November 14-15, 2006

North Dakota University System Human Resource Council
Minot State University - Bottineau
Wold Room in the Student Center

November 14, 2006 at 12:30 p.m. – 5:00 p.m.
November 15, 2006 at 8:00 a.m. – 10:00 p.m.

Rita Lindgren  BSC
Angie Friesz  BSC
Gail Ebeltoft  DSU
Steve Benson  MASU
Jim Borkowski  MISU-B
Joann Kitchens  LRSC
Peg Torrance  NDSCS
Broc Lietz  NDSU
Colette Erickson  NDSU
Joy Johnson  UND
Jean Altepeter  UND
Erin Klingenberg  VCS
Barb Slagle  WSC
Teri Thorsen  NDUS
Laura Glatt  NDUS – by phone
Pat Seaworth  NDUS – by phone

The minutes of the August 1-2, 2006 minutes were approved

November 15, 2006

Criminal Background Checks

Erin Klingenberg described their experience with background checks at Valley City State University. In the past, they have used local police, assuming that was getting them a full background check. After an incident involving one of the students and a former temporary employee, they learned there is a difference between a local check, a Bureau of Criminal Investigation check (state) and an FBI background check (national).

Pat Seaworth talked about statutes that limit the discovery of background information. Local police can ask BCI, or employers can ask BCI directly. There is a $15 fee. They can release state data only, even if they have additional information from other states. The only option for getting other information is through using the internet or using
private firms. Private firms are also subject to laws of each state, so they may not be able to get the information either, depending on the state.

For residents who have lived in-state, most or all of their adult life, a BCI check should be sufficient. If someone has lived in other locations, campuses may want to consider either researching the person’s background themselves through the internet, hiring a private background search firm, or using the national FBI check through BCI.

FBI background checks are allowed for designated occupations identified in statute. 12-60-24 has the list of types of positions for which FBI background checks are authorized. Examples are some positions at Job Service, Bank of North Dakota, PERS, etc. The cost is $30 for FBI – ($15 BCI fee plus $15 FBI fingerprint charge). The turn-around time for information from an FBI check is a matter of weeks. Campuses could hire people on a conditional basis, and then review the person’s employment status after review of the background check result.

A recommendation has gone to the The SBHE has approved a recommended bill draft to add to statute amend NDCC section 12-60-24 to authorize FBI checks for employees in specified positions for the NDUS, and specified programs of study as designated by the chancellor. If the SBHE supports this bill, it would then go to the Attorney General for the support of that office before being presented to the legislature. If the language is acceptable to the Attorney General, it will be included in a bill filed by the Attorney General. If the bill passes, campuses need to remember that state statute also says “a criminal conviction ALONE cannot be a reason not to disqualify an applicant,” And take care with how the information is used in a hiring decision.

Pat doesn’t think Attorney Generals office would support a statute that would make this retroactive for current authorize FBI checks for all positions and current employees.

The HRC weighed the spectrum of options of requiring background checks for all applicants/all positions to finalist(s)/specific positions and everything in between Action Item: Campuses are asked to identify the proposed designated positions and the approximate numbers of requests on an annual basis. Campus HR representatives who have not done so already should get that information to Pat Seaworth no later than November 17.

The types of positions the HRC identified are:
Security/Police
Custodians
Hall Directors/RAs/apartment managers
IT staff
Plant services staff
Positions handling cash/credit cards/investments/payroll
President
Access to medical records/drugs/hazardous materials and chemicals
Counseling department
Student Affairs staff with individual direct student contact
Positions providing services to minors/vulnerable adults
Coaches
Faculty
Student employees in the above categories

Joy asked what we do with these records after they are obtained, if the statute amendment passes. Pat thinks they would be an open record – kept with the hiring files and then discarded under general records disposition rules.

**NDUS HR Policy Section 4 Probationary Period**  
Pat Seaworth
Pat has received a question about what a ‘new” employee is? Is there just one initial probationary period? Yes. Or if someone gets a new position on the same campus, without any break in service do they have a new probationary period? No. If a person switches to another campus, do they have a new probationary period? Yes.

**SBHE Policy 608.2 Non-renewals and Dismissals**  
Pat Seaworth
How is “service” in 608.2.1 measured? Do employees start over in “service” if they’re promoted from one position to another within a campus? No.

**LC Bill #70077 – Mandatory Deferred Compensation**  
Laura Glatt
At the recommendation of the Employee Compensation and Benefits committee, a bill is coming forward from PERS that says: After August 1, 2007, employees would be automatically enrolled in a deferred compensation plan at the rate minimum of $25/month. What is the HRC’s position? HRC does not support this proposal.

**NDUS HR Policy Section 6 Annual Leave**  
Broc Lietz, Gail Ebeltoft
Broc asked for clarification about 6.3.1 and the ‘use it or lose it” clause, that has a step-down clause for the ConnectND project staff. Broc’s interpretation is that the policy prohibits a recent buy down of leave for project staff that was done. Pat Seaworth asked why the clarification is needed. Since this was a one-time exception of that rule, why does the policy need to be clarified? ConnectND staff still haven’t been able to use the accrued leave because of work demands. That left the management staff with two choices: amend the policy again, or have the staff lose the leave accrual. Thus, agreements were drawn up to treat the employees fairly.

Broc responded that 1) that the step down policy for ConnectND staff had not yet expired, and 2) the workload is still expanding so won’t we still have the same problem this year as these employees work down from 400 hours to 240 while earning has much as another 192 hours this year.
Jim doesn’t agree that the policy allows for that at all, and this shouldn’t have been done. It could have been done after the fact, once the leave was lost, as a bonus-type payment.

Pat feels that the management of any campus could enter into these agreements with any employee they feel has not been able to use leave because of extreme workload.

Laura clarified that Board initiative funds were not used for these leave buy downs.

Peg reminded the group that it was recognition that this is a liability any way you look at it. If the employee is dissatisfied with the approach to their ability to take leave, they may resign, and the University System will still have to pay the money.

A couple of campuses have also done this sort of leave buy down for this ConnectND situation. Pat said the policy remains “use it or lose it.”

**Action Item:** As a follow-up to a previous HRC discussion of policy 6, Gail asked Pat to revise 6.7 as outlined in the August minutes.

**NDUS HR Policy 20.3 Military Leave**

**Joy Johnson**

20.3.1
Military leave with pay shall be granted to all state employees up to a maximum of twenty work days for those employees who have been employed continuously for a period of ninety days or more immediately preceding the leave.

20.3.2
In addition, any military leave of absence necessitated by a full or partial mobilization of the reserve or national guard forces of the United States of America, or emergency state active duty, shall be without loss of pay for the first thirty days less any other military leave which may have been granted during the calendar year.

Diane Nelson has asked for clarification about the 30 day payment in 20.3.2. Pat clarified this is for the first 30 calendar days. This is different than the 20 work days referred to in 20.3.1

Pat Seaworth and Laura Glatt left the meeting.

**NDUS HR Policy 20 Leave**

**Broc Lietz**

The Policy Coordination Committee of NDSU has asked for a review of the section of policy 20.4 which states “If an employee is not scheduled to work because of a previous arrangement, including annual or sick leave, the employee is not entitled to storm pay.” The HRC does not support any change in this language.
SBHE Policy 603.2 Equal Employment Opportunity
Rita Lindgren
No update – will be presented at the next meeting.

TIAA-CREF
Rita Lindgren
Rita asked the group what they would do for a person in a professional 9-month position who wants to be paid over 12. Pay-over-12 can be offered for TIAA-CREF participants but not PERS participants because of the way PERS service dates are configured. Rita surveyed the group. Some campuses allow it, others don’t.

AAUP Survey
Rita Lindgren
BSC is no longer an AAUP member, but Laura has asked campuses to participate in their survey. Rita wondered why they would, since in the past the AAUP survey did not cover 2-year schools. LRSC has been participating in the survey and responded that they are able to obtain data for two-year schools.

Headcount report
Rita Lindgren
The HeadCount query used by the Board office for an annual report was not accurate for BSC. Data discrepancies in that report were a known problem, but because of the 8.9 upgrade, were not able to be addressed. A conference call which was held before the upgrade identified that campuses are reporting temporary/adjunct faculty under 6 different job families, which is affecting the report. Action Item: Teri will pull the query coding to so campuses will know how the query is written. Campus HR staff will review the information and note how it relates to their campus. Gail will place this on the agenda for the next HRC meeting to get this resolved.

NDUS Procedure 703.2 Payroll Deductions
Barb Slagle
There is confusion about the Provident dental plan – is it OK that it is being offered as a pretax benefit when PERS has a dental plan? Are there rules on what can be pre-taxed? Peg suggested each campus check their flexible benefits plan document, which would govern, so this will not be consistent between campuses.

There was discussion about how the process will take place to notify vendors who fall below the 50-participant-minimum requirement. Teri noted that this proposal may have been brought forward by the HECN staff during the heat of the original implementation of PeopleSoft. Now that PeopleSoft has been operational, leaving on plans which fall below the less-than-50-participant-rule are not significant. The original setup is the hard work. The HECN staff no longer feel a need for that section of the procedure unless the campuses still do.

Broc moved that Procedure plan 703.2.4 be deleted. The motion carried. Action Item: Pat Seaworth will pursue the removal of this section with the Chancellor.
The number of participants in plans other than those established by law or policy and for institution foundations or tax-sheltering plans shall be reviewed not less than every two years by HECN staff. If a review determines that a plan has less than 50 participants, a notice shall be sent to the vendor and participants that deductions will be discontinued on the date specified in the notice (six months from date of notice) if the number of participants at that time remains less than 50.

NDUS HR Policy Section 25.2

Joy Johnson
Action Item: Joy will clarify the question about this policy with Diane and bring forward to the next meeting.

November 16, 2006

NDUS HR 28 Grievance Procedures

Broc Lietz
In 28.5.1.3 When does the 20-day clock start? When the action is taken, or when the employee receives communication of the action causing the grievance?

28.5.1.3
A grievance must be brought within twenty working days from the act causing the grievance unless a longer period of time is provided by law or written agreement. The Director of Human Resources or other designated campus official shall notify the employee and the supervisor whether the complaint meets the criteria for a grievance. Within ten working days from this notification that the criteria has been met, the supervisor shall reach a decision and communicate it in writing to the employee. Every effort should be made to settle grievances at this stage.

The group decided they had no trouble with the way the policy is currently worded. In general, the clock starts when the employee receives notice of the action. HR staff use professional judgment to make adjustments to the clock. The goal is to hear the concern of the employee, but not to review concerns that happened so long ago that memories may have faded.

IRS 509A

Peg Torrance
Are Early Retirement Agreements or Executive Comp payments deferred compensation that should fall under IRS 509A deferred compensation rules? Action Item: Peg will do more research and follow up with Pat.

Electronic signatures

Peg Torrance
Is any campus pursuing electronic signatures? Pat Seaworth was asked to pursue this in November 2005, (but may not have been aware of this request). Action Item: Jim will ask Pat: 1) are scanned documents legal documents when printed off? 2) Under what conditions are electronic signatures valid? Teri noted that workflow supporting
electronic signatures is available in PeopleSoft, but would need to be a prioritized project to set up. It could be a good return on investment.

Dependent Leave

Colette Erickson
Does a part time employee get pro-rated dependent leave? Yes.

Student Employees/FICA

Colette Erickson
In the legacy system, student employees had to be changed to the 9000 band during the summer in order to make them subject to FICA. Is this still required? No. Leave students in the 8000 band and change their FICA status to “Subject” unless they are taking summer school.

Miscellaneous:

Minutes are no longer being sent to the HRC-Minutes list (payroll and other staff).

Action Item: Teri will check on who is on this listserv and get the list to the group to proof.

Can we approve minutes by e-mail? Yes.

Who will be taking minutes? Now that the upgrade is done, and Teri is able to attend regularly, Teri will serve as secretary, with Joy as the backup.

Broc asked about FMLA. Should it be run concurrently with paid leave, or after paid leave and shared leave has elapsed? Some campuses run it concurrently, others initiate FML only after other leaves have elapsed.

Who makes Shared Leave decision? Campuses replied with a mix of HR, Vice President, President.

Should we develop a of leave bank? No; shared leave is sufficient.

Next meeting is in Bismarck February 13 and 14.