

SEXUAL AND GENDER-BASED HARASSMENT AND SEXUAL MISCONDUCT

Resource Guide

NDSU

NORTH DAKOTA
STATE UNIVERSITY



North Dakota State University is committed to providing a safe, healthy, and nondiscriminatory learning, living, and working environment for all members of its University community that is free from sex and/or gender discrimination of any kind.

There are MANY RESOURCES AVAILABLE to provide support and information, both on campus and in the community. This document serves as a written guide about the rights, resources, and reporting options for students, staff, and faculty available both at NDSU and in the Fargo-Moorhead community.

TABLE OF CONTENTS

Options	1
Resources	2
Definitions	4
Reporting Options	6
Recognizing and Addressing Abuse and Violence	9
Reporting to NDSU	15
Investigations	15
Sanctions/Corrective Actions: Student Conduct Process	19

OPTIONS

WHAT TO DO IF YOU BELIEVE THAT YOU OR SOMEONE YOU KNOW HAS EXPERIENCED SEXUAL MISCONDUCT:

- Go to a safe place.
- Call 911 or University Police (701-231-8998) in an emergency or if you are in immediate danger.
- Seek medical attention. (page 3)
- Seek emotional support. (page 3)
- Preserve physical evidence. (page 4)
- Document record of unwanted contacts. (page 4)
- Contact any of the campus or community resources. (page 2)
- File a complaint with the Title IX Coordinator/Equity Office. (page 8)
- Request interim measures. (page 8)

RESOURCES

ON-CAMPUS RESOURCES

Counseling Center* (24/7 phone)	701-231-7671	Ceres Hall 212
Faculty and Scholar Immigration	701-231-7131	Old Main 201
International Student and Study Abroad Services	701-231-7895	Memorial Union 116
Sexual Assault Prevention and Advocacy*	701-231-5733	Wallman Wellness Center 102
Student Affairs	701-231-6537	Memorial Union 250
Student Health Service*	701-231-7331	Wallman Wellness Center 102
Title IX Coordinator/Equity Office	701-231-7708	Old Main 201
University Police and Safety Office	701-231-8998	University Police and Safety 102

*Confidential Resource

OFF-CAMPUS RESOURCES

Abuse Adult Resource Center (AARC)	701-222-8370	218 W Broadway, Bismarck
Bismarck Police Department	701-223-1212	700 S 9th Street, Bismarck
EAP (The Village)	701-451-4900	1201 25th Street S, Fargo
Essentia Emergency Center	701-364-8000	3000 32nd Avenue S, Fargo
F-M Rape and Abuse Crisis Center	701-293-7273	317 8th Street N, Fargo
Fargo Area Law Enforcement (RRRDC)	701-451-7660	300 NP Avenue Suite 206, Fargo
Fargo Cass Public Health	701-241-1360	1240 25th Street S, Fargo
FirstLink	701-235-7335	4357 13th Avenue S Suite 107L, Fargo
Legal Services of North Dakota	800-634-5263	112 N University Suite 220, Fargo
Planned Parenthood	218-236-7145	803 Belsey Blvd, Moorhead
Sanford Emergency Center	701-417-2100	5225 23rd Avenue S, Fargo
Southeast Human Services	701-298-4500	2624 9th Avenue S, Fargo

NDSU CONFIDENTIAL RESOURCES

There are several confidential resources available to students on campus:

SEXUAL ASSAULT PREVENTION AND ADVOCACY COORDINATOR

The Sexual Assault Prevention and Advocacy (SAPA) Coordinator is both a prevention educator as well as an advocate for students who have experienced sexual misconduct. The SAPA Coordinator is a confidential staff member trained to provide support and resources to students who experience sexual misconduct, which includes sexual assault, stalking, and intimate partner violence. Disclosure of sexual misconduct will not initiate an investigation as the SAPA Coordinator is confidential. If you choose to file a complaint, the SAPA Coordinator may assist you with filing the complaint and/or assist you during investigative and conduct processes. The SAPA Coordinator provides free assistance for enrolled and eligible students.

SEXUAL ASSAULT PREVENTION AND ADVOCACY COORDINATOR

Wallman Wellness Center 102
701-231-7331
www.ndsu.edu/studenthealthservice

COUNSELING CENTER

The Counseling Center is a confidential and free resource for enrolled and eligible NDSU students. The Counseling Center provides individual counseling and group counseling and there are no session limits. The Counseling Center staff includes full-time psychologists and counselors. Students in crisis are seen immediately.

NDSU COUNSELING CENTER

212 Ceres Hall
701-231-7671
www.ndsu.edu/counseling

STUDENT HEALTH SERVICE

Student Health Service is a confidential and free resource for enrolled and eligible students. Funded by a student health fee, there is no additional charge for unlimited office visits to see a nurse or health care provider (physician/nurse practitioner). Insurance is NOT required to use services at Student Health Service. Services that will result in a fee would include, but not be limited to: immunizations/injections, lab services, prescriptions, procedures, treatments, and X-rays. Their team of professionals provide quality health care while promoting overall student well-being. Health care staff includes physicians, nurse practitioners, nurses, dietitian, medical technologists (lab), pharmacists, and a radiologic technologies (X-ray). Other professional staff members specialize in the areas of health promotion, sexual assault prevention and advocacy, and substance abuse prevention.

STUDENT HEALTH SERVICE

Wallman Wellness Center 102
701-231-7331
www.ndsu.edu/studenthealthservice

PRESERVATION OF EVIDENCE

What to do if you have experienced sexual misconduct (which includes sexual harassment, gender-based harassment, sexual assault, intimate partner violence, and stalking)

After an incident of sexual misconduct, you should consider seeking medical attention as soon as possible at NDSU Student Health Service or local hospitals. In North Dakota, evidence may be collected even if you choose not to make a report to law enforcement. In North Dakota, you also have the right to receive a forensic examination (at no cost to you) or to refuse the right to an examination. These examinations can be completed at local emergency rooms. It is important that if you experience sexual misconduct you do not bathe, douche, smoke, change clothing, or clean the bed/linen/area where you were assaulted if the offense occurred within the past 96 hours so that evidence may be preserved. In circumstances of sexual assault, if you do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted diseases.

Those who experience sexual misconduct are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, and other communications, and also by keeping pictures, logs, or other copies of documents, if you have any, that would be useful to University Police or Investigators. It is your choice whether or not to make a report to law enforcement. Contact University Police (701-231-8998) or the appropriate city police department if you choose to pursue potential criminal charges.

DEFINITIONS

CONSENT: Mutually understandable words or actions, actively communicated both knowingly and voluntarily, that clearly conveys permission for a specific activity. Consent to previous sexual activity does not imply consent to later sexual acts; similarly, consent to one type of sexual activity does not imply consent to other sexual acts. Consent may also be withdrawn at any time – provided the person withdrawing consent makes that known in clearly understandable words or actions.

INCAPACITATION: A state of being that prevents an individual from having capacity to give consent. Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity. A person who is incapacitated is unable, temporarily or permanently, to give consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

INTIMATE PARTNER VIOLENCE: Any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship.

NO CONTACT ORDER: Order issued by NDSU that prohibits a Party from being in contact (physical, verbal, or written) with another Party.

NO TRESPASS ORDER: Order issued by University Police restricting access to University facilities and grounds.

PROTECTIVE ORDER: Order issued by a court, not NDSU, to protect a Party from another Party due to alleged intimate partner violence, harassment, or sexual misconduct. There may be a fee associated with obtaining a Protective Order.

RETALIATION: Any adverse action taken against a person for making a good faith report of sexual harassment, gender-based harassment, or sexual misconduct, assisting someone making such a report, or participating in any proceeding under Policy 156 (page 8).

SEXUAL ASSAULT: Any type of sexual contact or behavior that occurs without the consent of the recipient.

SEXUAL EXPLOITATION (USUALLY INVOLVING A POWER DIFFERENTIAL): Taking non-consensual or abusive sexual advantage of another for the benefit of oneself or a third Party, often involving a power differential.

SEXUAL HARASSMENT: Unwelcome sexual advances, requests for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, written, graphic, physical, or otherwise.

SEXUAL MISCONDUCT: A broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, gender-based harassment, non- consensual sexual contact, non-consensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, intimate partner violence, sexual violence, and other misconduct based on sex.

STALKING: A course of unwelcome conduct directed at a specific person that would cause a reasonable person to fear for his/her own safety or the safety of others or would cause that person to suffer substantial emotional distress.

TITLE IX: A federal civil rights law that prohibits sex discrimination in education programs and activities such as admissions, housing, courses, financial aid, health benefits, and athletics. The Title IX Coordinator oversees monitoring of NDSU policy in relation to Title IX law developments, implementation of grievance procedures, including notification, investigation and disposition of complaints, provision of educational materials and training for the campus community, conducting and/or coordinating investigations of complaints received pursuant to Title IX, ensuring a fair and neutral process for all Parties, and monitoring all other aspects of NDSU's Title IX compliance.

AMNESTY FOR DRUG AND ALCOHOL USE: NDSU strongly encourages all University community members to report instances of sexual harassment, gender-based harassment, or sexual misconduct as soon as possible. The University recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to report due to potential policy violations. To minimize hesitancy, an individual who reports sexual harassment, gender-based harassment, or sexual misconduct, either as an involved Party or as a witness, will not be subject to disciplinary action for any violation of NDSU's Policy 155 against alcohol and other drugs in connection with the reported incident. (Please see NDSU Policy 162, Section 2.8 www.ndsu.edu/fileadmin/policy/162.pdf and NDSU Policy 601, Section 3.9 www.ndsu.edu/fileadmin/policy/601.pdf).

These definitions have been provided to assist you when reading this document and have been abridged from other available resources. Full legal and expanded as well as additional definitions are available in the NDSU Annual Security Report and also in Policy 162: Sexual and Gender-Based Harassment, Sexual Misconduct and Title IX Policy. www.ndsu.edu/fileadmin/policy/162.pdf

REPORTING OPTIONS

WHAT ARE MY REPORTING OPTIONS?

REPORT TO LAW ENFORCEMENT

Call one of the following:

F-M Area Police (RRRDC): 701-451-7660
Bismarck Police Department: 701-223-1212
(for NDSU Nursing at Sanford Health in Bismarck)
University Police: 701-231-8998

REPORT TO TITLE IX/EQUITY OFFICE

Call the Title IX Coordinator/Equity Office: 701-231-7708

REPORT TO CONFIDENTIAL RESOURCES

Call any of the following:

Counseling Center: 701-231-7671
Sexual Assault Prevention and Advocacy Coordinator:
701-231-5733
Student Health Service: 701-231-7331

REPORTING TO UNIVERSITY POLICE

After an incident of sexual misconduct, you have the right to report the incident directly to the police. If you are interested in reporting an incident to the police, you will want to contact the law enforcement agency that has jurisdiction of the area in which the crime took place. If you are unsure which agency to contact, you may contact University Police at 701-231-8998 for assistance in determining the appropriate agency in which to report.

If you choose to report sexual misconduct to law enforcement, you can expect the following:

- The option to bring a trusted, supportive individual with you to file a report.
- An initial interview with the officer on duty that will include a variety of questions to gently draw out the details of what happened.
- A subsequent, in-depth interview is likely and often takes place with an officer who is experienced in sexual misconduct interviews. A series of questions will be asked regarding the details of the case.
- Evidence collection by University Police that may be used in a potential, future trial. Materials collected often include clothing worn at the time of the incident, as well as sheets or other materials.
- Report of incident by University Police to the Title IX Coordinator/Equity Office.

LAW ENFORCEMENT CONTACT INFORMATION:

Bismarck Police Department: 701-223-1212 (for NDSU Nursing at Sanford Health in Bismarck)
F-M Area Police (RRRDC): 701-451-7660
University Police: 701-231-8998

REPORTING TO NDSU

NDSU prohibits sexual misconduct. NDSU staff members are trained and ready to support students and employees who have experienced sexual misconduct. Students and employees can reach out to anyone, including the following listed individuals, to start the reporting process:

Counseling Center*: 701-231-7671
Residence Life Hall Staff: 701-231-7557
Sexual Assault Prevention and Advocacy Coordinator*: 701-231-5733
Student Affairs: 701-231-6560
Student Health Service*: 701-231-7331
Title IX Coordinator/Equity Office: 701-231-7708

*Confidential contact

All non-confidential NDSU employees are required to report discrimination, harassment, retaliation, and sexual misconduct to the Title IX Coordinator/Equity Office (see page 15 for additional information).

FILING A COMPLAINT

A sexual misconduct complaint is initiated by contacting the Title IX Coordinator/Equity Office via email, phone, personal contact, or by completing an NDSU Discrimination/Harassment/Retaliation/Sexual Misconduct Complaint Form. The Complaint Form is available at www.ndsu.edu/equity/forms or by contacting the Title IX Coordinator/Equity Office in Old Main, Suite 201, NDSU Main Campus, 701-231-7708, ndsu.eoaa@ndsu.edu. The Complaint Form can be submitted via email to ndsu.eoaa@ndsu.edu or brought to the Title IX Coordinator/Equity Office. The Title IX Coordinator/Equity Office is available to assist with completing the Complaint Form as needed.

NDSU encourages individuals who believe they have experienced sexual misconduct to file a complaint as soon as possible.

POLICIES TO CONSIDER

NDSU POLICY 100: EQUAL OPPORTUNITY AND NON-DISCRIMINATION POLICY
www.ndsu.edu/fileadmin/policy/100.pdf

Policy 100 prohibits discrimination and harassment against any individual on the basis of age, color, gender expression/identity, genetic information, marital status, national origin, physical or mental disability, pregnancy, public assistance status, race, religion, sex, sexual orientation, status as a U.S. veteran, or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer.

POLICY 156: DISCRIMINATION, HARASSMENT, AND RETALIATION COMPLAINT PROCEDURES
www.ndsu.edu/fileadmin/policy/156.pdf

Policy 156 outlines the process and procedures to resolve sexual misconduct complaints. A central purpose of these complaint procedures is to provide a system at NDSU to conduct adequate, reliable, and impartial investigations of complaints of sexual misconduct. NDSU's primary concern is to enact and implement complaint procedures that encourage reporting of sexual misconduct and to ensure the rights of NDSU students, employees, and all other participants in its educational programs and activities are protected.

POLICY 162: SEXUAL AND GENDER-BASED HARASSMENT, SEXUAL MISCONDUCT, AND TITLE IX POLICY
www.ndsu.edu/fileadmin/policy/162.pdf

Policy 162 prohibits all forms of sexual harassment, gender-based harassment, and sexual misconduct, including but not limited to, intimate partner violence, sexual assault, sexual exploitation, stalking, complicity in the commission of any act prohibited by this policy, and retaliation against a person for the good faith reporting of any forms of misconduct or participation in any investigation or proceeding under this policy.

INTERIM MEASURES:

After a complaint is received by NDSU, interim measures may be put in place for the duration of the investigation and conduct process. Interim measures are based on the unique needs and characteristics of each case. Interim measures may include but are not limited to: changes in housing assignments, accommodations/protective measures, course changes, No Contact Orders, and No Trespass Orders.

RECOGNIZING AND ADDRESSING ABUSE AND VIOLENCE

You are never to blame for being assaulted or abused. Unfortunately, if you have experienced sexual misconduct you are more likely to experience similar behavior again. Below are some warnings signs of abusive behavior and how to avoid potential attacks.

WARNING SIGNS OF ABUSIVE BEHAVIOR

Intimate partner violence often escalates from threats and verbal abuse to violence. While physical injury may be the most obvious danger, the emotional and psychological consequences are also severe. Warning signs of intimate partner violence may include, but are not limited to:

- Being afraid of your partner.
- Constantly watching what you say to avoid a "blow up."
- Feelings of low self-worth and helplessness about your relationship.
- Feeling isolated from family or friends because of your relationship.
- Hiding bruises or other injuries from family or friends.
- Being prevented from working, studying, going home, and/or using technology (including your cell phone).
- Being monitored by your partner at home, work, or school.
- Being forced to do things you don't want to do.
- Not being allowed to control your own finances.

HELP REDUCE YOUR RISK AND AVOID POTENTIAL ATTACKS

If you are being abused or suspect that someone you know is being abused, speak up or intervene by doing one of the following:

- Get help by contacting the Counseling Center, SAPA Coordinator, or Student Health Service for support services.
- Learn how to look for "red flags" in relationships so you can learn to avoid some of those characteristics in future partners.
- Consider making a report with the Title IX Coordinator/Equity Office and/or University Police.
- Request a No Contact Order to prevent future contact.
- Consider getting a Protective Order. Contact the FM Rape and Abuse Crisis Center (701-293-7273) or the Clerk of District Court (701-241-5645) for assistance obtaining and filing the paperwork.
- Learn more about what behaviors constitute dating and intimate partner violence, understand it is not your fault, and talk with friends and family members about ways you can be supported.

ABUSE AND VIOLENCE PREVENTION AND SAFETY TIPS

Assaults usually occur between known Parties and not by strangers. It is NEVER your fault that you experienced sexual misconduct. This list is meant as a guide to assist you in the prevention of harassment and misconduct.

- Make sure your cell phone is easily accessible and fully charged.
- Always keep your doors locked, even when you are inside your room/apartment/home. Use peepholes before opening the door.
- Never dress in front of a window. Draw blinds or curtains after dark.
- Travel along well-lit, major public paths. Avoid walking alone, especially after dark.
- Be alert to your surroundings. If you suspect you are being followed run in a different direction, go to the other side of the street, yell for help, or get to a lighted area or group of people.
- When going out, go in groups. Watch out for each other and make sure everyone has a safe way to get home.
- Avoid giving out your personal information. If someone wants your number, ask for theirs instead of giving yours.
- Be careful of what personal information you share on the internet and social apps.
- When dating a new person make definite plans in advance. Let a friend or roommate know about those plans and when to expect you back at home. Take your own vehicle and meet at the destination. Carry money for a taxi or Uber home.
- Alcohol and other drugs may compromise your ability to make decisions.
- Engage in conversation with partners and potential partners about consent.
- Be mindful of your alcoholic drinks and who is supplying your alcohol.
- Trust your instincts. Believe your inner feelings when you get uncomfortable with a person or situation and try to safely remove yourself and/or others as soon as possible. You do not have to continue a situation that does not feel or look okay.

TAKE MORE CONTROL OF YOUR PERSONAL SAFETY WITH THESE 24/7 TOOLS:

SAFETY ESCORT SERVICE

University Police or Public Safety officers will escort you to NDSU facilities or locations adjacent to campus. Call 701-231-8998.

PERSONAL SAFETY AND SECURITY ASSIST (PATHLIGHT)

This service includes a smartphone app that allows University Police to track you remotely when you initiate a safety assist. You set your destination and approximate travel time in the app and dispatchers will respond quickly if you don't arrive within the time frame you designated or you activate a silent alarm with the swipe of a finger.

MOBILE PERSONAL SAFETY APPS

Several mobile personal safety apps are available for purchase to download to your phone.

BE AN ACTIVE BYSTANDER

(FROM RAINN)

FOUR STEPS TO PROTECT YOUR FRIENDS

CREATE A DISTRACTION

ASK DIRECTLY

REFER TO AN AUTHORITY

ENLIST OTHERS

Everyone has a role to play in preventing sexual misconduct. There are many different ways that you can step in or make a difference if you see someone at risk. This approach to preventing sexual misconduct is referred to as “bystander intervention.”

HOW CAN I PLAY A ROLE IN PREVENTING SEXUAL MISCONDUCT?

The key to keeping others safe is learning how to intervene in a way that fits the situation and your comfort level. Having this knowledge on hand can give you the confidence to step in when something isn’t right. Stepping in can make all the difference, but it should never put your own safety at risk. Here are some ways to assist someone in an uncomfortable situation:

CREATE A DISTRACTION

- Do what you can to interrupt the situation. A distraction can give the person at risk a chance to get to a safe place.
- Cut off the conversation with a diversion like, “Let’s get pizza, I’m starving” or “This party is boring. Let’s try somewhere else.”
- Bring out fresh food or drinks and offer them to everyone at the party, including the people you are concerned about.
- Start an activity that draws other people in, like a game, a debate, or a dance party.

ASK DIRECTLY

- Talk directly to the person who might be in trouble.
- Ask questions like “Who did you come here with?” or “Would you like me to stay with you?”

REFER TO AN AUTHORITY

- Sometimes the safest way to intervene is to refer to a neutral Party with the authority to change the situation, like an RA or security guard.
- Talk to a security guard, bartender, or someone else about your concerns.
- Don’t hesitate to call 911 if you are concerned for someone else’s safety.

ENLIST OTHERS

- It can be intimidating to approach a situation alone. Enlist another person to support you.
- Ask someone to come with you to approach the person at risk. When it comes to expressing concern, sometimes there is power in numbers.
- Ask someone to intervene in your place. For example, you could ask someone who knows the person at risk to escort them to the bathroom.
- Enlist the friend of the person you’re concerned about. “Your friend looks like they’ve had a lot to drink. Can you check on them?”



YOUR ACTIONS MATTER



Whether or not you were able to change the outcome, by stepping in you are helping to change the way people think about their role in preventing sexual misconduct. If you suspect that someone you know has experienced sexual misconduct, take the steps outlined on page 9 to support that person and show you care. Be aware of body language and nonverbal cues. Be aware of predatory behavior. Look out for yourself and others.

REPORTING TO NDSU

REPORTING OBLIGATION

All NDSU employees (including student employees) who observe any form of sexual misconduct must notify the Title IX Coordinator/Equity Office. All NDSU employees who receive a report of sexual misconduct involving a student must contact the Title IX Coordinator/Equity Office. NDSU supervisors, managers, department heads, deans, directors, or administrators who receive a report of sexual misconduct involving employees must document the report and contact the Title IX Coordinator/Equity Office. Employees in the Counseling Center, Student Health Service, and the SAPA Coordinator are not obligated to report as they are confidential.

PRIVACY AND CONFIDENTIALITY

NDSU will keep sexual misconduct reports confidential to the extent that it is possible without compromising NDSU's commitment and obligation to protect the University community. Information related to a report will be shared with a limited circle of NDSU employees who "need to know" in order to assist in the resolution of the report.

WHAT IF A PERSON DOES NOT WANT NDSU TO INVESTIGATE OR WANTS TO REMAIN ANONYMOUS?

In cases where an individual reporting sexual misconduct requests anonymity or does not wish to proceed with an investigation, the University will attempt to honor that request but, in some cases, may determine that the University needs to proceed with an investigation based on concern for the safety or well-being of the broader University community (e.g., risk of future acts of sexual violence or a pattern of sexual misconduct). NDSU reserves the right to take appropriate action in such circumstances, including cases when the individual reporting the misconduct chooses not to proceed; however, the University will not compel an individual to participate.

INVESTIGATIONS

The Title IX Coordinator/Equity Office will review all reports and complaints alleging sexual harassment, gender-based harassment, and sexual misconduct and will evaluate the allegations and determine if further action can be pursued. A Preliminary Evaluation Determination will be completed within three business days of receipt of the complaint and the decision will be provided in writing to the individual (or group) who filed the complaint. If the Title IX Coordinator/Equity Office determines that further action is warranted, the Title IX Coordinator/Equity Office will provide written notice to the individual (or group) who filed the complaint and the individual (or group) against whom the complaint was filed (collectively, the Parties) within three business days of the Preliminary Evaluation Determination. Investigations will be pursued through the formal resolution process for all cases alleging sexual misconduct.

EO/TITLE IX INVESTIGATION PROCESS CHART FOR EMPLOYEES

A properly trained Investigator will conduct a comprehensive investigation under the formal resolution process in an adequate, reliable, and impartial manner. A comprehensive investigation will include the following steps, as relevant and available:

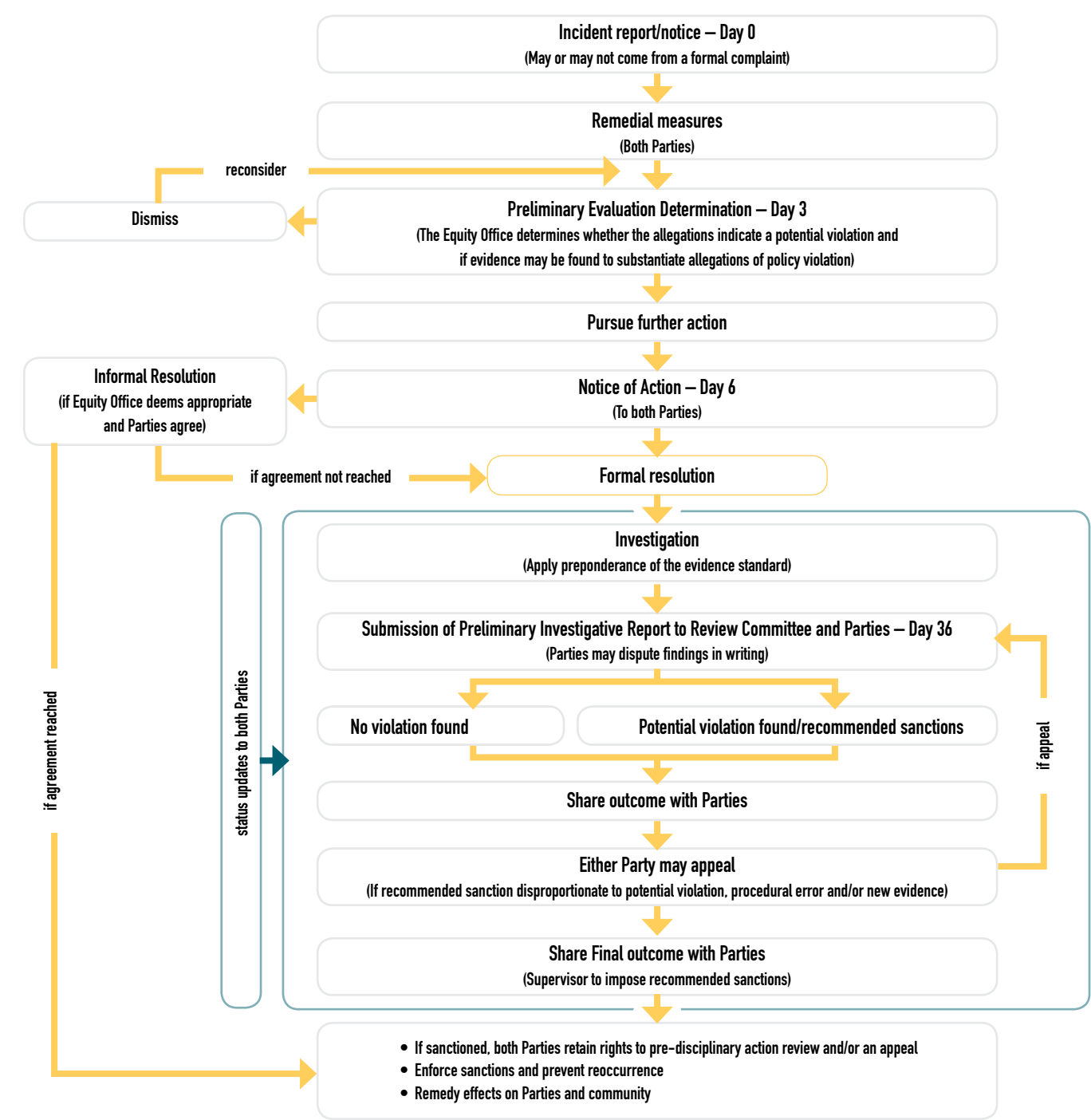
1. An interview with each of the Parties;
2. Interviews with witnesses identified by the Parties or determined otherwise;
3. A review of evidence provided by the Parties or collected otherwise; and
4. An opportunity for the Parties to submit questions of each other and/or the witnesses. Upon receipt of any such questions, the Investigator will determine which questions, if any, are relevant and present them to the intended recipient for a response.

Equal opportunity will be given to the Parties to access and present evidence during the investigation. The Parties will be provided with periodic status updates throughout the course of the investigation. The formal resolution process will be completed within 60 calendar days of the date the complaint was filed unless there are extenuating circumstances.

After the Investigator has finished the comprehensive investigation of the complaint, the Investigator will draft a Preliminary Investigative Report.

FOR COMPLAINTS INVOLVING AN ALLEGED VIOLATION BY AN EMPLOYEE (STAFF OR FACULTY):
For complaints involving an alleged violation by staff or faculty, the Preliminary Investigative Report shall include the findings of the investigation along with a determination whether the individual (or group) against whom the complaint was filed is responsible. The Preliminary Investigative Report will then be provided to a Review Committee that will meet within 10 calendar days of issuance of the Preliminary Investigative Report in order to finalize the report. The Review Committee will be comprised of no fewer than three properly trained NDSU faculty or staff members who do not have a conflict of interest with the Parties. The Final Investigative Report will include recommended disciplinary action, if any, in addition to a finding as to whether sexual misconduct occurred. The standard of proof is preponderance of the evidence, meaning it must be determined that it is more likely than not that the individual (or group) violated policy. The Final Investigative Report as well as notice of the right to appeal will be provided in writing to the Parties.

FOR COMPLAINTS INVOLVING AN ALLEGED VIOLATION BY A STUDENT:
For complaints involving an alleged violation by a student, the Final Investigative Report shall include the findings of the investigation along with a recommendation for dismissal of the complaint or a recommendation of pursuing charges. If there is reasonable cause to believe that a violation has occurred, the recommendation shall be to pursue charges; if such reasonable cause is not present, the complaint shall be dismissed. Reasonable cause is a lower standard than preponderance of the evidence and shall mean that there are just or legitimate grounds to believe that a violation has occurred. The Final Investigative Report will be forwarded to Student Affairs.



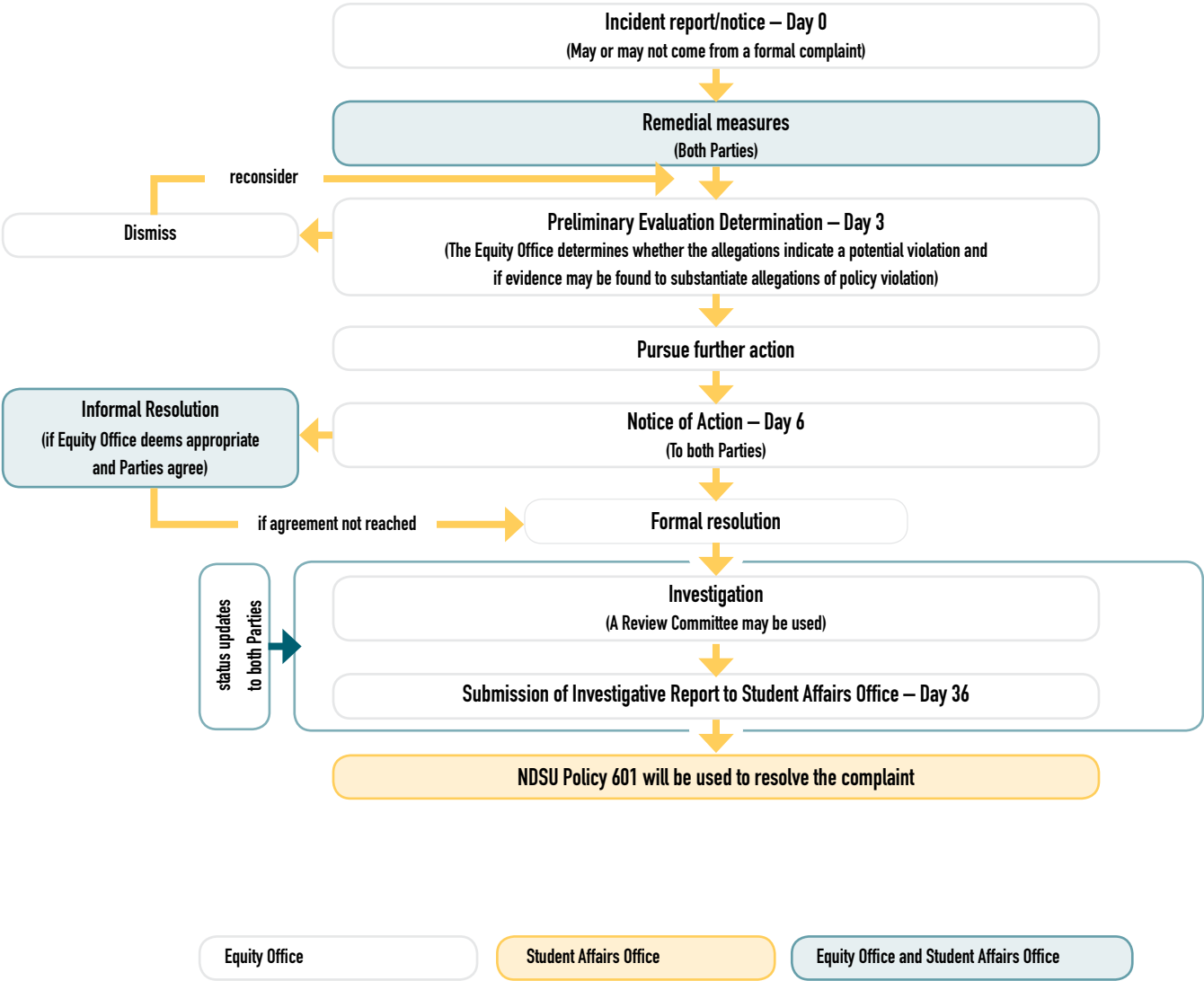
Excluding any appeal, the formal resolution process will be completed within 60 calendar days of the date the complaint was filed unless there are extenuating circumstances. Any reason for an extension to the 60-calendar-day deadline will be communicated in writing to the Parties.

Must use a preponderance of the evidence standard in any Title IX proceeding, including any fact-findings and hearings.
www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf

Both Parties must be notified, in writing, of the outcome of both the complaint and any appeal.

www.ndsu.edu/equity

EO/TITLE IX INVESTIGATION PROCESS CHART FOR STUDENT CASES



Excluding any appeal, the formal resolution process will be completed within 60 calendar days of the date the complaint was filed unless there are extenuating circumstances. Any reason for an extension to the 60-calendar-day deadline will be communicated in writing to the Parties.

Must use a preponderance of the evidence standard in any Title IX proceeding, including any fact-findings and hearings.
www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf

Both Parties must be notified, in writing, of the outcome of both the complaint and any appeal.
www.ndsu.edu/equity

SANCTIONS/CORRECTIVE ACTIONS:
STUDENT CONDUCT PROCESS

ADMINISTRATIVE HEARINGS – ONLY FOR COMPLAINTS INVOLVING STUDENTS
Following an investigation by the Equity Office, Student Affairs determines where charges are appropriate. If Student Affairs determines that charges are appropriate, a written Notice of Charges will be sent to the student allegedly in violation. The student reporting the alleged violation will be copied.

The notice will include: date, time, and place of the alleged Code of Student Conduct violation, nature of the alleged Code of Student Conduct Policy 601 www.ndsu.edu/fileadmin/policy/601.pdf violation, assigned Hearing Officer, source of the information, maximum sanction applicable if found in violation of the Code of Student Conduct, the student’s right to be represented by an attorney or non-attorney advocate, at the student’s expense, if suspension or expulsion are identified as potential sanctions, and notice that a decision may be made in the student’s absence based on the information currently available.

A Pre-Hearing Conference is scheduled separately for each involved student. During the Pre-Hearing Conference, the Hearing Officer will discuss:

- 1. Student’s rights and responsibilities.
- 2. Nature of the complaint and how the Code of Student Conduct may have been violated.
- 3. Process for resolution of alleged Code of Student Conduct violations.

DAY OF THE HEARING

The day of the hearing can be a stressful experience. Hearing Advisors are allowed to be present at all times throughout the hearing process. Part of the Hearing Advisor’s role is to provide support during the conduct hearing. If there are trusted friends or family who would like to be supportive, they are permitted to be available both prior to and at the conclusion of the hearing, but may not attend.

At the hearing, all involved Parties will receive an outline of the hearing proceedings. It will clearly state when each Party may provide statements, call witnesses, ask questions, etc. If at any time a hearing participant would like to take a break, this request may be made to the Hearing Officer, and the hearing may be halted until all Parties are ready to proceed. All conduct hearings are recorded and the recording is retained as part of the conduct record. There is no average time for a hearing, as it is dependent upon the length of the opening and closing statements, how many witnesses are called, and how many questions are asked.

YOUR RIGHTS

Throughout the conduct process, both the student filing the complaint of sexual misconduct and the student accused of a policy violation have the same rights. Both students have the right to take part in the process, have a Hearing Advisor, meet with officials, submit statements, be notified of an outcome, and appeal the decision.

HEARING ADVISORS

All students involved in the conduct hearing process have the right to an advisor. Advisors play the following role:

- Provide support and assistance throughout the entire process including the conduct hearing and appeal process.
- Accompany the student to meetings throughout the process.
- Provide clarification on the process and guidance to the student.

Hearing Advisors may not do the following, unless the case involves the potential for suspension or expulsion:

- Speak for the student during meetings.
- Write any of the student's materials.
- Speak to the Hearing Officer on the day of the hearing.
- Actively participate in the conduct hearing.

The student may choose a Hearing Advisor or the University can provide an advisor.

For further details, please see the Code of Student Conduct www.ndsu.edu/fileadmin/policy/601.pdf.

The student may choose the SAPA Coordinator to serve as a Hearing Advisor.



PARTICIPATION OPTIONS



ADVISORY OPTIONS



KNOW OUTCOME



APPEAL

POTENTIAL OUTCOMES

The Hearing Officer will deliberate following the hearing. The Hearing Officer will have 10 business days to determine an outcome. All involved Parties will be notified of the outcome by the Student Affairs Office.

If a student is found responsible for violating any NDSU policies, he or she may be sanctioned. Typical sanctions could include, but are not limited to, any of the following:



CONDUCT PROBATION

The student is not in good standing for conduct reasons for a specified period of time.



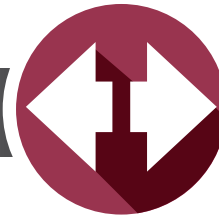
SUPERVISED CONDUCT PROBATION

The student is officially on conduct probation with the University. They meet with a University official regularly, complete assigned tasks or assignments, and any future violations could lead to suspension or expulsion.



CONDUCT SUSPENSION

The student is separated from the University for a set amount of time, not to exceed two academic years.



CONDUCT EXPULSION

The student is permanently separated from the University.

APPEAL PROCESS

All Parties involved in the conduct process have the right to appeal the decision.

Students have five business days to submit an appeal. In cases of suspension or expulsion, the appeal is directed to the Vice Provost for Student Affairs and Enrollment Management. All other outcomes can be directed to the Associate Vice Provost for Student Affairs. Appeals must meet particular criteria that can be found in the Code of Student Conduct. Hearing Advisors can assist students with accessing appeal criteria, crafting an appeal, and submitting the appeal to the appropriate individual.

After appeals are submitted, either the original outcome will be upheld or the decision may change. Because both Parties have the right to appeal, sanctions, if changed, can be more severe or less severe than the original outcome. This will serve as NDSU's final decision on the matter.



Resource Guide

NDSU NORTH DAKOTA
STATE UNIVERSITY

NDSU does not discriminate in its programs and activities on the basis of age, color, gender expression/identity, genetic information, marital status, national origin, participation in lawful off-campus activity, physical or mental disability, pregnancy, public assistance status, race, religion, sex, sexual orientation, spousal relationship to current employee, or veteran status, as applicable. Direct inquiries to: Vice Provost, Title IX/ADA Coordinator, Old Main 201, 701-231-7708, ndsu.eoaa@ndsu.edu. 06/18