronic condition.

## 2. Military Family Leave for a Qualifying Exigency

a. Eligible employees with a spouse, child, or parent on active duty or call to active duty status in the regular Armed Forces, National Guard, or Reserves to a foreign country may use their 12-week leave entitlement to address certain qualifying exigencies.

b. A “qualifying exigency” is defined as at least one of nine categories of events:

(1) *Short notice deployment* - leave is limited up to seven calendar days or less.

(2) *Military events and related activities* such as official, sponsored, or promoted ceremonies, programs, events or information briefings related to active duty or a call to active duty.

(3) *Childcare and school activities* – includes when the call to active duty necessitates a change in childcare arrangements, and to provide childcare on an urgent, immediate (but not routine, everyday) basis.

(4) *Financial or legal arrangements.*

(5) *Counseling*, provided that the need for the counseling arises from the call to active duty.

(6) *Rest and recuperation* – up to 15 days to spend time with a covered military member on short-term, temporary, rest and recuperation leave.

(7) *Post-deployment activities* – attending events such as arrival ceremonies for up to 90 days after termination of the military member’s active service, and to address issues arising from the death of a covered military member.

(8) *Care of the military member’s parent* who is incapable of self-care.

(9) *Additional activities*, as mutually agreed by the employer and employee.

## 3. Military Family Leave to Care for a Covered Service Member

- a. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member with a serious injury or illness.

- (1) A serious injury or illness is one that was incurred or aggravated in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating.

A serious injury or illness also includes an injury or illness that qualifies the veteran for benefits from the Department of Veterans Affairs or substantially impairs the veteran's ability to work. Those benefits are:

- (a) a physical or mental condition for which the veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the need for military caregiver leave is related to that condition; *or*
  - (b) a physical or mental condition that substantially impairs the veteran's ability to work because of a disability or disabilities related to military service, or would do so absent treatment; *or*
  - (c) an injury that is the basis for the veteran's enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
- (2) Next of kin of a covered service member means the nearest blood relative other than the covered service member's spouse, parent, or child, in the following order of priority:

Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, siblings, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the NFML.

- b. A covered service member is defined as one of the following:

- (1) A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness that manifested itself before or after active duty.
- (2) A veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, who was discharged or

released under conditions other than dishonorable at any time during the period of five years preceding the first date the eligible employee takes NFML to care for the veteran undergoing medical treatment, recuperation, or therapy for a serious injury or illness that manifested itself before or after the member became a veteran.

4. Bereavement Leave for the Death of a Child

Up to four weeks of unpaid leave may be granted, and may be taken intermittently, if approved and must be concluded within six months of the child's death.

D. Requirements

1. Notice

- a. An employee must provide 30 days advance notice when the leave is foreseeable. When leave is not foreseeable, the employee must provide notice as soon as practicable.
- b. If an employee's leave may potentially qualify as NFML, the supervisor must immediately contact the Human Resource Director whether or not the employee has requested NFML. An employee may not choose that qualified leave not be considered NFML.

2. Certification

- a. In most cases the Court System will require certification to support a request for leave. Employees may also be required to provide periodic recertification supporting the need for continued leave.
- b. For medical certifications the Court System may require a second or third opinion (at the Court System's expense) and a fitness-for-duty report to return to work.
- c. Certification forms may be obtained on the intranet under the Human Resource page. <http://admin.ndcourts.gov/hr/default.htm>
- d. An employee may submit a receipt for reimbursement if the provider charged a fee to complete the certification. A per-certification reimbursement cap of \$25 will apply.

3. Paid Leave

- a. An employee is required to use all eligible paid leave, according to the leave policies, in conjunction with NFML before taking unpaid leave.
- b. On exhaustion of all paid leave, an exempt employee's pay will be reduced by the hours missed even if it is less than a full day.

4. Use of Leave



- a. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the Court System's operations.
  - b. Leave can be taken intermittently or on a reduced leave schedule when medically necessary.
  - c. Leave due to qualifying exigencies may also be taken on an intermittent basis.
5. Leave Measurement
- a. The 12-month leave period is measured as a "rolling" 12-month period measured backward from the date an employee uses any NFML.
  - b. The 26 weeks of Military Family Leave to Care for a Covered Service Member is available during a single 12-month period.
  - c. During any single month period, the employee's total leave entitlement is limited to a combined total of 26 weeks for all qualifying reasons under NFML.
6. Spousal State Employment
- a. If both the employee and the employee's spouse are employed by the State of North Dakota and are eligible for FMLA or NFML, their combined leave may not exceed 12 weeks if the leave is taken to care for the employee's parent with a serious health condition, for the birth of the employee's child or to care for the child after the birth, or for placement of a child with the employee for adoption or foster care or to care for the child after placement.
  - b. Even if the employee and spouse are employed by the State of North Dakota, an employee with the Court System may take 12 weeks of NFML if needed to care for a newborn child or an adopted or foster child with a serious health condition.
  - c. The employee and the spouse are limited to a combined total of 26 weeks of leave when care for a covered service member with a serious injury or illness is taken as military family leave in addition to leave for birth of the employee's child or to care for the healthy child after birth, for placement of a healthy son or daughter with the employee for adoption or foster care, to care for the child after placement, or to care for the employee's parent with a serious health condition during a single 12-month period.
7. Outside Employment
- a. An employee may not engage in similar outside employment, while on NFML, if it interferes with the proper and complete discharge of the employee's responsibilities and duties to the Court System. For the purposes of this section the term "outside employment" means any gainful employment other than the performance of functions and duties related to

the Court System, including, but not limited to, management or operation of a business or consulting work.

- b. Prior to pursuing outside employment, an employee must seek the written approval of the State Court Administrator or Chief Justice to determine whether such outside employment presents a conflict of interest or the appearance thereof, or interferes with the employee's responsibilities and duties.
- c. The State Court Administrator or Chief Justice will give or deny approval, in writing, within a reasonable time. The decision will be placed in the employee's personnel file.

E. Job Benefits and Protection

- 1. During the NFML, the Court System must maintain the employee's health coverage. The Court System may recover the premiums paid for an employee if the employee does not return from leave.
- 2. When an employee returns from the NFML, an employee must be reinstated to the employee's original or equivalent position with equivalent pay, benefits, and terms and conditions of employment.
- 3. However, if the employee's former position is eliminated because of a reduction-in-force, and the position would have been eliminated if the employee was not on such absence, the employee is not entitled to reinstatement.

Approved by the Supreme Court 6/20/23 effective 7/1/23

## **150 – COMPENSATION AND CLASSIFICATION PLAN FOR CLASSIFIED EMPLOYEES**

### **A. Classification Matrix System**

1. The Court System uses a Classification Matrix System, a point factor system, to evaluate positions to assign job classification and compensation.
2. Job information, including essential functions and minimum requirements required for the job, is documented in classification descriptions or job descriptions. Each description is evaluated in the Classification Matrix System using the following five factors:
  - a. Knowledge and skill;
  - b. Supervisory authority;
  - c. Public relations;
  - d. Working conditions; and
  - e. Education and experience.
3. Each factor is weighted differently in terms of the relative importance of the factor to the overall score of the job or classification. The total points scored determine the pay grade of the job or classification. Salary ranges are assigned to pay grades based on market data.

### **B. Pay Grade Review**

1. An appointing authority may request the pay grade of a particular classification be reviewed if it is believed that market conditions require the review in order to hire or retain employees in that classification, or it is believed that the relative value of the classification should be adjusted.
2. The request, along with accompanying documentation sufficient in detail to justify the request, must be submitted to the Human Resource Director who will forward the request to the Personnel Policy Board for review and recommendation to the Chief Justice.

### **C. Reclassification Request**

1. A position may be reclassified when warranted by a permanent substantial change in the duties and responsibilities of a position.
2. The classification process examines and evaluates the duties, tasks, and requirements of the position - not the abilities, background, or performance of the person in the position. An increase in the quality or volume of work does not generally justify reclassification
3. Request by Appointing Authority

An appointing authority may request a classification review of a position if the position has not been reviewed within the previous twelve months. The [classification/reclassification request](#) form must be submitted to the Human Resource Director.

4. Request by Employee

An employee may request a classification review of the employee's position if the position has not been reviewed within the previous twelve months. The employee must submit a [Job Data Questionnaire](#) to the appointing authority. The appointing authority must submit the request and a recommendation concerning the request to the Human Resource Director.

5. Approval Process

The Human Resource Director will make a determination of the classification and pay grade using the job evaluation plan (Classification Matrix System) of the Court System. A determination by the Human Resource Director that a position should be approved for reclassification will be forwarded to the Personnel Policy Board for approval and, if approved, forwarded to the Chief Justice for final determination.

6. Appeals

- a. The decision of the Human Resource Director may be appealed to the State Court Administrator. The State Court Administrator may make a determination or refer the matter to a master or panel for advice. The employee is entitled to a personal appearance before the State Court Administrator.
- b. The decision of the State Court Administrator may be appealed to the Personnel Policy Board. The Personnel Policy Board may limit the appeal to an appeal on the record. The Personnel Policy Board's decision is final on all denials.

Approved by the Supreme Court 4/1/12

## 151 – SALARY ADMINISTRATION FOR CLASSIFIED EMPLOYEES

### A. Step System

The Court System uses a time-based step-rate system for classified employee compensation. A time-based step-rate pay system is based on longevity in the job and satisfactory performance.

### B. Hiring Salary

#### 1. New Employees

All classified employees new to the Court System must start at step one of the entry level of the classification series, unless prior written approval is granted by the Chief Justice pursuant to the following procedures.

- a. The position must be advertised and recruited at step one.
- b. If one of the below conditions has been met, the appointing authority may seek approval for a higher salary prior to making an offer of employment, by certifying to the Human Resource Director that no candidate can be recruited at step one.
  - (1) An insufficient number of applications are received; or
  - (2) After interviewing the candidates, none of the candidates who are sufficiently qualified to be offered the position after being interviewed will accept the position at step one.
- c. The Human Resource Director will review the position with the appointing authority and prepare a report and recommendation for the Personnel Policy Board.
- d. The chair of the Personnel Policy Board must call an expedited meeting to review the report and recommendations and will forward a recommendation of the board to the Chief Justice.
- e. The Chief Justice will make a final decision on the recommendation.

#### 2. Rehired Employees

- a. A classified employee who has left employment with the Court System who is rehired may be given credit for prior experience with the Court System if the experience is commensurate with the new position.
- b. A rehired employee may be placed on an introductory period and on successful completion of the employee's introductory period may be eligible for a one step increase.

3. Temporary or Contract Positions

An individual in a temporary or contract position, whose duties were the same as the classified position, will be given credit for the service in the temporary or contract position when determining the starting step in the pay grade. The service in the temporary or contract position may apply toward the introductory period, anniversary date increases, and career ladder advancements.

C. Introductory Period

Classified employees who successfully complete their introductory periods are eligible for a one step increase.

D. Anniversary Date

1. Classified employees are eligible to receive a step increase on the employee's odd year anniversary date of entry into a pay grade if the employee's performance is determined to be satisfactory.

a. A step increase after the introductory period is considered an odd year increase.

b. An employee who is promoted or position reclassified who enters the new pay grade above step one, will be eligible for a step increase after two years of service in the new pay grade.

2. The employee's salary will only be adjusted once the Director of Finance is notified by the appointing authority that the employee's performance is satisfactory.

3. An employee whose performance is not satisfactory must be given a corrective action plan as explained in the Corrective Action policy. The corrective action plan will specify the reason performance is not satisfactory and the actions required to bring performance up to expectations.

a. The corrective action plan must be given to the employee at least 30 days in advance of the employee's anniversary date unless there is a serious, unexpected change in behavior or discovery of past behavior that merits a lesser time for notice.

b. On completion of the time allotted in the corrective action plan, the employee will be notified if the step increase will be granted or because performance remains unsatisfactory, the step increase is forfeited for the current anniversary date.

E. Career Ladder Advancement

1. A career ladder advancement is advancement to a higher position within a series and a higher pay grade. It is advancement from an entry level position to a full performance position.

2. The following positions are considered a career ladder series which are positions eligible for career ladder advancements:

<b>Career Ladder Series</b>		
Juvenile Court Officer I	→	Juvenile Court Officer II
Network Analyst I	→	Network Analyst II
Network Analyst II	→	Network Analyst III
Programmer Analyst I	→	Programmer Analyst II
Programmer Analyst II	→	Programmer Analyst III
Business Analyst I	→	Business Analyst II
Business Analyst II	→	Business Analyst III
Technology Coordinator I	→	Technology Coordinator II
Technology Coordinator II	→	Technology Coordinator III

3. The recommendation that an employee is qualified for a career ladder advancement will be made by the appointing authority in the offer letter, which requires the appointing authority to certify the employee has performed satisfactorily at the entry level and meets the minimum qualifications of the level to be advanced to.
4. An employee who receives a career ladder advancement will receive a salary increase to the step in the new pay grade which represents at least a 5% increase or an increase to the minimum of the new pay grade, whichever is greater.

**F. Promotion**

1. A promotion is the movement to a position in a higher pay grade.
2. The recommendation that an employee is qualified for a promotion will be made by the appointing authority through the online applicant tracking system, which requires the appointing authority to certify the employee meets the minimum qualifications of the classification to be promoted to.
3. A classified employee who is promoted will receive a salary increase to the step in the new pay grade which represents at least a 5% increase or an increase to the minimum of the new pay grade, whichever is greater.

**G. Lateral Transfer**

1. A lateral transfer is a transfer from one classification to another within the same pay grade.
2. The recommendation that an employee is qualified for a lateral transfer will be made by the appointing authority through the online applicant tracking system, which requires the appointing authority to certify the employee meets the minimum qualifications of the classification to be transferred to.
3. No pay adjustment will be granted for a lateral transfer.

**H. Reclassification**

1. A reclassification is the movement of a classified position to a higher or lower position because of substantial and permanent change in duties.
2. A classified employee who is reclassified to a higher pay grade will receive a salary increase to the step in the new pay grade which represents at least a 5% increase or an increase to the minimum of the new pay grade, whichever is greater. If the reclassification is downward, the employee's salary will not be reduced below the present level.

I. Pay Grade Adjustment

1. Market Adjustment

- a. If a classification is adjusted due to market conditions, all employees within that classification will have their salary adjusted to the minimum of the new pay range.
- b. The Personnel Policy Board may recommend adjustments to individual salaries within the new pay range based on an employee's previous step in the adjusted pay grade.

2. Relative Value Classification Adjustment

If a classification is adjusted because of a determination that the relative value of the classification requires adjustment, all employees within that classification will have their salary adjusted to at least the minimum of the new pay range.

J. Temporary Adjustments

For an interim appointment of more than sixty days, an administrative unit appointing authority may recommend to the State Court Administrator or an appointing authority for the Supreme Court may recommend to the Chief Justice that the salary of an employee be increased up to two steps for the interim period.

K. Professional Certifications

For an employee who achieves and maintains a nationally recognized professional certification, an appointing authority may request approval by the Chief Justice for a one step increase if the following criteria are met.

1. The professional certification is required due to an organizational need or other requirement.
2. It can be determined that a nationally recognized professional certification is required or necessary to ensure minimum standards of quality and performance for new or additional duties being assigned to a position.
3. The requisite certification is governed by a nationally recognized professional organization.



4. The professional certification is generally required prior to the performance of the work.
5. Extensive training and testing are necessary to achieve the professional certification.
6. Maintaining the certification requires continuing education and training as determined by the professional organization governing the certification process.

Approved by the Supreme Court 4/1/12; amended 4/24/13; amended 12/17/13; amended 7/2/15; amended 8/26/20; amended 10/26/22

## 152 – ALTERNATE WORK LOCATION

### A. Work Location

A designated work location is assigned to an employee for the purposes of meeting staffing needs, for insurance and workers' compensation requirements and to administer Court System policies. An employee is expected to report to the employee's principal place of employment unless a position has been designated as a remote work position and an alternate work location has been approved by the employee's supervisor and appointing authority.

### B. Alternate Work Location

An employee assigned to a remote work position may have a designated work location at a courthouse or office other than the city of the employee's principal place of employment or may have an office in the employee's home or alternate location that has been designated as the employee's work location. The Alternate Work Location Agreement must be completed prior to beginning work at the alternate work location.

#### 1. Temporary Alternate Work Location

An employee temporarily assigned to an alternate work location maintains the employee's principal place of employment.

- a. The State Court Administrator or Chief Justice may designate an alternate work location for an employee to meet temporary work needs or in response to an unusual situation.
- b. An employee's supervisor may allow an employee to work from an alternate work location for all or part of a week for project specific purposes or to accommodate an employee's request for flexibility.
- c. An employee's supervisor, with the approval of the Human Resource Director, may allow an employee to work from an alternate work location for reasons related to the ADA or FMLA.

#### 2. Involuntary Alternate Work Location

To address documented recruitment needs or a documented, long-term staff shortage in a court office, the State Court Administrator or Chief Justice may designate a position as remote work position. An employee hired to fill a remote work position will be assigned to an alternate work location.

#### 3. Extended Voluntary Alternate Work Location

The Court System recognizes that allowing a voluntary alternate work location may enhance recruitment and retention because it saves time and money for an employee, may enhance the employee's work/life balance, and may be a better fit for the employee's desired workstyle. An employee may request an alternate work location to address the needs or preferences of the employee. An extended assignment is one that is expected to be a minimum of 60 days.

- a. Before allowing an employee to voluntarily work at an alternate work location for an extended period of time the employee's supervisor must take into account:
  - (1) The nature of the employee's work and the primary customer of the employee's service;
  - (2) The amount of effort required to make work available remotely to the employee;
  - (3) Whether the performance of the employee's work, including output, accuracy, and interaction with customers can be adequately monitored by the employee's supervisor;
  - (4) Whether frequent supervision, direction or input is required from others who are at the principal place of employment;
  - (5) Whether being physically present is required to access information that can't be retrieved remotely, to provide in-person customer service, or to service physical equipment; and
  - (6) The employee's employment history, work performance, and job knowledge.
- b. Before approving a voluntary alternate work location, the supervisor must also ensure that at the principal place of employment:
  - (1) Service to the public remains available between the hours of 8 a.m. and 5 p.m.;
  - (2) Adequate supervisory personnel are available; and
  - (3) Sufficient knowledgeable staff is available to respond in a timely manner to service requests.

### C. Limitations on Alternate Work Location Arrangements

1. An employee assigned an alternate work location may be required to report to the employee's principal place of employment or closest court facility as required by the employee's supervisor.
2. The designation of an alternate work location may be temporarily suspended by the employee's supervisor to accommodate staff absences, workload fluctuations, or unusual circumstances.
3. Designation of an alternate work location may be rescinded with a 24-hour notice to address a serious work performance issue.

D. Work Schedule

An employee assigned to an alternate work location must be available during regular work hours unless an alternate schedule has been approved under Policy 105. An employee must use leave if the employee is unavailable for work during scheduled work hours.

Approved by the Supreme Court 10/1/22

## 160 – COMPENSATION FOR JUDICIAL REFEREE

### A. Hiring Salary

A judicial referee will be hired at \$200 per month less than 80% of a district court judge's salary.

### B. Introductory Period

A judicial referee who successfully completes the introductory period is eligible for a \$200 per month increase.

### C. Salary Increase

A salary increase is based on a legislatively approved salary change to a district court judge's salary. The Chief Justice may approve an increase to 80% of a district court judge's salary.

Approved by the Supreme Court 4/1/12

## 175 – COMPENSATION OF DISTRICT COURT BAILIFFS

### A. Standard Rate of Pay

Bailiffs of the district court will be paid \$6.00 per hour over North Dakota minimum wage or \$50.00 per day, whichever is greater.

### B. Overtime Compensation

Any bailiff working more than forty hours in a work week must be paid time and one-half for each hour worked in excess of forty hours.

Approved by the Supreme Court 4/1/12; amended 11/19/14 effective 12/1/14; amended 10/13/23 effective 11/1/23

## 180 – CRIMINAL BACKGROUND CHECKS

- A. With a conditional offer of employment, candidates for temporary and regular positions, as well as positions employed through a staffing agency, will be subject to a criminal background check. The requirement may be waived by the appointing authority if the candidate is currently a Court System employee and
  - 1. The candidate has had a background check by the Court System within the past three years;
  - 2. The candidate has not had a break in service; and
  - 3. The candidate's new position is similar in nature to the position the candidate is leaving.
- B. Although a disqualification is possible, a previous conviction does not automatically disqualify a candidate from consideration for employment. Depending on the nature of the position, conviction, and age of the candidate when the illegal activity occurred, the candidate may still be eligible for employment as determined by the appointing authority.
- C. Candidates who withhold information or falsify information pertaining to previous convictions will be disqualified from further employment consideration in any position due to falsification of an application.
- D. An offer of employment may be extended to the candidate prior to the completion of the criminal background check. However, the candidate's first day of work in the position must not be prior to the satisfactory completion of the criminal background check.

Approved by the Supreme Court 4/1/12; amended 5/1/13

## 181 – FILLING CLASSIFIED POSITION VACANCIES

### A. Internal Posting

1. To encourage career mobility prior notice will be given to Court System employees by opening non-exempt, classified positions to internal application prior to external application, unless prior approval is obtained from the State Court Administrator. Veterans' preference does not apply to internal postings.
2. The Human Resource Director will assist the appointing authority or designee in providing internal notice. The notice must allow 10-30 days for applications. The appointing authority or designee is not required to make a determination about the qualifications of internal candidates prior to opening the position externally. After reaching the deadline for internal applications, the appointing authority or designee may:
  - a. Determine that a wider pool of candidates is needed and open the position externally. Internal applications will be considered with any external applications received.
  - b. Interview the internal candidates and fill the vacancy or open the position externally.

### B. External Posting

When a position is opened to external applications, the Human Resource Director, after consultation with the appointing authority or designee, will advertise the position and receive the applications. .

1. The hiring authority may seek approval from the State Court Administrator to underfill a position if they are unable to find qualified candidates who meet the minimum qualifications of the position.
2. An employee hired as an underfill must be able to meet the minimum qualifications for the classification within 24 months of hire.
3. The length of the introductory period and the training wage of an employee hired as an underfill will be determined by how closely the employee's qualifications match the minimum qualifications of the position. The initial training wage for an underfilled position will be one or two steps below the regular starting salary as determined by the Director of Human Resources.

### C. Candidate Screening

1. The Human Resource Director will work with the appointing authority or designee to establish a rating system for the vacant position based on required and preferred qualifications and skills.
2. Candidates will be rated based on the contents of the applications received. If a candidate meets the minimum qualifications of the position and has provided the appropriate documentation showing qualifications for veterans' preference:



- a. Five points will be added to the rating if the candidate is a veteran or a veteran's spouse.
- b. Ten points will be added to the rating if the candidate is a disabled veteran.
3. The Human Resource Director will forward the Referral List listed from highest score down to the appointing authority or designee.
4. The appointing authority or designee will consider the Referral List from the top down. However, any person on the Referral List may be selected for an interview and offer.
5. The appointing authority or designee may not inquire into or consider the criminal record or criminal history of an applicant for employment until the applicant has been selected for an interview.

#### D. Veterans' Preference

1. When filling classified position vacancies, preference will be given to qualified veterans or veterans' spouses in the manner prescribed in this policy, unless the position is exempted.
  - a. Classified positions exempt from veterans' preference requirement:
    - (1) Chief Deputy Supreme Court Clerk; and
    - (2) Administrative Assistant who serves as a private assistant to a judge or justice.
  - b. Promotions, transfers, or reclassifications are exempt from veterans' preference. If the position has been opened to external applicants, current employees are entitled to the same preference as non-employees.
2. Veteran means a person who is currently serving in the military or who was discharged or released from the military for other than dishonorable conditions.
3. Disabled Veteran means a veteran who is found to be entitled to a service-connected disability rating as determined by the United States veterans' administration.
4. Veteran's Spouse means the un-remarried spouse of a veteran who died while in service, or later died from a service-connected cause; or the spouse of a veteran who has a one hundred percent service-connected disability as determined by the department of veterans' affairs, or who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs and due to the disability is unable to exercise the disabled veteran's right to preference.

#### E. Veterans' Preference Appeals

1. Any candidate applying for veterans' preference may appeal a determination made by the Human Resource Director or the appointing authority or designee.

2. The Human Resource Director will notify candidates applying for veterans' preference of a determination by certified mail or through the online applicant tracking system that the candidate did not qualify for veterans' preference.
3. The veteran may appeal the decision in writing by certified mail or email to the State Court Administrator within 15 calendar days of when the notice was mailed or emailed through the applicant tracking system. If the State Court Administrator is the appointing authority the Chief Justice will designate the person to receive the appeal.

Approved by the Supreme Court 4/1/12; amended 3/6/13; amended 9/27/17; amended 10/2/19 effective 10/1/19; amended 8/26/20; amended 8/4/21

**190 – TEMPORARY RENTAL ASSISTANCE**

A. The Court System recognizes that increasing rental rates in oil-impacted areas of the state have an impact on its ability to recruit and retain employees. This policy is to assist new or relocating employees in obtaining housing and to assist existing employees facing eviction or loss of housing due to increasing or extremely high rental rates. This policy is not intended to enhance an employee's current standard of living or to be the majority source of funding for employee housing.

B. General

1. Rental assistance is available to classified employees employed within oil-impacted areas of the state. Employee qualification will be determined on a case-by-case basis using an application process that documents an inability to acquire or maintain affordable housing.
2. For purposes of this policy, the metropolitan and immediately adjacent areas of Dickinson, Williston and Watford City are designated as oil-impacted areas of the state.
3. Rental assistance is a flat dollar amount based on the difference between the actual cost of the rental unit and the combined average rental rates for similar properties within the state.
4. Rental assistance is a reimbursement and will be paid in full month increments only. Employees must submit monthly verification of rent payment to the Director of Finance prior to the 10<sup>th</sup> of each month in order to receive assistance for that month. Acceptable documentation includes one of the following: rental company receipt or copy of canceled check, bank statement, or money order.
5. Employees are required to notify the Director of Finance in a timely manner anytime the financial terms of a lease are changed or if a lease is terminated by either the rental agency or the employee.
6. A new application is required annually and whenever an employee's rent changes.
7. Rental assistance is taxable. Taxes for rental assistance will be withheld from the salary payment for the month following any month in which assistance is provided.
8. The Court will provide employees a 60 day notice if it decides to modify or terminate this policy.

C. Assistance Levels

1. Allowable rental assistance will be based on household size. Generally, these guidelines will be followed in determining the amount of rental assistance available.
  - Single person – one bedroom

- Couple – two bedroom
  - Couple with children – three bedroom
2. An exception may be granted if there are no or very limited options for housing that are consistent with these guidelines
  3. If an employee chooses to lease a rental unit that is larger than the guidelines allow, the rental assistance will be provided at the level consistent with the rental unit size designated for the employee's household size.

Approved by the Supreme Court 9/10/14; suspended 05/18/16 effective 07/31/16

**ACKNOWLEDGEMENT RECEIPT**

I, \_\_\_\_\_, agree that I have received the Employee Handbook of the Court System. As a part of my employment with the North Dakota Court System, I agree to follow the policies, rules, and regulations and agree to be guided by any and all applicable provisions contained in the Employee Handbook and provided to me in other ways. I understand and agree that the Employee Handbook does not create a contract between the Court System and me. I also understand that the Employee Handbook is only a guide and does not necessarily contain all the policies in force at the Court System.

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*Employee Signature*

*Date*

Approved by the Supreme Court 4/1/12