

## **Supervisor Newsletter**

Office of Human Resources/Payroll

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### **Best Practices in Employment Law 2015**

**May 4 from 9:00 to 11:00 am—Hidatsa Room, Memorial Union**

**Presented by Michelle M. Donarski, J.D.**

Topics covered include: Hiring Practices including the I-9 form, Fair Labor Standards Act issues such as overtime, breaks and independent contractors, Americans with Disabilities Act process, Discrimination and Work Environment issues.

*In this session, employment laws and best practices will be covered providing managers a basic understanding of the laws and **the cost and consequences to the university and manager of not knowing and following federal employment laws.***

*Learn how to avoid the pitfalls and consequences of recent court decisions and an explosion of employee lawsuits. Increasingly complex workplace regulations are **potential costly legal nightmares for NDSU and its supervisors.***

*Now more than ever, managers/supervisors need to understand and be familiar with employment laws. Acting within the law, following the university policy, and avoiding liability are integral to a manager's duties and responsibilities.*

*It is critical to understand not only what employment laws may apply to the workplace, but also how the laws impact day-to-day decision making.*

Michelle Donarski's practice includes business transactions, contracts, civil trial litigation, agricultural law, and an emphasis in employment law. Ms. Donarski has represented a number of companies, large and small, locally and nationally, in assisting and defending employers in federal EEOC, state Department of Labor, and state and federal court lawsuits. She has investigated employee discrimination, harassment, retaliation, and wage and hour claims for companies and has conducted a variety of in-house seminars on employment matters, including the hiring, managing, disciplining, and firing of employees. She has assisted several companies with their employee manuals and policies, wage and hour issues, leave issues, disability issues, discrimination and harassment issues, retaliation, non-compete and confidentiality agreements, trade secret violations, and employment contracts.

Please RSVP to Jill Stevens at [jill.stevens@ndsu.edu](mailto:jill.stevens@ndsu.edu) or 231-8961.

## Information on Child Labor

Special provisions apply to the employment of individuals below the age of 18.

- Candidates who have not reached the age of 18 are ineligible for regular employment.
- Candidates below the age of 14 are not eligible for any employment.
- Candidates between 14 to 16 years of age must obtain a work permit and submit it to the Human Resources/Payroll Office. Work permits may be obtained through the school in which the candidate is attending or through the Superintendent of Schools office.

### Hours Worked

- A minor 14 or 15 years of age may not be employed or permitted to work before the hour of 7:00 a.m. nor after the hour of 7:00 p.m., except that these hours are 7:00 a.m. to 9:00 p.m. from June 1st through Labor Day, nor more than 18 hours during school weeks, nor more than 3 hours on school days, nor more than 40 hours during nonschool weeks, nor more than 8 hours on nonschool days.
- Candidates between 16 or 17 years of age may work at any time for unlimited hours in all jobs declared not hazardous. The labor laws do not prohibit 16+ years of age from mowing and tilling.

[www.nd.gov/labor/publications/docs/youth.pdf](http://www.nd.gov/labor/publications/docs/youth.pdf)

## Hazardous Occupations

Employment in hazardous occupations is prohibited below the age of 18. Hazardous occupations include operating licensed, motor vehicles; working with radioactive and explosive material; operating certain power-driven woodworking (such as circular and band saws), metal working and bakery machinery; operating various types of powerdriven hoisting apparatus, such as non-automatic elevators, forklifts and cranes.

### Agricultural Exemption Regulations

Child Labor Agriculture Exemption Regulations for 16+ years of age: Once a young person turns 16 years old, he or she can do any job in agriculture. Per 29 CFR 570.70, Agriculture includes farming in all its branches and among other things includes the cultivation and tillage of soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section 15(g) of the Agricultural Marketing Act, as amended), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including forestry or lumbering operations) performed by a farmer or on a farm as in incident to or in conjunction with such farming operations, including preparation for market or to carry for transportation to market (This exemption includes the Research and Extension Centers). See: [www.dol.gov/dol/topic/youthlabor/index.htm](http://www.dol.gov/dol/topic/youthlabor/index.htm)

## Salary Administration & Responsibility Reviews

As we approach the beginning of a new fiscal year, it is required that all staff receiving a salary increase have documentation of positive performance on file. If you are uncertain if there are members of your staff that have reviews due, please feel free to contact Brittnee Nikle at [brittnee.nikle@ndsu.edu](mailto:brittnee.nikle@ndsu.edu) or 231-8965.

Attract and retain well-qualified individuals who can best contribute to NDSU's mission.

## Priorities are:

- 1) Recognizing STAR performers
- 2) Being responsive to market
- 3) Acknowledgement of basic financial needs of employees
- 4) Consideration of the cost of turnover (training, research start-up, recruitment, employee morale and institutional image)

## Communicating Pay Decisions to your Employees

*Pay messages that come from managers are 3 times more impactful than those that come from HR*

### Prepare before the meeting:

- Understand NDSU's philosophy of Salary Administration
- Know what you are going to say—main points including recognition of performance or concerns
- Remember compensation includes benefits—Total Rewards
- Provide supporting facts and/or documentation
- Be aware of potentially sensitive/contentious issues
- Anticipate the employee's reaction (draft a response)

## 2015-16 Salary Administration Guidelines

All regular employees whose performance levels meet standards are eligible for a salary increase. Salary adjustments must have documentation indicating satisfactory performance.

Employees not eligible for a salary adjustment:

- Probationary broadbanded staff
- Employees who have unsatisfactory performance documentation

## Checklist of Attributes to Consider When Determining Raises

Before determining raises, do your due diligence to reward the most deserving employees. When investing money in an employee, you're literally investing in the future. Do they have ideas, projects, and plans for both the short and long term. If so, that employee is working in the present with an eye on the future.

7. A Positive Attitude
6. Goes Above and Beyond
5. Always Growing and Improving
4. Total Reliability
3. Team-first Attitude
2. Confidence and Preparedness
1. Vision for the Future

*From Salary.com*

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