

Risk Quick Tips

Risk Management Division OMB

TEMPORARY EMPLOYEES – WHO IS RESPONSIBLE?

Many state agencies regularly or occasionally employ temporary staff. This may include seasonal employees hired to accomplish specific tasks at certain times of the year, paid internships, or individuals hired to fill in for regular employees on leave.

If your agency utilizes temporary employees, you have a responsibility to ensure health and safety training for those employees. Every time a temp starts a new work assignment – no matter how skilled or unskilled – a certain amount of training is required in order for them to perform their assigned tasks to suit the specific needs of the employing agency. Certain types of jobs are inherently dangerous and require careful safety training.

With all the risk management techniques in place, the best method to reduce the potential for loss is to ensure that the work environment is safe.

Studies show that frequency and severity rates of on-the-job injuries are significantly higher with temporary workers. No matter what a temp's experience, care must be taken to see that dangerous tasks are performed safely. Never assume a temporary worker is fully prepared to work unsupervised until you have taken the time to see that they can safely perform their work tasks.

To reduce the potential for loss, take "ownership" of temporary employees. Temporary employees should receive the same safety training as other regularly employed workers. Supervisors should be made aware of the potential liabilities that exist and of the need to ensure the safety of the temporary workers along with their regularly employed co-workers. Treat temp employees with the same respect and care you would for your permanent employees.

State agencies that decide to use temporary employment agencies should realize that they could very easily share the responsibility if a temporary employee is injured on the job. In light of this inherent responsibility, good risk management mandates that any temporary agency providing services provide proof, not only of workers' compensation coverage, but also of general liability insurance. ***Failure to verify that employment agencies have workers' compensation coverage, or have it in adequate limits, can expose you to tort liability for the temporary employees under your supervision.***

Mission

The mission of the Risk Management Division of the Office of Management and Budget is to protect the assets of the state of North Dakota – its people, property and financial resources – so that the state can continue to meet its obligations to its citizens.

Staff

- Tag Anderson: Director
701.328.7580
- Vicki Ableidinger: Claims Manager
701.328.7581
- Terry Milas: Loss Control Analyst
701.328.7582
- Diane Walliser: Manager, RMWCP
701.328.7583
- Dawn Moen: Admin Staff Officer
701.328.7584

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Did you make it to the 2009 Risk Management Seminar? NO! Good news! You can view webcasts of the various seminar presentations by clicking on the topic of interest below.

More good news! Just in case, an agency may find it beneficial to assign the webcast as a training course to their employees, these webcasts can also be found in Risk Management's Online Training System.

Ergonomics

Funds

Contracts

Security

COG/COOP

Rehabilitation

Litigation

ADA

2009 Risk Management Seminar



Essential Job Functions

Last year, a sample list of essential job functions for a selected job category was requested across state agencies as a validation to conclude if a specific agency qualified for a 2% premium discount in compliance with the RMWCP Discount Program.

The majority of the agencies that submitted completed essential job functions for a specific job demonstrated that they analyzed the physical and mental work demands of that job and the environmental conditions in which it is performed. Upon completion of the analysis, it was evident that these agencies were able to determine the essential functions of those jobs and therefore, qualifying to receive a 2% premium discount. **However, some examples submitted by agencies were solely Position Information Questionnaire's (PIQ's) and did not meet the qualification requirements to receive the 2% premium discount.** PIQ's and a list of essential job functions are two different documents and processes.

To qualify for the RMWCP discount for application question #4, a detailed review of each job description to determine the essential and nonessential job functions and the physical and mental demand of each job must be completed. The following links will assist you in developing your essential job functions.

- ✳ <http://www.nd.gov/risk/forms/docs/completioninfo.doc>
- ✳ <http://www.nd.gov/risk/forms/docs/54325.rtf>
- ✳ <http://www.nd.gov/risk/forms/docs/54326.rtf>

Once analysis forms are complete you will be able to determine the essential job functions of a position.

The term "essential function" was first introduced within the Americans with Disability Act (ADA). The law states an individual (once they meet the definition of a disability) must have the experience, education, licensure, etc. needed to perform the job and be able to perform the essential functions of the job with or without reasonable accommodation. Even though the law does not require employers to determine essential functions, it is in the employer's best interest to do so. Why? If an individual with a disability applies for a position or an individual becomes disabled while employed, you must look at what reasonable accommodation, if any, they will need to perform the essential functions of the job. In other words, you cannot refuse to hire or discharge an employee until you determine if they can perform the essential functions of the job with or without reasonable accommodation. **It is important for employers to develop a list of essential job functions for each job category. These lists help you properly place workers in jobs and assign injured workers to transitional duties.**

Agencies can receive help in determining essential functions and physical demands of a position by contacting Linda Jensen, Human Resource Management Services, 328-3299 or lijensen@nd.gov.

Discount Application Deadline June 30th

Risk Management Workers
Compensation Premium
Discount Application

Risk Management Fund
Contribution Discount
Program Application

Reminder!

*Documentation must be
submitted along with
both applications*

HARASSMENT IN THE WORKPLACE TRAINING

Do you know the answers to these questions.....

- What is **Workplace Harassment**? Is it the same thing as **Sexual Harassment**?
- Why **should I care** about this?
- What happens if **I'm accused** of harassment?
- What should I do if someone **harasses me**?
- Can I do anything to **prevent** harassment in my office?
- What if a situation gets **scary**?

The goal of eliminating harassment in the workplace must begin with prevention. As North Dakota State employees we have a responsibility to prevent harassment from occurring. To accomplish the goal, Human Resource Management Services, in cooperation with the Risk Management Division has developed an online training video.

This online training video will increase your awareness and provide you with the skills and motivation you need to better address the issues of harassment. It will give you examples of what needs to be done, and what approaches and techniques can be used to prevent harassment in the workplace. Upon completion of this training, learners will be able to:

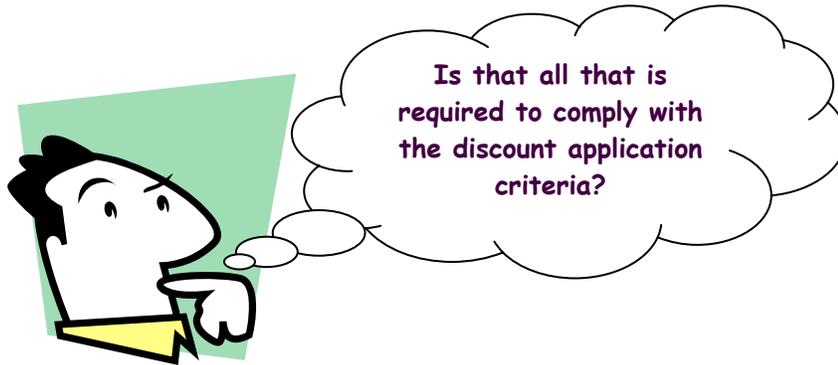
- Determine whether various situations meet the definition of workplace harassment.
- Identify the steps to take if harassed or accused of harassment.
- Recognize instances of illegal retaliation resulting from a harassment claim.
- Identify a number of tips to prevent harassment in the workplace.
- How to recognize the negative effects harassment has on people.
- How to prevent harassment to improve morale and productivity.
- Recognize signs of violence and identify appropriate emergency procedures.
- Other discriminatory laws such as ADA, and ND Human Rights Act.

Video can be previewed at these sites

Risk Management Online Training

Human Resource Management Services

Online Training Management System – Type: Discount Program Requirements (Training)



"Discount Program Requirements (Training)" is a category to help consolidate or organize on-line training modules that would specifically be applicable to achieving the Risk Management discount program requirements. However, these on-line training resources are not mandatory to meet discount application criteria. These resources serve as an additional tool or resource to assist agencies with meeting the discount criteria. In fact, the Discount Program Applications do not specify training that needs to be conducted. Rather, the Applications request certain documentation (i.e. policy, procedure, written directive, minutes of meetings, memorandum, checklist, etc.)

Each state agency is responsible to establish a management scheme to implement their safety policy. Each agency needs to evaluate the nature of the work their employees perform and determine what training is needed. Agencies must decide whether or not training courses are mandatory (required by regulations

and policy) or discretionary (cover safety issues for which there is no legal requirement for training). They are intended to provide information on commonly accepted practices and to raise safety awareness of employees.

If an agency (likely through the RM/RMWCP Contact) chooses to utilize the on-line training resources, it is up to the agency to determine which training modules are applicable and necessary for the agency and its employees. That determination includes whether the training module(s) applies to all or only certain employees. For instance, the "Supervisor's Guide to Responding to Allegations" training course, would not be applicable to all employees - the primary stakeholders for that training would be Supervisors or others who may benefit from that specific topic. In addition, the "LCC Meeting Guidelines" would be most helpful for LCC members, rather than all staff. Also, keep in mind that some training modules may be helpful and applicable to agency/employees, even if it is not outlined through a discount program.

LDPRS and NotiFind Training Schedule

- *July 8, 2009 at 1:00pm*
- *August 5, 2009 at 1:00pm*
- *September 9, 2009 at 1:00pm*
- *October 14, 2009 at 1:00pm*

All training will be held in Room 10A in the basement of the Department of Transportation (DOT) building. Please contact Dawn Moen at dmmoen@nd.gov to register.

WSI EXPERIENCE RATING REPORTS

Individual State Entity Experience Rate Reports will be mailed mid June. Workers compensation experience rating is a projection of future losses using an employer's past claims history. This rate represents an employer's potential to incur losses and is determined by several factors including claim losses and expected losses. Your individual experience rate directly impacts the amount of premium you will be charged. Employers with a good loss history are rewarded with premium discounts. Employers with a poor history are charged premium above the manual rates. Analyzing your state entities work injuries helps you identify areas that need improvement to prevent future losses. To request a loss run report, email ndwsi@nd.gov.

Have a safe summer!



From the Desk of Risk Management's Director

Overall required agency contributions to the Risk Management Fund for the 09-11 biennium dropped to \$2,649,997 from \$3,454,383 in just the prior biennium. Actuarially determined contribution rates continue to decline in large part due to the loss control efforts of individual agencies. The adoption of proactive loss control practices and effectively managing risk in agency operations and contracts results in direct savings to the State as well as increases public and state employee safety. Agencies that have implemented effective loss control and risk management practices should be commended for their efforts.

There were no direct changes to the administration of the Risk Management Fund this past legislative session. However, there were a few bills or provisions that may have some indirect impact. These include:

- House Bill 1122 broadens what may be subject to a contractual limitation of liability under N.D.C.C. 32-12.2-15.
- House Bill 1104 clarifies that otherwise exempt risk management records remain exempt even where copies of the records are retained by an agency.
- Senate Bill 2256 modified N.D.C.C. 32-12.2-13 to prohibit contractual indemnity agreements between a political subdivision and the State.
- Section 15 of House Bill 1015 clarifies that the Risk Management Fund may assume responsibility for vehicles that are rented or leased by the State for more than thirty days.

There were also no direct legislative changes to the Risk Management Workers Compensation Program, although there were many changes to workers compensation law in general. The Risk Management Workers Compensation Program continues to participate in the authorized deductible program and facilitates the cross agency return-to-work program. Significant savings to the State have been realized from the establishment of the Risk Management Workers Compensation Program. With continued focus on returning injured state employees to work and through the guidance of a comprehensive actuarial review of the Risk Management Workers Compensation Fund, these savings can continue hopefully well in to the future.

*Tag Anderson
Director
Risk Management Division*

