

NORTH DAKOTA



LABOR LAW POSTINGS

North Dakota Labor Law Postings

Thank you for using Paychex! This file contains the following state postings:

Posting ID	Name of Posting	Posting Requirements
LND01	Workers' Compensation Notice to Employees	Optional for all employers
LND02	Unemployment Benefits	Required for all employers
LND03	Wage & Hour Laws	Required for all employers
LND04	Child Labor Law	Required for all employers with employees under age 18
LND05	Human Rights	Optional for all employers
LND06	Sexual Harassment	Optional for all employers
LND07	No Smoking	Required for all employers

Print and Display Guidelines

If needed, the postings in this file can be printed and displayed:

- Postings are formatted according to the issuing agency's size requirements. See the Posting Requirements column (above) for those that require a specific paper size and/or colored printing
- Each posting is set up to print on 8.5" x 11" paper; some are formatted to print on multiple pages
- Review each posting and respective requirements to ensure it's applicable to your company. Contact your HR representative for details
- Display postings in employee common areas, such as a breakroom, cafeteria, employee lounge, etc.

Important Notice to Workers



In Case of Injury at Work

Seek first aid or medical treatment immediately

- If your employer does not have a Designated Medical Provider (DMP) you may see any medical provider
- If your employer does have a DMP, you are required to see that DMP unless you selected your own DMP before the injury occurred
- If it is an emergency, you can treat with any medical provider

Tell your employer about the injury as soon as you become aware of the injury

- Workforce Safety & Insurance (WSI) may not accept your claim if you fail to tell your employer within 7 days.
- Even if you do not receive medical treatment, report your injury so your employer is aware of a potential hazard.

Your Employer's DMP is:

Employers

The DMP selection must be visible to workers at all locations, including at mobile worksites. Failure to give notice, post notice, or to inform employees of the DMP voids the selection.

If you suspect someone is committing fraud, report it immediately to WSI at **800-243-3331**.

Filing a Workers' Compensation Claim

File a claim with WSI within 24 hours after a work injury occurs:

- Complete the First Report of Injury (FROI) with your employer, if possible
 - Submit the FROI online at mywsi.workforcesafety.com, or
 - Complete the FROI and send it to WSI

What happens after a claim is filed?

- A claim number is assigned
- Information is gathered, facts are reviewed, a decision is made
- You and your employer are notified of the decision

Your Responsibilities

- Tell medical provider(s) your claim number
- Stay in touch with your employer and update them on your condition
- Notify WSI immediately:
 - of any work activity, whether you are paid or not
 - if you change your address or telephone number
 - if you apply for Social Security disability or retirement benefits, or are found to be eligible for these benefits

For a detailed explanation of the information contained in this poster, please contact WSI at the numbers listed below or visit our website at www.workforcesafety.com

WSI

North Dakota Workforce
Safety & Insurance

1600 E Century Ave, Ste 1 - PO Box 5585 - Bismarck ND 58506-5585

Customer Service: 800-777-5033 or 701-338-3800

Hearing Impaired: 800-366-6888

Decision Review Office: 800-701-4932 or 701-328-9900

Fraud & Safety Hotline: 800-243-3331

THIS POSTER MUST BE POSTED IN A CONSPICUOUS PLACE

TO EMPLOYEES:

THIS EMPLOYER IS SUBJECT TO THE
UNEMPLOYMENT COMPENSATION LAWS OF THE
STATE OF NORTH DAKOTA

Employer Name: _____

Account #: _____

YOU MAY BE ELIGIBLE FOR UNEMPLOYMENT
COMPENSATION BENEFITS IF YOU MEET THE
ELIGIBILITY REQUIREMENTS

To file a claim for unemployment compensation benefits:

online: www.jobsnd.com
click on the *UI ICE* logo

or call: 1 -701-328-4995

or TTY: RELAY ND 1-800-366-6888 (for hearing impaired only)

The North Dakota Unemployment Compensation Law requires subject employers to post this notice near the location(s) where workers' services are performed. Employers are prohibited from posting this notice if they are not currently liable for coverage. NDCC 52-06-35 NDAC 27-02-04-01



Job Service North Dakota
Unemployment Insurance
PO Box 5507
Bismarck ND 58506 - 5507

Job Service North Dakota is an Equal Opportunity Employer/Program Provider.
Auxiliary Aids and Services are Available Upon Request to Individuals with Disabilities.



ND MINIMUM WAGE & WORK CONDITIONS SUMMARY

State Capitol 600 East Boulevard Avenue Bismarck, ND 58505-0340
Hours: M-F - 8:00a.m.-5:00p.m.
(701)328-2660 1-800-582-8032 Fax - (701)328-2031 TTY - 1-800-366-6888
e-mail - labor@nd.gov web site - www.nd.gov/labor

MINIMUM WAGE RATE:
North Dakota does not have
a Training Wage.

\$7.25
per hour on
7/24/09

Effective Date:
August 1, 2015

OVERTIME N.D. Admin. Code § 46-02-07-02(4)

- Overtime pay must be paid at one and one-half times the employee's regular rate of pay for hours worked over forty in any work week.
- A work week is a seven consecutive-day period defined by the employer.
- Overtime is computed on a weekly basis, regardless of the length of the pay period.
- Overtime is based only on hours worked. Paid holidays, paid time off, or sick leave need not be counted in computing overtime hours.
- Compensatory time is not legal in private employment for non-exempt employees — overtime hours may not be "banked" and used for time off in another work week.
- Employees working more than one job under the control of the same employer must have all hours worked counted toward overtime.

Exemptions from overtime are listed on the reverse side of this poster. Formulas for calculating overtime are available in N.D. Admin. Code Section 46-03-01.

MEAL PERIODS N.D. Admin. Code § 46-02-07-02(5)

- A minimum 30-minute meal period must be provided in shifts exceeding five hours when there are two or more employees on duty.
- Employees may waive their right to a meal period upon agreement with the employer.
- Employees do not have to be paid for meal periods if they are completely relieved of their duties and the meal period is at least thirty minutes in length. Employees are not completely relieved if they are required to perform any duties during the meal period.
- Other breaks (such as 15 minute "coffee" breaks) are not required by law, but must be paid breaks if they are offered by the employer.

PAID TIME OFF N.D. Admin. Code § 46-02-07-02(12) - Applies unless a limitation below is met

- Paid time off includes annual leave, earned time, personal days, or other provisions providing compensation for vacation. If sick leave is combined with such time into one balance, all of the hours are defined as paid time off. Sick leave is not defined as paid time off if it is kept in a separate balance.
- Once paid time off is made available for an employee's use, any unused portion of such time is considered wages upon separation from employment and must be paid at the regular rate of pay earned by the employee prior to separation.
- No employment contract or policy may provide for forfeiture of earned paid time off upon separation.
- An employment contract or policy may require an employee to take vacation by a certain date or lose the vacation ("use it or lose it"), provided that the employee is given a reasonable opportunity to take the vacation. The employer must demonstrate that the employee had notice of such contract or policy provision.

LIMITATIONS ON PAID TIME OFF N.D.C.C. § 34-14-09.2

1. If an employee separates from employment voluntarily, a private employer may withhold payment for accrued paid time off if the following three conditions are all met:
 - a. At the time of hiring, the employer provided the employee written notice of the limitation on payment of accrued paid time off;
 - b. The employee has been employed by the employer for less than one year; and
 - c. The employee gave the employer less than five days' written or verbal notice.
2. If an employee separates from employment, a private employer may withhold payment for paid time off if:
 - a. The paid time off was awarded by the employer but not yet earned by the employee; and
 - b. Before awarding the paid time off, the employer provided the employee written notice of the limitation on payment of awarded paid time off.

PAYDAYS & RECORD KEEPING N.D.C.C. § 34-14-02, 03 and N.D. Admin Code § 46-02-07-02

- Employees must be paid at least once each calendar month on the regular payday(s) designated in advance by the employer.
- Every employer must furnish to an employee each pay period a check stub or voucher indicating hours worked, rate of pay, required state and federal deductions, and any authorized deductions.
- When an employee is terminated from employment, separates from employment voluntarily, or is suspended from work as the result of an industrial dispute, unpaid wages or compensation become due and payable at the regular payday(s) established in advance by the employer for the period(s) worked by the employee.
- When an employer terminates an employee, the employer shall pay those wages to the employee by certified mail at an address designated by the employee or as otherwise agreed upon by both parties.

DEDUCTIONS FROM PAY N.D.C.C. § 34-14-04.1

Except for those amounts that are required under state or federal law to be withheld from employee compensation or where a court has ordered the employer to withhold Compensation, an employer only may withhold from the compensation due employees:

1. Advances paid to employees, other than undocumented cash.
2. A recurring deduction authorized in writing.
3. A nonrecurring deduction authorized in writing, when the source of the deduction is cited specifically.
4. A nonrecurring deduction for damage, breakage, shortage, or negligence must be authorized by the employee at the time of the deduction.z

EMPLOYMENT AT WILL N.D.C.C. § 34-03-01

Employment relationships without a specific term exist at the will of both parties and can be terminated by either party upon notice to the other. No minimum length of notice (for example, a two-week notice) is required. Contracts specifying a term of employment can pre-empt the at-will provision.

RIGHT TO WORK N.D.C.C. § 34-01-14

An individual's right to work may not be denied or abridged due to membership or nonmembership in any labor union or labor organization.

YOUTH EMPLOYMENT N.D.C.C. ch. 34-07

Employment & Age Certificates (work permits) are required for workers ages 14 & 15 and are available from the Department of Labor, Job Service offices, County School Superintendents' offices, and local schools.

Restricted hours for youth age 14 & 15:

- Maximum hours per day: 3 per school day, 8 per non-school day.
- Maximum hours per week: 18 per school week (any week in which school attendance is required any part of 4 or more days), 40 per non-school week.

May work only between 7a.m.-7p.m. (until 9p.m. from June 1st - Labor Day).

Hazardous job duties for youth age 14 & 15:

Workers ages 14 & 15 are prohibited from performing certain job duties defined as hazardous in labor law.

POSTING REQUIRED

Must be posted in a conspicuous place in a commonly frequented area in which employees work.

EXEMPTIONS FROM OVERTIME N.D. Admin. Code § 46-02-07-02(4)

- An employee employed in a bona fide executive, administrative, or professional capacity.
 - **Executive** - an employee whose primary duties consists of:
 - a. The management of the enterprise or recognized department or subdivision thereof;
 - b. Directing the work of two or more other employees therein; and
 - c. The authority to hire or fire other employees or whose suggestions will be given particular weight.
 - **Administrative** - an employee whose primary duties consists of:
 - a. Office or non-manual work directly related to management policies or general business operations; and
 - b. Who customarily and regularly exercises discretion and independent judgment.
 - **Professional** - an employee whose primary duties consists of:
 - a. Work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes;
 - b. Work requiring the consistent exercise of discretion and judgment in its performance; and
 - c. Work that is predominately intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work.
- An employee engaged in an agricultural occupation – growing, raising, preparing, or delivering agricultural commodities for market.
- An employee spending at least 51% of the employee's work-time providing direct care to clients of a shelter, foster care, or other such related establishment.

- An employee employed in domestic service who resides in the household in which employed.
- A straight commission salesperson in retail automobile, trailer, boat, aircraft, truck, or farm implement dealerships unless that salesperson is required to be on the premises for more than forty hours per week.
- A computer professional exercising discretion and independent judgment when designing, developing, creating, analyzing, testing, or modifying computer programs or who is paid hourly at a rate of at least \$27.63.
- An employee who is customarily and regularly engaged away from the employer's premises for the purpose of making sales or taking orders. Work unrelated to outside sales may not exceed 20% of the hours worked in the week.
- A mechanic paid on a commission basis off a flat rate schedule.
- An employee of a retail establishment if the employee's regular rate of pay exceeds 1.5 times the minimum hourly rate applicable if more than half of the employee's compensation for a period of not less than one month is derived from commission on goods or services sold.
- An employee employed as an announcer, news editor, or chief engineer by a radio or television station.
- An employee in an artistic profession that is original and creative in nature or where the work is dependent upon the invention, imagination, or talent of the employee.
- Motor carrier as applied to covered employees of motor common, contract, and private carriers specified by the Motor Carriers Act [49 U.S.C. 31502].
- A teacher, instructor, tutor, or lecturer engaged in teaching in a school or educational system.
- A highly compensated employee: an employee who is paid total annualized compensation of one hundred thousand dollars or more, which includes at least four hundred fifty-five dollars per week paid on a salary or fee basis. The employee's primary duty includes performing office or nonmanual work.
- An employee providing companionship services (fellowship, care, or protection) to aged or disabled individuals. No more than 20% of the hours worked in the week may be household work (cleaning, laundry, or meal preparation). N.D.C.C. § 34-06-03.1

TAXI DRIVER AND HEALTHCARE OVERTIME PROVISIONS N.D. Admin. Code § 46-02-07-02(4)

- Taxicab drivers must be paid overtime for all hours worked in excess of fifty hours in any work week.
- Hospitals and residential care establishments may adopt, by agreement with their employees, a fourteen-day overtime period, if the employees are paid at least time and one-half their regular rate for hours worked over eight in a day or eighty in a fourteen-day work period.

TIPS N.D. Admin. Code § 46-02-07-03

- Gratuities offered to an employee by a customer belong to the employee and may not be retained by the employer.
- Employers may utilize a tip credit of 33% of the minimum wage for tipped employees. With the tip credit applied, the minimum direct wage payable to a tipped employee is \$4.86 per hour effective July 24, 2009. The employer must maintain written records verifying that tipped employees receive at least the full minimum wage for all hours worked when the direct wage and tips are combined.
- A tipped employee is any service employee in an occupation in which he or she receives more than thirty dollars per month in tips.
- A service employee is any employee who is providing direct service to the customer and to whom that customer shows appreciation for that service by tipping that employee for the direct service. The employee must regularly and customarily provide personal face-to-face service to individual customers, which the customer would recognize as being performed for

- his or her benefit. Services such as cooking and dishwashing are not included.
- An employer who elects to use the tip credit must inform the employee in advance.
- Tip pooling is allowed only among the tipped employees. A vote of tipped employees to allow tip pooling must be taken, and fifty percent plus one of all tipped employees must approve it. The employer must maintain a written record of each vote on tip pooling, including names of employees voting and the vote totals. A vote on whether to pool tips is required if requested by fifty-one percent or more of the tipped employees. The tipped employees shall provide documentation verifying the request. Time spent in meetings called by the employees exclusively for tip issues is not work time. Gaming sites, which regularly have four or fewer tipped employees on duty, can require tip pooling among all tipped employees at the site. Pit bosses or supervisors at gaming sites are not tipped employees and cannot be part of the tip pool when performing functions of those positions other than dealing blackjack (twenty-one).

MEETINGS AND TRAINING TIME N.D. Admin. Code § 46-02-07-02(6)

- Attendance at lectures, meetings, training programs and similar activities need not be counted as working time if all the following criteria are met:
 - a. Attendance is outside of the employee's regular working hours.
 - b. Attendance is in fact voluntary.
 - c. The course, lecture, or meeting is not directly related to the employee's job.
 - d. The employee does not perform any productive work during such attendance.

Training or education mandated by the state, federal government, or any political subdivision for a specific occupation need not be counted as work-time.

TRAVEL TIME N.D. Admin. Code § 46-02-07-02(7)

- The following types of travel time are not considered work time for which an employee must be compensated: 1) Ordinary travel from home to work, 2) Time spent as a passenger on an airplane, train, bus, or automobile outside of regular working hours, 3) Activities that are merely incidental use of an employer-provided vehicle for commuting home to work.
- The following types of travel time are considered work time for which an employee must be compensated: 1) Travel during

regular work hours, 2) Travel on non-work days during regular work hours (regular work hours are those typically worked by an employee on work days), 3) Travel time from job site to job site or from office to job site, 4) The driver of a vehicle is working at anytime when required to travel by the employer, 5) One-day assignments performed at the employer's request (regardless of driver or passenger status).

ON-CALL N.D. Admin. Code § 46-02-07-02(8)

- When employees are required to remain on-call on the employer's premises or so close thereto that they cannot use the time effectively for their own purposes, they are considered to be working and must be compensated.
- When employees are on-call and are not required to remain on the employer's premises but are required to respond to a beeper or leave word at home or the employer's business where they may be reached, they are not considered to be working and need not be compensated.

BONUSES AND COMMISSIONS N.D. Admin. Code § 46-02-07-02(15)

- An earned bonus is an amount paid in addition to a salary, wage, or commission. An earned bonus is compensable when an employee performs the requirements set forth in a contract or an agreement between the parties.
- A commission is a fee or percentage given for compensation to an individual for completion of a sale, service, or transaction. Upon separation from employment, the past practices, policies, and entire employment relationship will be used to determine if the commission is earned and compensable.

ROOM AND BOARD N.D. Admin. Code § 46-02-07-02(13)

The reasonable value, not exceeding the employer's actual cost, of board, lodging, and other facilities customarily furnished by the employer for the employee's benefit may be treated as part of the wages, up to a maximum of eighteen dollars per day, if agreed to in writing and if the employee's acceptance of facilities is in fact voluntary.

UNIFORMS N.D. Admin. Code § 46-02-07-02(11)

An employer may require an employee to purchase uniforms if the cost of such uniforms does not bring that employee's wage below the hourly minimum wage for all hours worked during any pay period.

EMPLOYMENT DISCRIMINATION N.D.C.C. ch. 14-02.4

Employers may not discriminate against employees or applicants on the basis of: race, color, religion, sex, pregnancy, national origin, age, mental or physical disability, status with respect to marriage or public assistance, participation in lawful activity off the employer's premises during non-working hours which is not in direct conflict with the essential business-related functions of the employer, or opposition to such discrimination in the work place.

EMPLOYMENT RETALIATION N.D.C.C. § 34-01-20

An employer may not discharge, discipline, threaten, discriminate, or penalize an employee regarding the employee's compensation, conditions, location, or privileges of employment because:

- The employee, or person acting on behalf of an employee, in good faith, reports a violation of federal, state, or local law, ordinance, regulation, or rule to an employer, a governmental body, or law enforcement official.
- The employee is requested by a public body or official to participate in an investigation, a hearing, or an inquiry.
- The employee refuses an employer's order to perform an action that the employee believes violates local, state, or federal law, ordinance, rule, or regulation. The employee must have an objective basis in fact for that belief and shall inform the employer that the order is being refused for that reason.

Public employees should also see N.D.C.C. ch. 34-11.1 Public Employees Relations Act for further information.

Child Labor Laws

State child labor provisions establish a minimum age of 14 to be employed and regulate the employment of teens ages 14 and 15. Generally, workers age 14 and 15 are required to file an Employment and Age Certificate, are limited in the hours they can work, and are prohibited from performing certain types of work.

Federal child labor laws further limit the types of work that can be performed by teens 14 and 15 years of age and prohibit teens ages 16 and 17 from working in certain occupations the U.S. Department of Labor deems to be hazardous.

Exemptions from Child Labor Laws

Teens may be exempt from some or all state child labor provisions if they:

- are exempt from compulsory school attendance requirements under N.D.C.C. §15.1-20-02(1)(b), (c), or (d) – exempt from restricted hours and need for a work permit
- work for and under the direct supervision of their parent, grandparent, or legal guardian – exempt from minimum age and need for a work permit (*Note: the exemption under federal law does not include grandparents, and requires that the business be 100% owned by the parent or guardian)
- work in domestic service (refers to services of a household nature performed in or about the employer's private home) – exempt from minimum age, restricted hours, and need for a work permit
- work on a farm (doing agricultural work) – exempt from all child labor provisions (*Note: federal law does have some restrictions for youth under age 16)

Employment & Age Certificate

Employees in North Dakota ages 14 and 15 are required to file an Employment & Age (E&A) Certificate for each job worked. Certificates are available through the department's website, and contain sections for the teen, parent, and employer to complete. After completion, the certificate is to be distributed to the department, the employer, and school principal, and work may begin.

The North Dakota Department of Labor and Human Rights is responsible to protect the safety and welfare of North Dakota's teen workers through enforcement of youth employment laws. Together with the U.S. DOL, it is our aim to provide safe, quality employment opportunities for our youth—the key to our future.

The department will review the certificate and contact the youth and/or employer with any concerns. The department does not issue a "work permit" or certificate that is needed before work is permitted to begin.

Working Hours

Under state and federal laws, youths age 14 & 15 may work:

Permitted Working Hours -

Labor Day - May 31st: 7:00 am - 7:00 pm
June 1st - Labor Day: 7:00 am - 9:00 pm

Maximum hours per day -

3/school day; 8/non-school day

Maximum hours per week -

18/school week;* 40/non-school week

*Under state law, a school week is any week Sunday-Saturday in which school attendance is required for any period of time for four or more days. For employers covered by the FLSA, the U.S. DOL has interpreted their regulations that the term "school week" includes any week in which school is in session one or more days.

Prohibited Employment - State

State law prohibits 14 and 15 year old employees from working in the following:

- 1 Employment involving the use of any power-driven machinery. Permitted exceptions: a) office machines such as adding machines or typewriters; b) tagging, pricing, or similar machines used in retail stores; c) domestic-type machines used in food service such as toasters, coffee grinders, blenders; d) machines used in service stations such as those in connection with car cleaning, washing, or polishing, or in the dispensing of gas or oil (provided that no work involves the use of pits, racks, or lifting apparatus or the inflation of any tire mounted on a rim equipped with a removable retaining ring); e) lawnmowers.

- 2 Construction work other than cleaning, errand-running, moving, stacking, loading, or unloading materials by hand.
- 3 Lumbering or logging operations.
- 4 Sawmills or planing mills.
- 5 Manufacture, disposition, or use of explosives.
- 6 Operation of any steam boiler, steam machinery, or steam generating apparatus.
- 7 Operation or assisting in the operation of laundry machinery.
- 8 Preparing any composition in which dangerous or poisonous acids are used.
- 9 Manufacture of paints, colors, or white lead.
- 10 Operating or assisting in the operation of passenger or freight elevators.
- 11 Work in a mine or quarry.
- 12 Manufacture of goods for immoral purposes.
- 13 Any other employment not herein specifically enumerated that may be considered dangerous to life or limb or in which health may be injured or morals depraved.
- 14 Occupations which involve working on an elevated surface, with or without the use of safety equipment, including ladders and scaffolds in which the work is performed higher than six feet off of the ground.
- 15 Security positions or occupations that require the use of a firearm or other weapon.
- 16 Door-to-door sales of any kind.
- 17 Occupations involving the loading, handling, mixing, applying, or working around or near any fertilizers, herbicides, fungicides, pesticides, insecticides, or any other chemicals, toxins, or heavy metals.
- 18 Occupations in or in connection with medical or other dangerous wastes.
- 19 Occupations which involve the handling or storage of blood, blood products, body fluids, and body tissues.
- 20 Cooking, baking, grilling, or frying.
- 21 Warehouse or storage work.
- 22 Trucking or commercial driving.

Additionally, any employment which would compel the person to remain standing constantly is prohibited.

Prohibited Employment - Federal

Federal law regarding the types of employment prohibited for 14-15 year old employees mirrors state law (listed on the inside of this brochure), with the following additions:

- lawn-mowing (except in domestic employment)
- manufacturing and most processing
- public messenger service
- communications and public utilities
- operation of hoisting apparatus
- loading and unloading goods to and from trucks, railroad cars, or conveyors

Federal Hazardous Occupations

In addition to the occupations specifically prohibited for employees ages 14-15, federal law also prohibits the following occupations for anyone under the age of 18:

- 1 Manufacturing and storing explosives.
- 2 Motor-vehicle driving and outside helper.*
- 3 Coal mining.
- 4 Logging and sawmilling.
- 5 Power-driven woodworking machines.*
- 6 Exposure to radioactive substances.
- 7 Power-driven hoisting apparatus.
- 8 Power-driven metal forming, punching, and shearing machines.*
- 9 Mining, other than coal mining.
- 10 Operating power-driven meat processing equipment, including meat slicers and other food slicers, and most occupations in meat slaughtering or meat-packing, processing, or rendering.*
- 11 Power-driven bakery machines including vertical dough or batter mixers.
- 12 Power-driven paper-products machines including scrap paper balers and cardboard box compactors.*
- 13 Manufacturing bricks, tile, and kindred products.
- 14 Power-driven circular saws, bandsaws, and guillotine shears.*
- 15 Wrecking, demolition, and ship breaking operations.
- 16 Roofing operations and all work on or about a roof.*
- 17 Excavation operations.*

*(Limited exemptions may apply)

For further information on these restrictions, contact the U.S. Department of Labor.

Highest Standard of the Law

When state and federal child labor provisions differ, the more "stringent" standard prevails and must be followed.

For example, if federal law prohibits a type of employment that is allowed under state law, the federal law would apply and the work would be prohibited.

Wages

The minimum wage in North Dakota is \$7.25 per hour. Employees are entitled to compensation for all hours worked including preparation time, closing time, and any required meetings or training. North Dakota does not have a training wage. The minimum wage applies to all employees, regardless of age, unless the position is exempted by law or administrative rule.

Unless otherwise noted, state laws regarding child labor can be found in N.D.C.C. Chapter 34-07 and N.D. Admin. Code Chapter 46-02-07. Federal laws are contained in the Fair Labor Standards Act (Child Labor Bulletin No. 101).

Have Additional Questions?
Need assistance with this information?
Contact us at:

**North Dakota Department of Labor
and Human Rights**
600 East Boulevard Ave, Dept. 406
Bismarck, ND 58505-0340

Phone - (701)328-2660 or 1-800-582-8032 TTY
(Relay ND) - 711 (or 1-800-366-6888)
Fax - (701)328-2031
E-Mail - labor@nd.gov
Website - nd.gov/labor

U.S. Department of Labor
1-866-487-9243

www.dol.gov/dol/topic/youthlabor/index.htm

Youth Employment in North Dakota

State & Federal
Laws & Regulations



Human Rights Laws

North Dakota citizens are protected from unlawful discrimination under state and federal law. Under state law, protection is provided by the North Dakota Human Rights Act and the North Dakota Housing Discrimination Act. Protection is also provided under several federal laws, including: Title I of the Americans with Disabilities Act (ADA) of 1990, Title VII of the Civil Rights Act of 1964 (Title VII), as amended, the Civil Rights Act of 1991, the Age Discrimination in Employment Act (ADEA) of 1967, as amended, the Equal Pay Act (EPA), and the Federal Fair Housing Act.

The Human Rights Division of the North Dakota Department of Labor and Human Rights is responsible for enforcing the provisions of these laws. This responsibility includes receiving and investigating complaints alleging discriminatory practices, mediating or conciliating settlements, and enforcing remedies when discrimination is determined to have occurred. In addition, the Division is responsible for educating the public about rights and responsibilities under human rights laws and for studying the nature and extent of discrimination in North Dakota.

In order to preserve complainants' rights under federal law, the Human Rights Division "dual" files eligible employment charges with the federal Equal Employment Opportunity Commission (EEOC) and conducts the investigation for the EEOC under the terms of a Worksharing Agreement. Similarly, eligible housing cases are "dual" filed with the U.S. Department of Housing and Urban Development (HUD) under a Cooperative Agreement.

Protected Categories

You are only protected from discrimination or retaliation if you are a member of a protected class or were participating in protected activity. Under North Dakota human rights laws, it is unlawful for any person to be discriminated against because of his or her:

The Human Rights Division of the North Dakota Department of Labor and Human Rights investigates charges of unlawful discrimination in employment, housing, public services, public accommodations, and credit transactions. This brochure provides information on human rights laws and types of remedies available.

- Race
 - Color
 - National Origin
 - Religion
 - Sex
 - Age (40 years old and older)
 - Mental or Physical Disability
 - Marital Status
 - Familial Status (the presence of children under the age of 18, being pregnant, or in the process of obtaining legal custody of a minor child) (housing only)
 - Receipt of Public Assistance (either state or federal assistance)
 - Participation in Lawful Activity (off the employer's premises during non-working hours which is not in direct conflict with the essential business-related interests of the employer (employment only).
- place of public accommodation has an architectural or communication barrier, such barrier must be removed if removal is readily achievable. If removal of the barrier is not readily achievable, accessibility to the goods, services, privileges, advantages or accommodation must be made available through alternative methods.
- Public Services - by failing to provide a person access to the use of and benefit of services and facilities provided by public entities.
 - Credit Transactions - including denying credit, increasing the charges or fees, increasing the amount of collateral required to secure credit, restricting the amount of credit extended or imposing different terms or conditions with respect to credit.

Reasonable Accommodations

Employers, housing providers, public accommodation providers, and public service providers are required to make "reasonable" accommodations to allow persons with disabilities equal access to employment, housing, services, and facilities. Examples of reasonable accommodation may include: making existing facilities readily accessible to and usable by an individual with a disability; restructuring a job; modifying work schedules; acquiring or modifying equipment; providing qualified readers or interpreters; or appropriately modifying examinations, training, or other programs.

Filing a Complaint

If you believe you have been discriminated or retaliated against in any of the areas listed above because you are a person in a protected class or were participating in a protected or lawful activity, you may file a complaint with the Division of Human Rights or you may file a civil action in state court. For more information on this process, please refer to our brochure on How to File a Discrimination Complaint in North Dakota, which is available in hard copy or on our website at the contacts noted below.

Types of Unlawful Discrimination

Discrimination is prohibited under North Dakota law in employment, housing, public services, public accommodations and credit transactions. In these areas, protections from discrimination based on your status in a protected category include:

- Employment-regarding terms and conditions of employment such as hiring, selection, promotion, transfer, pay, discharge and discipline.
- Housing - including sale or rental of real estate, application of realtor or brokerage services, and mortgage lending. A few examples of possible types of discrimination in housing are: 1) altering the terms, conditions or privileges of a transaction, 2) refusing to show or rent a rental unit, 3) refusing to receive or transmit a bona fide offer, 4) misrepresenting that a property is not available for rent or sale, and 5) eviction.
- Public Accommodations - by failing to provide a person access to the use of any benefit from the services and facilities offered by privately owned businesses. Places of public accommodation include a wide range of entities, such as restaurants, hotels, theaters, doctors' offices, pharmacies, retail stores, museums, libraries, parks, private schools, and day care centers. If a

Investigation

If a formal complaint is filed, the Division will conduct a thorough investigation into the allegations contained in the complaint. After gathering and reviewing all available evidence, Division staff will determine whether there is "reasonable cause" to believe that unlawful discrimination occurred. If the allegations are not supported by available evidence, the complaint will be dismissed. If a reasonable cause finding is issued, the Division will provide for an administrative hearing on the complaint to determine what remedy is necessary to correct the effects of the discriminatory practice.

The Division will emphasize conciliation to resolve complaints. The parties to a complaint may agree to settle the complaint at any time.

Possible Remedies

Remedies may include: hiring, reinstatement, promotion, restored benefits, reasonable accommodation, providing assistive devices to make services available, back pay, equitable relief (non-monetary), and injunctions to stop discrimination from recurring. Equitable relief may include attendance of the offending party at educational classes pertaining to discrimination.



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Summary

The following chart summarized the protected categories that apply to each type of discrimination.

Protected Categories by Type of Discrimination	Employment	Housing	Public Accommodations	Public Services	Credit Transactions
	Race	•	•	•	•
Color	•	•	•	•	•
Natural Origin	•	•	•	•	•
Religion	•	•	•	•	•
Sex	•	•	•	•	•
Age	•	•	•	•	•
Disability	•	•	•	•	•
Marital Status	•	•	•	•	•
Public Assistance	•	•	•	•	•
Familial Status		•			
Domestic Violence		•			
Lawful Activity	•				

Have Additional Questions?

Need assistance with this information?

Contact us at:

**North Dakota Department of Labor
and Human Rights**

**600 East Boulevard Ave, Dept. 406
Bismarck, ND 58505-0340**

Phone - (701)328-2660 or 1-800-582-8032

TTY (Relay ND) - 1-800-366-6888 or -6889

Fax - (701) 328-2031

E-Mail - labor@nd.gov

Web site - nd.gov/labor

Rev. 10/17

Human Rights Protections in North Dakota

An Overview of
Discrimination Laws
and Remedies



General Information

Sexual harassment in the workplace is illegal. It is a form of discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended, as well as the North Dakota Human Rights Act as stated in North Dakota Century Code Chapter 14-02.4.

Section 703(a) (1) of Title VII states, “It shall be unlawful employment practice for an employer to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.”

The Equal Employment Opportunity Commission states that “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual’s employment, unreasonably interferes with an individual’s work performance, or creates an intimidating, hostile or offensive work environment.”

Types of Sexual Harassment

There are two types of sexual harassment:

Quid Pro Quo: When submission to or rejection of unwelcome sexual conduct is used as a basis for employment decisions. Quid pro quo means “something for something.”

- An example of quid pro quo is when a supervisor or someone with authority over the victim makes a “put out or get out” demand - “submit to my sexual requests or you will be fired, demoted, passed over for a promotion, or in some other way made miserable on the job.” Quid pro quo harassment can

Sexual harassment continues to be a concern in the workplace. In 2011, nearly 11,500 charges were filed with the Equal Employment Opportunity Commission and work-sharing agencies such as the North Dakota Department of Labor and Human rights. Education and prompt action can help you avoid becoming part of the statistics.

be committed only by someone in the organization who has the power to control the victim’s job destiny.

Hostile Environment: When unwelcome sexual conduct unreasonably interferes with the individual’s work performance or creates an intimidating, hostile, or offensive working environment.

- An example of this is when a supervisor, co-worker, or someone else with whom the victim comes into contact on the job creates an abusive work environment or interferes with the employee’s work performance through words or deeds because of the victim’s gender.

Sex-Based Harassment

Title VII also protects against sex-based harassment, which is harassment based on gender. This type of harassment doesn’t necessarily involve sexual language/actions.

For example, one court held that a man’s violent physical assault on a woman was a violation of Title VII because the assault was based on the woman’s gender - it did not matter that the assault itself was not sexual.

Likewise, it is a Title VII violation when a male employee makes trouble for a female co-worker on the job because he thinks only men should work there.

Same-Sex Harassment

Sexual harassment can also occur between individuals of the same sex.

Additionally, same-sex sexual harassment is not limited to situations in which one or more of the parties involved is homosexual. Inappropriate conduct “because of sex” is the

issue, not the sexuality of the victim or the harasser.

Prevention of Sexual Harassment

Employees:

- Conduct yourself professionally.
- Become familiar with your company’s procedures for reporting harassment.
- Decide ahead of time what action you would take if harassed.

Employers:

- Ensure your working environment is businesslike and professional.
- Let your employees know that you take the issue of harassment seriously.
- Ensure all employees are aware of and have access to the company’s policy on sexual harassment and retaliation. Emphasize that SEXUAL HARASSMENT WILL NOT BE TOLERATED.
- Train managers and supervisors on sexual harassment issues.
- Make sure employees are aware of their rights regarding filing equal employment complaints.

Steps to Take if Harassed

- Remain professional.
- Take reasonable steps to avoid harm from harassment.
- Be direct with the harasser. Let him or her know that you do not like the behavior and that you want it to stop immediately.
- If the behavior continues, follow your company’s grievance procedure and report the incident to your supervisor. If the harasser is your supervisor, you should go to someone of higher authority with your concerns.
- File a report or complaint with your designated company official(s).
- When reporting the harassment, be prepared to share all the facts about the incident(s). Write down

the important details of the incident(s). Collect your thoughts before you begin; remember to provide who, what, when, where, how, and any witnesses.

- Think about how the situation could be resolved by your company.
- If you feel that the company has failed to adequately address the issue, you may file a complaint with the North Dakota Department of Labor and Human Rights within 300 days from the last date of harm.

Employer Responsibilities

- Establish, distribute, and enforce a policy prohibiting sexual harassment.
- Encourage employees to report sexual harassment to management before it becomes severe and pervasive.
- Designate more than one individual to take complaints.
- Assure employees that complaints will be kept confidential to the extent possible.
- Make it known that RETALIATION BY CO-WORKERS OR SUPERVISORS WILL NOT BE TOLERATED.
- Always follow up with the complainant to ensure that the behavior has stopped and that no retaliation is occurring.
- Generally, employers are responsible for the actions of their supervisors and managers, as well as what they know or should have known about the occurrence of sexual harassment.

Investigating a Complaint

- **Act immediately and appropriately.** An employer should conduct a prompt, thorough, and impartial investigation.
- **Get the facts.** Document what you are told! Interview the complaining employee, the alleged harasser, and others who may have relevant information.

- **Stop the harm.** Before completing the investigation the employer should take steps to ensure the harassment does not continue.
- **Conclusion.** Make your determination. Inform both parties of your investigative findings, the determination, and any corrective/ disciplinary steps.

Department of Labor and Human Rights' Role

The North Dakota Department of Labor and Human Rights is mandated by the North Dakota Human Rights Act to receive, investigate, determine cause, settle, and conciliate claims.

If the employer named in the charge meets federal jurisdiction, the North Dakota Department of Labor is authorized to also investigate on behalf of the Equal Employment Opportunity Commission.

Have Additional Questions?

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Sexual Harassment in the Workplace

Important Information
for Employers & Employees





**NO
SMOKING**