



























































# University Senate Minutes

Fargo, ND 58105

North Dakota State University

November 14, 2005

Attachment 6

## POLICY CHANGE COVER SHEET

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy):

**Section**

126: Salary – Regular Employee

Policy no longer necessary due to PeopleSoft; encompasses the directions to completing a payroll form.

2. This policy has been reviewed/passed by the following (include dates of official action):

Policy Coordination Committee – 9/15/05

Staff Senate –

University Senate –

President’s Council –

3. This policy revision was originated by (individual, office or committee/organization):

Human Resources/Payroll (9/05)

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## **Vertical Writing-Motion to Amend:**

Dr. Kevin Brooks, Department of English, moves to amend the vertical writing curriculum requirement motion, which was approved by University Senate on October 10, 2005, as follows:

**Delete** *effective for new students entering NDSU during fall semester 2006*, and **insert** *effective for new students entering NDSU during fall semester 2007.*

Rationale: This original date was selected two years ago when the proposal was first introduced. With the proposal having just been approved this fall, additional lead time is needed to fully implement the requirements of the new curriculum and to ensure a well functioning process which will accompany the vertical writing details.

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## POLICY CHANGE COVER SHEET

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy):

### **Section 350.3: Board Regulations on Nonrenewal; Termination or Dismissal of Faculty**

Changes to NDSU Policy 350.3 are based on changes to SBHE Policy 605.3. Notice timelines have changed in Section 1. In Section 9, "sanction" now has a more narrow definition. Less severe sanctions, such as a letter of reprimand, can no longer be appealed to the Standing Committee on Faculty Rights.

2. This policy has been reviewed/passed by the following (include dates of official action):

Policy Coordination Committee - 4/21/05  
Staff Senate -  
University Senate -  
President's Council -

3. This policy revision was originated by (individual, office or committee/organization):

General Counsel (4/21/05)

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### **SECTION 350.3 BOARD REGULATIONS ON NONRENEWAL; TERMINATION OR DISMISSAL OF ~~ACADEMIC STAFF~~ FACULTY**

SOURCE: SBHE Policy Manual, Section 605.1, 605.2, 605.3, 605.4

1. A probationary appointment may be terminated, without cause, with notice to the faculty member that the appointment will not be renewed.

a.

Notice shall be given:

(1)

~~Not later than March 1 of the first academic year of service if the appointment expires at the end of that academic year; or, if a one year appointment terminates during an academic year, at least three months in advance of its~~ At least 90 days prior to termination during the first year of probationary employment at the institution.

(2)

~~Not later than December 15 of the second academic year of service if the appointment expires at the end of that academic year; or, if an initial two year appointment terminates during an academic year, at least six months in advance of its~~

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- At least 180 days prior to termination during the second year of probationary employment at the institution.
- (3) At least one year prior to termination ~~twelve months before the expiration of an appointment~~ after two or more ~~academic~~ service years of probationary employment at the institution. *If a faculty member is appointed during the academic year, then the initial contract shall indicate when the first academic year of service at the institution begins. For the purpose of this section, "academic year of service" means on a probationary appointment. The twelve months notice may be given at any point during the calendar year and the appointment terminates twelve months thereafter. (This NDSU language clarifies the interpretation that has been applied to this NDUS language throughout the University System.)*

b.

A department chair, dean or other person authorized under institution policies to give such notice shall provide written notice of the decision, including a reference to the policy section pursuant to which the action is taken. The faculty member may within ten calendar days after receipt of the notice request a reconsideration by the deciding body or individual. The faculty member may incorporate a request for mediation in the request for reconsideration. The institution shall respond in writing to the faculty member within ten calendar days after receipt of the request.

*Nonrenewal decisions shall be made in every instance by the University President. Recommendations for nonrenewal shall be initiated within the academic unit in accordance with Policy 352. Colleges shall have specific procedures for nonrenewal recommendations prior to the sixth year in accordance with Policy 352 and 350.3.2. (See below.) A department chair may initiate a review for nonrenewal at any time.*

2. An institution may terminate a probationary appointment, effective at the end of any contract term, with no less than 90 days notice of nonrenewal, based upon a determination by the Board that a financial exigency exists which requires such action at an institution or institutions, or upon determination by the institution that such action is necessary because of loss of legislative appropriations, loss of institutional or program enrollment, consolidation of organizational units or program areas or elimination of courses. The notice of nonrenewal shall include a reference to the policy section pursuant to which the action is taken. When a probationary appointment is terminated pursuant to this subsection, the provisions of subsection 1 do not apply.
3. A special appointment terminates at the end of the term stated on the contract and may be renewed at the discretion of the institution.
4. A faculty member on probationary or special appointment may, within twenty calendar days after receipt of notice of nonrenewal of a probationary appointment or termination of a special appointment or, if the faculty member requests reconsideration or

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the parties agree to mediation under paragraph b of subsection 1, within twenty calendar days of receipt of the results of the reconsideration or conclusion of mediation, request review of the decision and hearing by Standing Committee on Faculty Rights by filing written notice with the deciding body or individual and the chair or senior member of the Standing Committee on Faculty Rights. The request for review may be based on allegations that the institution failed to comply with applicable policies or gave the decision inadequate consideration, or that the nonrenewal decision violated (a) academic freedom, (b) rights guaranteed by the United States Constitution, or (c) terms of the employment contract or other written agreement. The allegation must be supported by a specification of the reasons why the decision violated these rights and a summary of the evidence supporting the allegation(s). The institution shall, within twenty calendar days of receipt of the written notice and specifications, provide a written response to the faculty member and the chair of the Standing Committee on Faculty Rights.

5. A faculty member may terminate an appointment effective at the end of the term of the appointment by giving notice in writing at the earliest possible opportunity, but not later than May 15, or one month after receiving notification by the institution of the terms of an appointment for the coming academic year, whichever date occurs later. The faculty governance structure at an institution may recommend procedures permitting a faculty member to request a waiver of this deadline in case of hardship or for other good cause defined by those procedures. An institution may provide that failure without reasonable cause by a faculty member to return a contract by the time set forth in the contract shall constitute a resignation. Any return time so established by the contract shall be reasonable.

## *Resignation or Retirement*

*Generally accepted standards of professional ethics (see AAUP Statement on Recruitment and Resignation of Faculty Members) require faculty members who plan to resign or retire to give prompt notice in writing to their chair or supervisor. This includes prompt notice when employment is accepted elsewhere. Only in personal emergencies or for other compelling reasons, should faculty members leave during the academic year, except when this coincides with the expiration of their contractual obligations.*

6. An institution may terminate an appointment of a tenured faculty member following a determination by the Board that a financial exigency exists which requires such action at an institution or institutions, or upon determination by the institution that such action is necessary because of loss of legislative appropriations, loss of institutional or program enrollment, consolidation of academic units or program areas, or elimination of courses. In such cases, significant consideration shall be given to length of service and tenure status in the retention of faculty members within the affected academic unit or program area, curriculum requirements, professional achievements, breadth of competence, and equal employment opportunity. A tenured faculty member terminated pursuant to this subsection shall be given written

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notice of termination, including the reason(s) for the action, at least twelve months prior to the date of termination. Each institution shall establish procedures for implementing this policy.

a.

A tenured faculty member given notice of termination under this section may request that the institution circulate his or her vita to other academic units or program areas within the institution. In addition, the institution shall ensure that fair consideration is given to the faculty member, during the period of the terminal appointment, for vacant academic positions in the employing institution for which the faculty member is qualified. The faculty within any academic unit or program area shall have the major responsibility in determining qualifications for appointment therein. If a tenured faculty member accepts an appointment in a different academic unit or program area, the faculty member shall retain his or her tenure status, subject to approval of the Board.

b.

A position terminated under this section shall not be filled by a replacement within two years, unless the released faculty member has been offered appointment with tenure and a reasonable time within which to accept or decline it.

c.

The provisions of section 605.4 (NDSU 350.4) do not apply when a tenured faculty member is terminated under this subsection. The faculty member may, however, within twenty calendar days of receipt of notice of termination, file a request for review under processes established at the institution for that purpose.

7. In accordance with section 305.1 of these policies, the faculty governance structure at each institution shall adopt procedures by which faculty participation is solicited before notice of termination is given any tenured faculty member pursuant to subsection 6. Faculty participation shall be solicited concerning:

a.

The extent to which there are grounds for termination of tenured appointments;

b.

Judgments determining where within the overall academic program termination of appointments may occur; and

c.

The procedure and criteria for identifying the individuals whose appointments are to be terminated.

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- (1) *An administrative decision to terminate a tenured faculty member within the university shall be preceded by the following steps:*
  - (a) *Consultation with the Executive Committee of the University Senate regarding the extent to which there are grounds for termination of tenured appointments.*
  - (b) *Consultation with the Academic Affairs committee of the University Senate regarding the justification for terminating tenured appointments, if that is a consequence of the decisions; and*
  - (c) *Consultation with the Academic Affairs committee, or the equivalent, of the college or equivalent unit involved regarding the justification for terminating tenured appointments.*
  - (d) *Consultation with the faculty in an academic unit or program regarding the consequences of the decision.*
- (2) *Once the administration decision is finalized following these consultations, the identification of faculty members for termination shall be made by the University president following recommendations by the dean.*

8. A faculty member may be dismissed at any time for adequate cause. Adequate cause means: (a) demonstrated incompetence or dishonesty in teaching, research, or other professional activity related to institutional responsibilities, (b) continued or repeated unsatisfactory performance evaluations and failure to respond in a satisfactory manner to a recommended plan for improvement; (c) substantial and manifest neglect of duty, (d) conduct which substantially impairs the individual's fulfillment of his or her institutional responsibilities or the institutional responsibilities of others, (e) a physical or mental inability to perform assigned duties, provided that such action is consistent with laws prohibiting discrimination based upon disability, or (f) significant or continued violations of Board policy or institutional policy, provided that for violations of institutional policy the institution must notify the faculty member in advance in writing that violation would constitute grounds for dismissal, or the institutional policy must provide specifically for dismissal as a sanction.

- a. An authorized institution officer shall give written notice of intent to dismiss and specify the reasons for the action. The officer may, in the officer's discretion, also schedule a meeting with the faculty member to discuss the action. The notice shall state that the officer will forward to the institution president a recommendation to dismiss unless the faculty member, within twenty calendar days of receipt of the notice, requests a hearing before the Standing Committee on

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Faculty Rights. If the faculty member does not make a timely request for a hearing, the president, upon receipt of a recommendation to dismiss, shall make a decision and provide written notice and reasons for the action to the faculty member ~~and the chair or senior member of the Standing Committee~~ within ten business days of receipt of the recommendation.

(1)

*Written notice of the intent to terminate or dismiss shall be given to the faculty member.*

(2)

*Appropriate administrative officers include the academic unit or program chair and the dean of the college or equivalent unit.*

*The written notice of termination or dismissal ~~to~~ from the President must in any event be given within 60 days of the initial written notice of intent to terminate or dismiss.*

b.

A faculty member may, within twenty calendar days of receipt of notice of intent to forward to the institution president a recommendation to dismiss, request for a formal hearing before the Standing Committee on Faculty Rights, pursuant to section 605.4. (NDSU 350.4)

c.

Pending a final decision on dismissal for adequate cause, the faculty member may be suspended by the institution's president, or assigned to other duties in lieu of suspension, if it is reasonably determined that it is in the best interests of the faculty member or the institution to do so. The faculty member's salary and fringe benefits shall continue during a period of suspension. Salary and benefits shall be terminated upon a final decision by the institution president to dismiss the faculty member following conclusion of proceedings at the institution.

9. If the administration determines that the conduct of a faculty member, although not constituting ground for termination or dismissal, provides reasonable cause for imposition of a sanction, the administration shall inform the faculty member in writing of the sanction and the reasons for the sanction. A sanction means ~~any punishment, detriment, loss of reward, restriction of privileges or other coercive measure~~ demotion, suspension (but not including suspension pending a dismissal or termination decision), salary reduction or loss of salary, or restriction or loss of privileges imposed as a formal disciplinary measure. A sanction does not include implementation of an improvement plan or performance action plan or negative comments in a performance review, letter of reprimand or other document placed in a personnel file; rights to respond to a performance review or a letter of reprimand or other document placed in a personnel file are set forth in N.D.C.C. § 54-06-21 and institution grievance procedures adopted under SBHE Policy 612. If the sanction is imposed following a hearing by the Standing Committee on Faculty Rights and based on the hearing record, there is no further review. If the sanction is

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imposed without a hearing, the faculty member may request review upon filing with the institution's president and chair or senior member of the Standing Committee on Faculty Rights a request for review and specifications of reasons within twenty calendar days of receipt of notice of imposition of a sanction. The institution shall have twenty calendar days following receipt of the request for review to file a response. The Standing Committee on Faculty Rights shall review the matter according to procedures established at the institution for that purpose and issue a written report within twenty calendar days of receipt of the institution's response and may make a recommendation to resolve the dispute, stating its reasons. The institution shall make its final decision upon reconsideration and provide written notice of that decision to the faculty member within ten days of receipt of the report and recommendation of the Standing Committee on Faculty Rights. Upon filing of a request for review pursuant to this subsection, imposition of the sanction shall be suspended pending a final decision of the institution's president following conclusion of those proceedings.

~~A sanction is defined as any disciplinary action or restriction, limitation, suspension or termination of normal faculty privilege. These may include, but are not necessarily limited to, salary reduction, reassignment of duties, or letter of reprimand. A failure to give a discretionary salary raise is not normally a sanction. Actions related to salary raises are subject to the grievance policy, Section 353.~~

HISTORY: Replaces portions of Policy 605, SBHE Minutes April 25, 1995, pg 6554. Amended April 25, 1995; July 1, 1996; January 1997; October 1998; February 2001, June 2003, August 2003, March 2004.

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## POLICY CHANGE COVER SHEET

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy):

**Section 337: Grade Appeals Board**

Changes include a more detailed process for grade appeals and a provision for under extraordinary circumstances (such as a clear injustice or mistake), a department chair with the approval of the dean of the college may change a grade without the instructor's approval.

2. This policy has been reviewed/passed by the following (include dates of official action):

Policy Coordination Committee: 2/24/05; 4/21/05; 5/19/05

University Senate:

Staff Senate:

Student Senate/Executive Board:

President's Council

3. This policy revision was originated by (individual, office, or committee/organization):

Grade Appeals Board (1/10/05; 2/24/05; 4/21/05)

General Counsel (4/21/05)

## SECTION 337: GRADE APPEALS BOARD – **Revision Draft**

**SOURCE: University Senate  
NDSU President**

1. A University Senate Grade Appeals Board shall be established with authority to hear charges of inequitable or prejudiced academic evaluations and to provide redress for any improper evaluations as it may find to have actually taken place.
2. The Board shall consist of the following persons:
  - a. One faculty member and one alternate from each representation unit (except the College of University Studies) to be elected by the faculty of each college for three-year terms. The term shall commence on the Tuesday following the May Senate meeting.
  - b. Three full-time students and three alternates, each with a minimum ~~2.0~~ 2.8 grade point average ~~and a standing of at least second semester sophomore, who have earned at least 45 credits and have completed at least 2 semesters at NDSU,~~ to be appointed by the Student Senate. Terms shall be for one year, commencing on the Tuesday following the May University Senate meeting.
  - c. A chair, in addition to the foregoing members, to be elected by the Senate membership. The chair shall be a tenured faculty member who has previously served at least a full year as a member of the grade appeals board. The chair shall serve for three years with the term to commence on the Tuesday following the May Senate meeting of the first year for which he/she was elected.
3. The Grade Appeals Board shall act in accordance with procedures approved by the University Senate.

### GRADE APPEALS BOARD PROCEDURES PREREQUISITES FOR APPEAL:

1. The Board may be utilized only after the student has exhausted possible appeal routes within the college offering the course involved. Each individual college will be expected to specify such appeal routes, but the following guidelines should be adhered to as closely as possible and will apply in the absences of any specialized procedures.
  - a. A student must initiate a request for a change of grade with the instructor within ~~three weeks~~ fifteen (15) instructional days of the first day of the semester immediately following the semester in which the grade was awarded. For Spring Semester courses, the request may be made within ~~three weeks~~ fifteen (15) instructional days at the start of Fall Semester, if the student is not enrolled for a summer term, but is enrolled in Fall Semester. An appeal is deemed formally initiated when the student presents the Grade Appeal Form to the instructor. The instructor must date and initial the form at that point. Within five (5) instructional days, the instructor shall inform the student of his/her decision, record the steps taken to resolve the appeal and the decision on the Grade Appeal Form, and date and sign the Form.

- b. ~~If there is unsatisfactory decision resolution, The student must consult (1) the instructor, (2) the department chairman, and then (3) the dean or a designated college committee, proceeding from one level to the next only after an unsatisfactory resolution decision of the conflict at that level. In the event that the instructor is also the department chair or dean, he or she need only be consulted in the capacity of instructor. In the event the department chair is the dean, the next level would be a designated college committee. If a designated committee does not exist within that college, one would proceed to the Grade Appeals Board. The student shall have five (5) instructional days following an unsatisfactory decision of the appeal to continue with the appeal at the next level. At each stage, the individual considering the appeal shall inform the student of his/her decision, record the steps taken to resolve the appeal and the decision on the Grade Appeal Form, and date and sign the Form.~~
  - c. The instructor must be informed of all proceedings in Section b above by the Appeal Chair.
  - d. Both the instructor and the student shall have the right at any time during the proceedings to call a meeting of all persons involved in submitting and considering the complaint appeal and, optionally, to invite the Board to send an observer to that meeting.
  - e. In the event that the instructor is no longer employed by North Dakota State University, or is on leave from the University, the instructor may designate another faculty member from within the department to represent his interest in the grade appeal. If the instructor is not available to designate a substitute, the department chair shall represent the absent faculty. If the department chair is not a neutral party, an impartial substitute shall be designated by the dean.
  - ~~f. In the event that the instructor is the Chair of the Grade Appeals Board, the Board must assign another Board member to act as Chair must be assigned by the Chair from the Board members.~~
2. In the event of an unsatisfactory ~~resolution decision~~ of the conflict within the college, the student may submit a formal written appeal to the Chair of the Board. Such an appeal shall be made within ~~three weeks~~ fifteen (15) instructional days after conclusion of the college proceedings as stated above. ~~At that time the Board may either hear or refuse the appeal, depending on its analysis of the questions raised by the written appeal. Prior to making the decision, the Board may require that additional information be provided in writing by either the instructor or the student.~~
  3. In extraordinary circumstances (such as avoiding a clear injustice or mistake, e.g., an instructor leaves, refuses to respond to inquiries about the grade, there is a mathematical error or violation of the syllabus), and after the procedures in Subsection 1 above have been completed, a department chair, with approval of the dean of the college, can change a grade without the instructor's approval. An instructor can appeal such grade change to the Grade Appeals Board pursuant to this Policy. Colleges can adopt procedures to implement this subsection. (Note: The purpose of this provision is to avoid having to make the student go through the formal appeal to the Grade Appeals Board where the outcome is certain and clear in the student's favor.)

4. The Chair of the Board may designate a Board member as Appeal Chair or process the appeal himself. If the Chair designates an Appeal Chair, the Chair will forward the appeal document to the Appeal Chair within five (5) instructional days of receiving the appeal. Appeal Chair should be from a school outside that of the instructor whose grade is being appealed. If the instructor is the Chair of the Grade Appeals Board, the Board members shall designate an Appeal Chair.
5. The Appeal Chair will send a copy of the appeal document to the instructor within ten (10) instructional days. The instructor will have fifteen (15) instructional days to respond to the student's appeal.
6. The Appeal Chair will then distribute copies of the appeal document and the instructor's response to all Board members, alternates, and the instructor within five (5) instructional days.
7. Each Board member and alternate will must email the Appeal Chair within five (5) instructional days regarding indicating either for or against the need to hold a meeting to discuss the appeal. If In order to deny an appeal, two-thirds of the members must state that the student has not made a case.; If the appeal is denied, and the student is notified, in writing, within five (5) instructional days of the Board's decision. Otherwise, If less than two-thirds of the Board members and alternates indicate that the student has not made a case, the Appeal Chair will call a meeting of the Board within ten (10) instructional days.
8. At this meeting, the Board will raise any questions unanswered by the appeal and instructor's response. The Board will then vote to decide whether to hold a hearing based on the following criteria: the student presented evidence of prejudicial grading or raised questions of the possibility of prejudicial grading. A hearing will be scheduled within fifteen (15) instructional days if a simple majority of members vote to hold a hearing.
9. If the Board decides to hear the appeal, it shall provide the instructor and student with a copy of any written statement provided to the Board by the other party.

## HEARING PROCEDURES

### 1. General Provisions

- a. If the Board decides to hear an appeal, it shall designate from among its total membership a panel of seven members to hear the appeal. Four members of the panel shall be chosen by lot from the faculty membership of the Board, and two additional members of the panel shall be chosen by lot from the student membership of the Board. The seventh member of the panel shall be the Board chairperson, who shall serve as a non-voting moderator of the hearing panel. In order to avoid any conflict of interest, a board member who feels that he/she may not be able to fairly hear a case shall excuse him/herself and shall be replaced by his/her alternate. Additionally, the student and instructor shall each have one peremptory challenge to remove a board member from service on the hearing panel. A challenged board member shall be replaced by his/her alternate. In the event that a challenged board member is an alternate, another member of the board shall be chosen by lot to serve on the hearing panel. The word "Board"

shall be used hereafter in these hearing procedures to describe the seven-member hearing panel so elected, or the full Board, in the event it decided to hear an appeal of a hearing panel decision.

- b. All hearings are normally open only to those people who are part of the proceedings, unless otherwise arranged by prior mutual written agreement between the student, instructor, and chair of the Board.
  - c. The student, the instructor, and the Board, each shall have the right to be assisted during Board procedures by an advisor or other counsel who may observe the proceedings and advise his/her party. Under no circumstances will this advisor/counsel be permitted to address the Board or witnesses.
2. Evidence. Because this is an educational hearing, formal rules of evidence do not apply. Every effort will be made to allow all reasonable and relevant information to be presented for the Board's consideration.
- a. Hearsay evidence is permitted; the members of the Board may consider such evidence and assign it any weight appropriate by each individual Board member.
  - b. An absolute right of cross-examination is not granted under this policy. The chair of the Board will allow all relevant and reasonable questions to be placed to either party or their witnesses, but retains the right to exclude questions that are redundant or irrelevant to determining responsibility. Persons answering questions will be given reasonable latitude by the Chair to respond to those questions fully.
  - c. Either party or their witnesses before the board will be permitted to elaborate on written documents previously submitted to the board in their oral presentations to the board.
  - d. Parties planning to bring exhibits to a hearing must generally provide copies of those exhibits to the other parties and the members of the board three (3) instructional days prior to the hearing to allow for a review of the exhibits and the development of any pertinent questions. The chair may permit deviations to this time restriction so long as the other party has sufficient time to prepare an adequate response.
  - e. The chair shall have the right to exclude from the hearing and the record any unreliable, prejudiced, or redundant evidence.
- ~~2. The Board shall allow an initial presentation by the student and then by the instructor involved, after which it may call such other witnesses as it deems necessary. In order to be able to accomplish this, the Board shall have the authority to compel the appearance or testimony of essential witnesses from the NDSU academic community.~~
- f. ~~3.~~ On questions requiring academic expertise, the board shall rely heavily on the testimony of other members of the department involved, or throughout the NDSU academic community.
- ~~4. Both the student and the instructor shall have the right to be present during the presentation of any testimony before the Board and to address questions to any person presenting such testimony.~~

- ~~5. The student, the instructor, and the Board, each shall have the right to be assisted during Board procedures by an advisor or other counsel who may observe the proceedings, advise their party, and, with the consent of the Board chairperson, question witnesses, present arguments, and summarize evidence.~~
  - ~~6. The Board chairperson shall have the right to exclude from the hearing and the record any unreliable, prejudiced, or redundant evidence.~~
  - ~~7. Board hearings shall be closed to all but the parties directly involved except where both the student and instructor request an open meeting.~~
  - ~~8. In addition to keeping minutes of its proceedings, the Board will provide for the tape recording of all testimony presented to the Board and will allow controlled access to the tape for review or transcription by either the student or the instructor.~~
  - ~~9. The Board may not release any information about its investigation to anyone but the parties directly involved.~~
  - ~~10. The burden of proof shall be on the student.~~
  - ~~11. The Board's final decision in any particular case must be based solely upon testimony and other evidence given to the Board in that case.~~
  - ~~12. A two-thirds vote by secret ballot of the Board, i.e., four of the six voting members of the hearing panel, shall be required to uphold the student's appeal and approve a change in grade.~~
- g. In reaching a decision the board shall consider only information produced at the hearing and will evaluate the information using the "more likely than not" standard of proof. The burden of proof shall be on the student to establish that his/her grade should be changed.
  - h. The voting members of the board will determine, by a two-thirds majority vote, if the student's appeal should be granted. A second vote shall then be held to determine by simple majority vote what the student's revised grade should be. All votes shall be conducted by secret ballot.
  - i. All hearings of the board will be recorded up to the point of the board's deliberations necessary to render a decision. A copy of the recording shall be retained in the Office of the Provost and Vice President for Academic Affairs for a period not less than three (3) years. The board will allow controlled access to the tape for review or transcription by either the student or the instructor.
  - ~~j. The Board shall allow an initial presentation by the student and then by the instructor involved, after which it may call such other witnesses as it deems necessary. In order to be able to accomplish this, the Board shall have the~~

~~authority to compel the appearance or testimony of essential witnesses from the NDSU academic community.~~

3. Hearing outline.

- a. The Chair will call the meeting to order and will introduce the members of the board and their function within the University community.
- b. The Chair will describe the general outline of the hearing and read the evidentiary rules to the board. The chair will read the following honesty statement:

*The University expects that all information presented in this hearing will be true and correct to the best of each person's knowledge. If a student willfully provides false information, he/she will be in violation of NDSU's Code of Student Behavior. As a result, he/she may be subject to disciplinary action. Dishonest behavior by any faculty or staff member will be reported to that person's supervisor for any necessary disciplinary action.*

All potential witnesses will be advised of this honesty statement in advance.

- c. The chair will excuse witnesses from the room at this point.
- d. The chair will introduce the student who will present the appeal and any evidence.
- e. The chair will introduce the instructor who will respond to the student's appeal and present any additional evidence.
- f. The student will be allowed to present witnesses, who will be allowed to make a statement and may be asked questions by the student, instructor, and/or members of the Board. Questions by both parties may be directed to the chair, who will then determine if the question is relevant to the proceeding, ask if the respondent understands the question, and request a response. At the chair's discretion, questions may be placed directly between parties. Permission to address parties may be withdrawn by the chair at any time.
- g. The instructor will be allowed to present witnesses, who will be allowed to make a statement and may be asked questions by the student, instructor, and/or members of the board. Questions by both parties may be directed to the chair, who will then determine if the question is relevant to the proceeding, ask if the respondent understands the question, and request a response. At the chair's discretion, questions may be placed directly between parties. Permission to address parties may be withdrawn by the chair at any time.
- h. The board may compel the attendance of any essential witnesses from the NDSU academic community to present testimony. Such witnesses will be allowed to make a statement and may be asked questions by the student, instructor, and/or members of the board. Questions by both parties may be directed to the chair, who will then determine if the question is relevant to the proceeding, ask if the respondent understands the question, and request a response. At the chair's discretion, questions may be placed directly between parties. Permission to address parties may be withdrawn by the chair at any time.
- i. The student and instructor will be permitted to ask questions of each other.

- j. Final questions will be permitted by the members of the board, who may question either party and/or their witnesses.
  - k. The student shall have an opportunity to make a closing statement.
  - l. The instructor shall have an opportunity to make a closing statement.
  - m. Both parties and their witnesses will be dismissed for deliberations by the board and recording will stop at this point. Only board members, the chair, and the board's counsel/advisor (if designated) may be present during deliberation.
  - n. The chair will send a written notice of the board's findings to the student, instructor, department chair/head, and dean within ten (10) instructional days of the hearing. If the board votes to change the student's grade, notice shall also be sent to the University Registrar regarding the grade change. The written notice shall include an explanation of the board's rationale in making its decision and a signed copy of the Grade Appeal Form attesting to the board's decision.
4. The board may not release any information about its investigation to anyone but the parties directly involved.

#### APPEAL

Either the student or the instructor may request within fifteen (15) instructional days of a hearing panel decision, that the full Board hear an appeal from the decision, citing the error(s) by the hearing panel that would justify a new hearing. The Board shall meet to consider such a request, but no voting member of the hearing panel shall be eligible to vote on granting a new hearing. Instead, alternate members shall replace those Board members who served on the hearing panel. If a majority of the full Board ~~decided~~ votes to accept the appeal, it shall proceed to hold a hearing in accordance with the hearing procedures above, again using alternate members in place of those who served on the hearing panel. The Chair of the Board shall serve as a non-voting moderator at the appeal hearing, and a two-thirds vote by secret ballot of the full Board, shall be required to uphold the student's appeal and approve a change in grade. A separate simple majority vote shall determine what the student's new grade shall be.

#### INTERPRETATION

No provision in this statement of procedures shall be construed to deny or disparage the full rights of either the student or this instructor as a citizen under the Constitution and laws of the United States.

# University Senate Minutes

Fargo, ND 58105

North Dakota State University

November 14, 2005

Attachment 10

## **FACULTY PERSONNEL COMMITTEE**

### **FINAL REPORT 2004-2005 Academic Year**

The primary work of the University Senate Faculty Personnel Committee in the Fall of 2004 was to finish the report on the Ombudsman idea. The committee worked through email to finish the work started in the spring of 2004. We completed the final report and sent it to Dr. Harter on September 15, 2004. The report suggested that the University implement the Ombudsman idea on a trial basis.

Dr. Harter in October 2004, requested that the Committee examine how to select the individual to serve as the Ombudsman. The committee met on March 10, 2005 to study this issue. A report was sent to Dr. Harter on April 6, 2005.

The committee did not elect a new chair for the 2005-2006 academic year. Dr Mark Harvey will organize the fall committee meeting if there are any issues brought to our attention. Please send any correspondence to Dr. Harvey. I am rotating off the committee and Dr. David Saxowsky will be the new representative from Agriculture. Please pass this information on to the new presiding officer for 2005-2006.

Respectfully submitted,

Berlin D. Nelson  
Chair of Committee  
May 11, 2005

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Attachment 10

Dr. Chuck Harter  
Presiding Officer  
NDSU Senate

April 6, 2005

Dear Dr. Harter:

As per your email of October 11, 2004 (your letter is attached), the University Senate Personnel Committee discussed the pros and cons of having the duties of the Ombudsman handled by the presiding officer whose term ended the previous year. The committee met on March 10, 2005.

There was strong agreement among the committee members that it was not a good idea to have the Ombudsman be the presiding officer whose term ended the previous year. First, this position should not be a rotating position. It is important that one person serve hopefully for a number of years in the position, not only to “learn the ropes” of such a position, but also to establish a reputation as a trusted person who maintains neutrality that faculty and staff can go to for advice. The person will have a lot to learn about processes in the University. Certainly any presiding officer who was interested in this position could be a candidate for it.

Our committee feels strongly that it will be difficult for a faculty or staff person to perform this job without compensation and or major release from their normal assigned duties. The time involved may be considerable although only through experience will we understand the amount of time one will have to dedicate to the job of Ombudsman. We also believe that if a faculty person were chosen for this position that it should be someone with tenure in the University. Furthermore, since this is a new idea for NDSU and we have no prior experience with this model, there should be some type of non-administrative oversight system (possibly the Senate Executive Committee would be appropriate) to monitor how the Ombudsman idea works and what needs to be adjusted or changed to make it work better. It may be too much work for a person with only part time responsibilities. Our committee suggests that the Senate Executive Committee implement this idea on a trial basis for a few years and see how it works. The critical issue is finding the right person who has the qualities to do the job. Even retired faculty or staff should be considered. We believe it will be critical to obtain support from the University Administration for this idea if it is to succeed.

Also, the Senate Executive Committee should recommend that the Student Senate discuss the idea of a student Ombudsman that is dedicated only to student issues. We recommend that you bring these ideas from our committee to the Senate Executive Committee. We have attached our previous recommendations from September 15, 2004, on the Ombudsman idea.

Sincerely,  
Senate Personnel Committee  
Berlin Nelson, Chair

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October 11, 2004

Berlin,

Thank you for the report from the Personnel Committee on the need for an NDSU Ombudsman. I agree with your committee's conclusion, we do need a part-time ombudsman. The next step is to determine how best to select the individual to serve as part-time Ombudsman.

It seems to me that past presiding officers of the University Senate could potentially be good candidates for the position. Presiding officers gain an extensive knowledge of University Governance and over the course of their term as Presiding Officer they learn who to ask when questions arise. It seems to me that these are exactly the qualities that are need for an effective Ombudsman.

At your next committee meeting please consider the pros and cons of having the duties of Ombudsman handled by the presiding officer whose term ended the previous year.

Thanks,

Dr. Chuck Harter  
North Dakota State University  
P.O. Box 5075  
Fargo, ND 58105

Phone: (701) 231-8970

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Attachment 10

September 15, 2004

TO: Charles Harter, President of the Senate, and the Senate Executive Committee

FR: Senate Personnel Committee

Mark Harvey

Berlin Nelson

Donald Andersen

Wade Hannonu

Norma Kiser-larson

Isaac Kornfeld

John Bitzan

James Council

Subject: The Ombudsperson concept for NDSU

The Senate Executive Committee in 2003 asked the Personnel Committee to examine the idea of an Ombudsperson for NDSU. The Personnel Committee researched and discussed the idea during the 2003-2004 academic year. Committee members obtained information from various universities around the country and talked to persons in the offices of Ombudsperson (Ombudsman in many places). We also met with Dr. Sandra Holbrook, Director of Equal Opportunity, Rick Johnson, General Council, and we spoke with VP Dr. Craig Schnell about the Ombudsperson concept and the problems /grievances that persons in the University bring forward to be resolved.

The conclusion of the Personnel Committee is that NDSU should establish an Ombudsperson on a trial basis. This position would specifically be to deal with faculty and staff issues, not student issues. The Committee believes the issues facing students are generally different from those of the faculty and staff. The Committee recommends that the Student Senate consider whether an Ombudsperson specifically to deal with student issues is needed and would it be helpful for students.

The primary reason for the establishment of an Ombudsperson for faculty and staff are the following:

1. The position would be the first place a faculty/staff individual would go for information and advice on grievance procedures and other conflict issues. The Ombudsperson would provide frank, non-judgmental and confidential advice, and help steer the individual toward a course of resolving the issue in question. The Ombudsperson can provide options, ideas and feedback to an individual and try to explain if the expectations of the individual are in line with what can be accomplished in the University system. There are also numerous types of grievance/conflict issues that do fall under the purview of EOP or General Council offices of the University

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2. This position would be “non administrative”, thus avoid the conflict of interest (i.e., representing the University) that is associated with certain administrative positions such as General Council, Director of Equal Opportunity, etc.

The type of person in the Ombudsperson position will be critical to the success and usefulness of this position. The person would have to be very knowledgeable of University procedures and be capable and enjoy dealing with many types of persons. The Ombudsperson would need to maintain absolute confidentiality on issues brought to them. The Committee believes that an established, respected, faculty/staff member with a part time appointment to this position might be the best choice to initiate this concept in the University. The resources to compensate this individual for their efforts would have to be provided by the University Administration. At the present time, we do not believe there is sufficient need for a full-time Ombudsperson to deal with faculty/staff grievance/conflict issues. Only through a trial period to assess the need and usefulness of this position can sufficient evidence be obtained to know if the Ombudsperson idea should be a permanent part of the University.

We are attaching a memorandum from Rick Johnson, General Council, that outlines some of the reasons for an Ombudsperson. We agree with his ideas. Also, some documents about the Ombudsperson idea are included for the Executive Committee to peruse.

Respectfully submitted 9-15-04

Berlin Nelson, Committee Chair

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Signature of committee chair

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Attachment 11

## Joint Ad-hoc Committee Smoking 11/03/05

### **Committee Members:**

Gregory Hayes – RHA – S - [Gregory.hayes@ndsu.edu](mailto:Gregory.hayes@ndsu.edu) 231-2705  
Melissa Dessonville – RHA – NS – [Melissa.dessonville@ndsu.edu](mailto:Melissa.dessonville@ndsu.edu) 231-2307  
Megan Wolf – SG - - [megan.wolf.1@ndsu.edu](mailto:megan.wolf.1@ndsu.edu) 231-2828  
Seth Statler – SG – - [seth.statler@ndsu.edu](mailto:seth.statler@ndsu.edu) 231-2705  
Marilyn Koehlmoos – SS – NS – [marilyn.kowhlmoos@ndsu.edu](mailto:marilyn.kowhlmoos@ndsu.edu) 231-6740  
Diana Iverson – SS – S – [Diana.iverson@ndsu.edu](mailto:Diana.iverson@ndsu.edu) 231-8861  
David Hopkins – US – NS – [david.hopkins@ndsu.edu](mailto:david.hopkins@ndsu.edu) 231-8948  
Colleen Mancuso – US – S – [colleen.mancuso@ndsu.edu](mailto:colleen.mancuso@ndsu.edu) 231-5158

### **Charge:**

- Research the smoking issues on campus
- Identify the issues
- Brainstorm a resolution to address the issues
- Propose a policy change addressing the issues
- Maintain equal representation of smokers and non-smokers

### **Consider:**

Utilize Facilities Management, General Counsel, and governing bodies as you prepare to address the smoking issues. These people can be your sounding board to bounce ideas off and ensure the resolutions will stand scrutiny. Another resource for the committee is Rich Fenell from Fargo Cass Public Health 476-4148. Rich assisted the FM area in their smoking policy creation. He has special training in this area and has offered his assistance should you decide policy is necessary.

**Commitment to the Committee:** If you are unable to continue with the committee, please find someone to take your place so the work of the committee can see this issue through to resolution.

Assign a chair for the committee to keep the meetings and momentum. One person from each governing body should report to their constituents the progress of the committee.

**Goal:** Have a preliminary report available to the governing bodies by March 1, 2006. Have resolution to the issues identified by May 1, 2006.