



# Employment Policies for the State of North Dakota

FAIR LABOR STANDARDS ACT

Effective Date: 11/15/2019

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The State of North Dakota, as the employer, is required to abide by the federal Fair Labor Standards Act (FLSA). The FLSA establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting employees in the private sector and in federal, state, and local governments. This policy is not an exhaustive description of state and federal law relating to the FLSA. Employees should consult with their employing agency's HR or Human Resource Management Services when situations arise to ensure compliance with applicable laws.

For purposes of the FLSA, all entities of North Dakota state government are considered one employer. If an employee works for two different employing agencies of the State, both employing agencies must ensure continued compliance with FLSA requirements.

Pursuant to the FLSA requirements, each position is identified as exempt or nonexempt, based upon the duties of the position. Each agency will determine the appropriate exemption status for each position.

**Nonexempt Employees:** Nonexempt employees are subject to the provisions of the FLSA and must be compensated for all hours worked. Overtime is compensated at time and a half for all hours worked over 40 in a week and can be either monetary compensation or compensatory time. Paid time off such as annual leave, sick leave, holidays and other paid leave time are not considered work time for purposes of determining overtime. Employees cannot waive their right to overtime compensation. Nonexempt employees are required to accurately record all hours worked.

**Exempt Employees:** Exempt employees are exempt from the overtime requirements of the FLSA and are not required to be compensated for overtime. Exempt employees are paid an established monthly salary and are expected to fulfill the duties of their position regardless of hours worked.

**Nursing Mothers:** The FLSA requires employers to provide reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has the need to express milk. Employers are also required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

Management acting directly or indirectly in the interest of an employer in relation to an employee may be held personally liable for wage and hour violations under the FLSA.

Violations of this policy will not be tolerated and are grounds for disciplinary action, up to and including termination of employment.

For further information on the applicable laws and corresponding guidelines, employees are encouraged to review the related laws and administrative rules.

References: Fair Labor Standards Act, Act, NDCC 34-01, 14-06, NDAC 46-02-07, 46-03-01

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