

NDSU Faculty Senate Agenda
October 9, 2017
Prairie Rose Room, Memorial Union

- I. Call to order
- II. Attendance/substitutions
- III. Adoption of agenda
- IV. Approval of previous meeting **minutes from Sept 11, 2017**
- V. Announcements
 - a. Dean Bresciani, President
 - b. Beth Ingram, Provost
 - c. Stuart Haring, Faculty Senate President
 - d. Erin Gillam, Faculty Senate President-Elect
 - e. Jered Pigeon, Staff Senate President
 - f. Mason Wenzel and Katie Mastel, Student Body President and Vice President
- VI. Consent agenda
 - a. University Curriculum Committee Report (**Attachment 1**)
 - b. The following policies/changes are federally mandated and/or contain housekeeping changes:
 - 129 Salary Administration Policy (**Attachment 2**)
 - 142 Retirement Plans (**Attachment 3**)
 - 183 Nonrenewal and Dismissal of Nonbanded, Nonacademic Staff (**Attachment 4**)
 - 601 Rights and Responsibilities of Community: A Code of Student Conduct (**Attachment 5**)

All policy documents are also available at:
https://www.ndsu.edu/policy/senate_coordinating_council/
- VII. Committee and other reports
 - a. Council of College Faculties – Birgit Pruess
 - b. University Curriculum – Susan Ray-Degges
 - c. University Assessment – Charlene Wolf-Hall
 - d. Program Review – Thomas DeSutter
 - e. Academic Integrity
 - f. Grade Appeals Board – Charlene Wolf-Hall
 - g. University Athletics

VIII. Unfinished Business

- a. No unfinished business for this meeting

IX. New Business

- a. The following policies are presented for input and/or approval:

- 130 Annual Leave (**Attachment 6**)
- 143 Sick Leave (**Attachment 7**)
- 149 Leave Without Pay (**Attachment 8**)
- 156 Discrimination, Harassment, and Retaliation Complaint Procedures (**Attachment 9**)
- 333 Class Attendance Policy and Procedure (**Attachment 10**)

All policy documents are also available at:

https://www.ndsu.edu/policy/senate_coordinating_council/

- b. Planning and prioritizing for upcoming year

- i. 152.2 Membership in Professional and Service Organizations (**Attachment 11**)
- ii. Other

X. Adjourn

University Curriculum Committee Report
For Faculty Senate Meeting on October 9, 2017

Course and Program Curricular Approval Recommendations
Major change process/procedure

Program Changes
B.S., Accounting – removal of BUSN 301 as a required course
B.S., Finance – addition of FIN 480 as an elective for the major
BS/BA, History – addition of electives for the major
B.S., Management Information Systems – removal of BUSN 301 as a required course
B.Mus., Piano Performance – students will now take 6 credits of Keyboard Literature instead of 3 previously

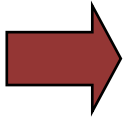
New Courses				
Subject	No.	Title	Crs.	Effective Term
CJ	410	Police and Society	3	Spring 2018
PHRM	500	Top Drugs II	1	Spring 2018
THEA	220	Stagecraft Lab	1	Spring 2018
THEA	221	Costume Craft Lab	1	Spring 2018
THEA	222	Scenic Design Lab	1	Spring 2018
THEA	223	Costume Design Lab	1	Spring 2018
THEA	224	Lighting and Sound Design Lab	1	Spring 2018

Change in Prerequisites/Co-Requisites and Change in Bulletin Descriptions				
Subject	No.	Title	Prerequisite/Co-requisite Change	Effective Term
COMM	114	Human Communication	Prereq: a grade of B or better is required for Pre-Communication majors. Repeatable only once.	Spring 2018

Program Inactivations/Terminations
Animal Health Management certificate
Equine Science certificate
Therapeutic Riding certificate

Policy Change Cover Sheet

This form must be attached to each policy presented. All areas in **red**, including the header, must be completed; if not, it will be sent back to you for completion.



If the changes you are requesting include housekeeping, please submit those changes to nds.policy.manual@nds.edu first so that a clean policy can be presented to the committees.

SECTION: 129 SALARY ADMINISTRATION POLICY

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).

- Is this a federal or state mandate? ☐ Yes ☒ No

- Describe change:

Currently, "faculty promotions" are included under Annual Adjustments and require legislative action before being awarded (see 129.2.1.1). Following legal counsel advice Policy 129 is revised to include promotional increases for both faculty and non-faculty in the category of Other Adjustments. The revision will allow NDSU to "award promotional increases to faculty members that have earned promotion. In my opinion, this will also more accurately reflect the intent of promotional increases which is to award faculty members upon attaining a new rank – the current policy language incorrectly aligns faculty promotional increases with general salary increases, which does not sufficiently acknowledge the process of promotion within the faculty ranks." NDSU normally provides salary increases to faculty members who have been promoted from Assistant Professor to Associate Professor and from Associate Professor to Full Professor. The process for achieving this promotion is arduous and involves a departmental committee, a collegiate committee, the department chair, the Dean, and the Provost. The President approves all promotions upon Provost's recommendation. In essence, each faculty member is moving into a new classification and is being promoted to a new rank.

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

- Office/Department/Name and the date submitted: Canan Bilen-Green / Office of the Provost / 9/5/17
- Email address of the person who should be contacted with revisions: canan.bilen.green@nds.edu

This portion will be completed by Mary Asheim.

Note: Items routed as information by SCC will have date that policy was routed listed below.

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

Senate Coordinating Committee: 9/14/17

Faculty Senate:

Staff Senate:

Student Government:

President's Cabinet:

The formatting of this policy will be updated on the website once the content has final approval. Please do not make formatting changes on this copy. If you have suggestions on formatting, please route them to nds.policy.manual@nds.edu. All suggestions will be considered, however due to policy format guidelines, they may not be possible. Thank you for your understanding!

North Dakota State University

Policy Manual

SECTION 129

SALARY ADMINISTRATION POLICY

SOURCE: NDSU President
NDUS Human Resource Policy Manual, Section 5

1. Philosophy and Objectives

The primary purpose of salary administration at North Dakota State University is to attract and retain well-qualified individuals who can best contribute to the University's stated mission. Decision-makers in the salary administration process will strive to make salary decisions fairly and communicate them effectively. To provide the University with the ability to use its limited resources most effectively, salary administration aims, in priority order, to:

first, be responsive to market influences with consideration for internal equity (see Definitions portion of this policy);

second, recognize different performance levels among employees;

third, acknowledge the basic financial needs of all employees; and

fourth, take into consideration the costs of turnover (for training, research start-up and indirect as well as direct recruitment) and the adverse effects of inadequate salaries on the need for supervision, employee morale and institutional image.

2. Methods and Guidelines

NOTE: The ability to make salary adjustment decisions at the campus level depends on legislative action and State Board of Higher Education (SBHE) guidelines. In years when no campus discretion is authorized, most of the following process will not be applicable.

2.1 Salary adjustments are divided into two main categories:

- a) annual budgeted salary adjustments and
- b) other salary adjustments.

2.1.1 **Annual budgeted salary** adjustments are based on one or more of the types described in Definitions portion of this policy. **When campus-wide salary adjustments are provided by legislative and SBHE action**, the campus decision process is as follows:

- a) President's Office provides any relevant legislative or Board directives regarding salary adjustments after consultation with the NDUS office staff and the Chancellor's Cabinet.
- b) The President and Vice Presidents determine priority needs of the institution that require use of salary dollars (~~faculty promotions~~, new positions and/or

reallocations) based on information from sources such as deans, directors, department chairs, the Office of Human Resources/Payroll, the Office of the Provost, the President of the Faculty Senate, the President of the Staff Senate, the Program Review Committee, and Planning, Priorities and Resources Committee.

- c) The President and the Vice Presidents establish guidelines, using institutionally recognized market and internal equity data and input from the campus community. They communicate the guidelines to be used in making adjustment decisions, indicating the proportion of salary dollars allocated to each type (see Definitions). These types and proportions are determined according to institutional needs and initiatives whenever campus-wide adjustments are possible.
- d) Once the types and proportions have been determined, the President and Vice Presidents allocate remaining salary adjustment pools to their respective administrative units.
- e) Unit administrators, using the guidelines established by the President and Vice Presidents, allocate the salary pools within their units.
- f) Within the units, each administrator/supervisor develops individual salary adjustment recommendations using performance documentation and other data appropriate to that year's guidelines (institutionally recognized internal equity or market studies, for example).
- g) Unit administrators review and discuss recommendations and documentation for the recommendations (performance documentation, institutionally recognized market or internal equity data) with the administrator/supervisor, adjust the recommendations and/or forward the recommendations to the appropriate vice president.
- h) Prior to recommending the final salary adjustments to the President, each Vice President will consult with the Director of Human Resources/Payroll and/or the Vice Provost for Faculty and Equity to review implications of the recommended adjustments for the campus as a whole and to advise the Vice Presidents on whether there is appropriate documentation for the adjustment, the potential impact on equity generally or whether the proposed adjustment is in compliance with policy.
- i) President presents the budget including salary adjustments to the Chancellor.
- j) Following SBHE approval of the budget, administrators/supervisors, when possible, will inform each employee of his/her salary for the coming fiscal year and the basis for the salary decision prior to the distribution of the University's annual salary notifications.

2.1.2 Other salary adjustments job family or band reassignment adjustments (if applicable), promotions (~~nonfaculty~~), market, internal equity and responsibility adjustments including interim appointments and significant administrative assignments (see Guidelines for Other Salary Adjustments portion of this policy.).

3. Process for Impartial Review of Salary Adjustment Decisions

Current grievance policies are available as a means to provide an impartial review of a salary adjustment decision. An employee who thinks that the decision concerning his/her salary is inappropriate may request a review by choosing one of the following options.

3.1 The first is based on the type of appointment the individual holds:

- a) **Staff employees:** NDSU Policy Manual, Section 230, Grievance Procedure for Conditions of Employment.
- b) **Faculty:** NDSU Policy Manual, Section 353, Grievances - Faculty. This grievance procedure is available to instructors, assistant, associate and full professors, lecturers and graduate teaching assistants.
- c) **Nonfaculty, nonbanded employees:** NDSU Policy Manual, Section 230, Grievance Procedure for Conditions of Employment. The Staff Personnel Board described in Step 4 will consist of other nonfaculty, nonbanded employees.

3.2 The second is available to **any employee** when his/her salary decision is alleged to have been made on the basis of an employee's age, color, disability, gender expression/identity, genetic information, marital status, national origin, 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: NDSU Policy Manual, Section 156, Equal Opportunity Grievance Procedures.

4. Distribution and Communication of the Policy

To facilitate the understanding of salary administration at NDSU, this policy will be included in the NDSU Policy Manual, the Faculty Handbook and any employee handbooks prepared by units within the University. In addition, an annual notice about this policy will be published in an appropriate spring issue of the University's staff and faculty newsletter (currently It's Happening at State).

5. Definitions

At NDSU, annual salary adjustments are based on one or more of the following:

- 5.1 **Cost of living adjustment** is an across-the-board amount related to—but not necessarily the same as—the changes in the cost of living (determined by the Consumer Price Index which reflects the changes in the cost of various consumer items during the previous 12 month period). Cost of living adjustments become part of an individual's salary base.
- 5.2 **Internal equity** is a comparison of salaries for similar positions at NDSU (or in the University System and/or State government when there is a limited basis for comparison at NDSU) based on appropriate and relevant data including these factors: **previous related experience** outside the university, a sustained change in **responsibility** that is more or less than what is considered normal for that type of position, **education**, or **responsibility level** within a group of similar positions at NDSU. Internal equity adjustments become part of an individual's base salary.

NOTE: **length of service** is relevant for internal equity ONLY in the context of performance; that is, consideration of performance should override length of service in salary decisions.

- 5.3 **Market or external equity** is the comparison of NDSU salaries with those of other employers in

the applicable recruitment area based on bona fide and relevant data. While NDSU may recruit nationally to fill a position, the salary may be established by using institutionally recognized, regional data. Market or external equity adjustments become part of an individual's base salary.

5.4 **Performance adjustment** is one based on level of performance identified through documentation, including an established review process. Performance adjustments may be made in one of two ways:

- a) As a one-time payment when performance has been **exceptionally meritorious in the preceding year**. This type of adjustment does not become part of the salary base and is made as a single payment. The source of salary funding may dictate the availability of this option.
- b) As a range of adjustments based on **sustained** meritorious performance. This type of adjustment becomes a part of the salary base.

6. Guidelines for Other Salary Adjustments

All staff positions are assigned to a salary band. The bands include job families with market levels for each position. (NDUS Human Resource Policy Manual 5.1)

Individual salary adjustments may be made throughout the year for the following reasons:

- 6.1 **Non-broadbanded staff.** When an employee moves from one position to another involving an increased level of responsibility, the employee may receive a salary adjustment appropriate for the new level of responsibility. The adjustment must be consistent with internal equity and market and is subject to approval of the appropriate dean/director, vice president and the President.
- 6.2 The equity adjustments for staff are normally limited to ten percent but may exceed that amount with supportive documentation (NDUS Human Resource Policy Manual 5.1.6).
 - 6.2.1 **Equity adjustments.** On a case-by-case basis, significant internal inequities may arise outside the annual salary review process described in 2.1. In these unusual situations, a request for an adjustment may be initiated. Factors generally considered are directly related experience, job performance and level of responsibility. The decision to request an equity adjustment should include consultation with the Office of Human Resources/Payroll and/or the Office of the Provost, whichever is appropriate, and appropriate documentation should accompany the NDSU Change Form 101.
 - 6.2.2 **Market adjustments.** A market adjustment is intended to mitigate a documented external inequity using North Dakota University System recognized market data. Market adjustments are normally limited to ten percent but may exceed that amount with supportive documentation and appropriate administrative approval. Market adjustment proposals must consider institutional internal equity.
- 6.3 **Responsibility adjustments** including interim and administrative appointments
 - 6.3.1 Adjustments for substantial, documented reassignments or changes in the duties/responsibilities within the same position may be initiated after consultation with the appropriate vice president or president. Documentation should accompany the NDSU Change Form 101.

- 6.3.2 For staff employees, rationale will include changes in the level of responsibility as documented by a Position Description; and changes in band and/or job family.
- 6.3.3 Adjustments for interim appointments and administrative assignments are limited to the period for which these assignments are made and do not become part of the salary base. For staff interim appointments, increases should not be given for interim periods of less than thirty days and staff employees may not retain the higher compensation level for more than thirty days after the interim period ceases to exist. (NDUS Human Resource Policy Manual 5.1.3.1).
- 6.4 The **attainment of a degree or license** does **not** automatically result in a salary adjustment. In some cases an adjustment for market and/or internal equity may be appropriate. Such adjustments should be recommended on the basis of the same type of documentation required for other market or internal equity adjustments.
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HISTORY:

New	November 1995
Amended	November 1996
Amended	January 1997
Amended	May 1997
Amended	December 1998
Amended	July 1999
Amended	August 1999
Amended	October 2005
Amended	October 2007
Housekeeping	July 2010
Amended	October 2010
Housekeeping	February 14, 2011
Housekeeping	April 8, 2011
Amended	January 3, 2013
Housekeeping	July 17, 2013
Housekeeping	October 5, 2015

Attachment 3

Policy 142 Version 1 08/25/17

Policy Change Cover Sheet

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SECTION: Policy Number and Name 142 Retirement Plans

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).
 - Is this a federal or state mandate? ☐ Yes ☒ No
 - Describe change: This is a clean-up from the change made in Policy 101 Personnel Definitions in 2.1.2 Part-time Employee due to the Affordable Care Act. Also, there is a name change to the retirement provider from TIAA CREF to TIAA.
2. This policy change was originated by (individual, office or committee/organization):
 - Office/Department/Name and the date submitted HR and Payroll/Colette Erickson
 - Email address of the person who should be contacted with revisions Colette.erickson@nds.edu

This portion will be completed by Mary Asheim.

Note: Items routed as information by SCC will have date that policy was routed listed below.

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

Senate Coordinating Committee: 9/14/17

Faculty Senate:

Staff Senate:

Student Government:

President's Cabinet:

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North Dakota State University
Policy Manual

SECTION 142
RETIREMENT PLANS

SOURCE: NDSU PRESIDENT
NDUS Human Resource Policy Manual, Section 10
ND Century Code 54-52.1-03.2

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1. North Dakota law requires regular employees who are 18 years of age or older and work 20 hours or more per week for 5 months or more a year to participate in a retirement plan.

~~1.1~~ ~~1.1~~ Faculty are generally considered half time ~~to be a regular employee~~ and covered under ~~TIAA/CREFTIAA if she/he teaches 7.5 or more credits for two or more consecutive semesters when they teach 6 semester credit hours or more or are otherwise considered half time by their respective college for at least two consecutive semesters.~~

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~~3.2.~~ All non-professional, staff employees (technical/para-professional, office, crafts/trades, and service bands) will participate in the North Dakota Public Employees Retirement System (NDPERS).

- 2.1 The cost of this retirement plan, which amounts to 15.26% percent of gross salary, is funded as indicated below:
NDSU = 12.26%
Employee = 3%

~~4.3.~~ All faculty, other academic staff, administrators, and professional staff employees will participate in a Teachers Insurance and Annuity Association - College Retirement Equities Fund (TIAA/CREFTIAA) retirement plan which has been approved by the State Board of Higher Education. (A copy of the most recent plan document may be obtained from the Office of Human Resources/Payroll.)

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- 3.1 In lieu of participation in the TIAA/CREFTIAA retirement plan, eligible employees having accrued retirement benefits under the North Dakota Public Employees' Retirement System (PERS) may elect to continue participation in PERS. A PERS participant who later qualifies for participation in TIAA/CREFTIAA may elect to become a participant by making such election within sixty days of being transferred or placed in a different band. In absence of such election, the right of participation is irrevocably waived. Eligible employees who have accrued retirement benefits under the TIAA/CREFTIAA plan, and who later qualify for participation in PERS, may within sixty days of the transfer or placement in a different band elect to continue participation in TIAA/CREFTIAA in lieu of participation in the PERS retirement plan. In absence of such election, the right of participation is irrevocably waived.

- 3.2 Teaching and research faculty with rank of assistant professor or instructor, research personnel and lecturers with equivalent rank, and professional staff (3000 band) participate in the TIAA/CREFTIAA plan as of the date of first employment at an employee-employer contribution rate of 11 percent (3.5 percent employee contribution, 7.5 percent employer contribution); after two years of service the rate shall be 17 percent (4.5 percent employee contribution, 12.5 percent employer contribution); after ten years of service the rate shall be

18 percent (5 percent employee contribution, 13 percent employer contribution).

- 3.3 Teaching and research faculty with rank of professor or associate professor, research personnel with equivalent rank, and executive and administrative staff (1000 band) participate in the [TIAA/CREFTIAA](#) plan as of the date of first employment at an employee-employer contribution rate of 17 percent of contract salary (4.5 percent employee contribution, 12.5 percent employer contribution). After 10 years of service, the total contribution rate shall be 18 percent (5 percent employee contribution, 13 percent employer contribution).
- 3.4 Employees shall be given credit for years of service during which they accrued retirement benefits under NDPERS, TFFR, and/or [TIAA/CREFTIAA](#). Credit for [TIAA/CREFTIAA](#) years of service shall also include credit earned at other institutions, including out-of-state institutions, provided employee has a current [TIAA/CREFTIAA](#) contract (i.e. was not repurchased).
- 3.5 Each employee must designate the percentage basis for allocating their premiums between [TIAA](#), which provides a fixed amount of future retirement income, and the [CREF](#) accounts, which provide variable annuities. This percentage election may be changed at any time by calling 1-800-842-2776 or by making election changes in the individual's online [TIAA/CREFTIAA](#) account.
- 3.6 All contributions (both employer and employee) will be made on a tax-sheltered basis. When tax-sheltering, the employee does not pay income tax on the contributions until the funds are withdrawn from the retirement program.
- 3.7 Each employee may also tax-shelter additional salary without matching funds from the University to a Tax Sheltered Annuity by payroll reduction.
- 3.8 The employee-employer total contribution is forwarded to [TIAA/CREFTIAA](#). The employee's contribution is from semi-monthly compensation based on a regularly executed contract.
- 3.9 Early retirement under the [TIAA/CREFTIAA](#) retirement plan is permitted when employment ceases prior to age 59 1/2 with an approved Early Retirement Agreement.

HISTORY:

New	July 1990
Amended	April 1992
Amended	June 1994
Amended	August 1997
Amended	July 1999
Amended	November 2005
Housekeeping	December 2010
Housekeeping	January 31, 2011
Housekeeping	April 23, 2012
Housekeeping	April 4, 2013
Housekeeping	January 17, 2014

Attachment 4

Policy 183 Version 1 04/11/2017

Policy Change Cover Sheet

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SECTION: Policy Number and Name 183 NonRenewal and Dismissal of Nonbanded, Nonacademic Staff

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).
 - Is this a federal or state mandate? ☐ Yes ☐ xxxNo
 - Describe change: NDUS Policy 608.2 has been changed, so NDSU's 183 policy is being revised and submitted to concur.
2. This policy change was originated by (individual, office or committee/organization):
 - Office/Department/Name and the date submitted: Human Resources and Payroll/Colette Erickson/04/11/2017
 - Email address of the person who should be contacted with revisions colette.erickson@nds.edu

This portion will be completed by Mary Asheim.

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SECTION 183
NONRENEWAL AND DISMISSAL OF NONBANDED, NONACADEMIC STAFF

SOURCE: SBHE Policy Manual, Section 608.2

1. Employees excluded from the broadbanding system who are not members of the academic staff, and, with respect to their positions as administrators or other non-academic positions, to employees with appointments to the academic staff.
- This policy does not apply to:
- a. Chancellor and institution presidents.
 - b. Coaches.
 - c. Faculty – Employees with academic appointments are governed by SBHE Policy Sections 605.1, 605.2, 605.3, and 605.4.
 - d. Student residence hall assistants, work-study students and other students employed on a part-time basis for a limited term. The terms and conditions of employment for student residence hall assistants shall be stated in a written contract.
- ~~2.~~ 3. An employee may be dismissed at an institution. An institution may be terminated, without cause, pursuant to written notice of termination in accordance with the following schedule:
- ~~a)~~ a. At least three months, if written notice is given during the first year of service;
 - ~~b)~~ b. At least six months, if written notice is given during the second year of service or thereafter.
- As used in this section 2~~4~~, “service” means employment at the same institution or agency.
- ~~2.~~ 3. Employees excluded from the broadbanding system who are not members of the academic staff at an institution. An employee may be dismissed based upon financial exigency as determined by the Board, loss of appropriations, loss of institutional or program enrollment, consolidation of organizational units or program areas or elimination of courses, in which cases the notice requirements of the preceding section shall not apply. If a dismissal is implemented pursuant to this ~~sub~~section 3, no less than 90 days notice shall be given the employee.
- ~~3.~~ 4. An employee may be dismissed for just cause. Just cause means just cause for dismissal of staff employees as defined in the North Dakota University System Human Resource Policy Manual. (See NDSU 220.2) Notice of intent to dismiss for cause, stating the reasons for the proposed action, shall be given by a department head or other designated official unless the employee is a institution officer who reports directly to the institution’s chief executive, in which case the chief executive shall give notice, or a university system employee who reports to the Chancellor, in which case the Chancellor shall give notice. ~~vice president or other officer who reports directly to the institution’s chief executive, in which case notice shall be given by the chief executive.~~ The notice shall be given at least five calendar days prior to the date of dismissal and the employee has the

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right, within that time, to respond in writing and request a pre-termination review. Following notice of intent to dismiss and, if requested by the employee, the pre-termination review, the department head or other designated individual, if the notice of intent to dismiss was not given by the chief executive, shall forward a recommendation to the institution's chief executive or the Chancellor. The chief executive or Chancellor shall make a final decision and give written notice of that decision.

4. 5. An employee who is dismissed for just cause pursuant to this policy may, within 20 days of dismissal, appeal the decision by filing a notice of appeal, accompanied by a specification of the reasons or grounds upon which the appeal is based, with the institution's chief executive or the Chancellor. The chief executive or Chancellor shall appoint a hearing officer to conduct an evidentiary hearing and submit recommended findings, conclusions and a recommended decision. The hearing officer shall conduct the hearing according to appeal procedures governing hearings conducted by a staff personnel board that are set forth in Section 27 of the North Dakota University System Human Resource Policy Manual (*Policy 231 of the NDSU Policy Manual*). The chief executive shall make a final decision and provide written notice of that decision to the hearing officer and the employee within 20 calendar days of receiving the hearing officer's recommendation.

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- ~~5. 6. An employee who voluntarily or involuntarily leaves his or her non-academic position under this policy but holds a tenured faculty appointment may return to that appointment with all the rights and responsibilities of tenured faculty in the home department, unless a proceeding results in the discharge or demotion of the employee from the faculty position. Should the employee decide to return to the faculty appointment, his or her salary will be adjusted from a 12-month salary for the non-academic duties to a 9-month to 12-month faculty salary that is commensurate with the salaries of comparable tenured faculty members, unless a faculty salary was previously set in his or her contract at the time they assumed the non-academic position. Setting the return-to-faculty salary at the time a person with a tenured faculty appointment assumes a non-academic position is the preferred option. Except for positions explicitly exempt as stated in this section 5 or 6, this policy applies to all employees excluded from the broadbanding system who are not members of the academic staff and, with respect to their positions as administrators or other non-academic positions, to employees with appointments to the academic staff. This policy applies to coaches unless the employing institution has adopted a different policy governing coaches and that policy is stated or adopted by reference in a coach's employment contract, in which case the institution's policy applies. This policy does not apply to faculty; employees with academic appointments are governed by SBHE Policy Sections 605.1, 605.2, 605.3 and 605.4. Staff employees at the institutions are governed by the North Dakota University System Human Resource Policy Manual.~~

- ~~6. 7. Dismissal actions of **regular staff employees** are governed by the NDSU Policies 220 and 231.~~

- ~~7. 8. Dismissal actions of **temporary staff employees** may occur at any time with or without cause (NDUS Human Resource Policy Manual, Section 2).~~

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- ~~8. 9. Dismissal or non-renewal actions for **faculty** are governed by NDSU Policy 350.1-350.4 and 352.~~

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- ~~9. This policy does not apply to the Chancellor and institution presidents. Subsections 1 and 2 do not apply to student residence hall assistants, work study students and other students employed on a~~

~~part time basis for a limited term. The terms and conditions of employment for student residence hall assistants shall be stated in a written contract.~~

HISTORY:

New	June 1994
Amended	May 1996
Amended	February 1998
Amended	July 1999
Amended	December 1999
Amended	January 2000
Amended	January 3, 2013
Housekeeping	August 26, 2013
Amended	September 18, 2013
Amended	December 4, 2015
Amended	April 28, 2016
Housekeeping	June 27, 2016

Attachment 5

Policy 601 Version 1 08/15/17

Policy Change Cover Sheet

This form must be attached to each policy presented. All areas in **red**, including the header, must be completed; if not, it will be sent back to you for completion.



If the changes you are requesting include housekeeping, please submit those changes to nds.policy.manual@nds.edu first so that a clean policy can be presented to the committees.

SECTION: Policy Number and Name: 601: Rights and Responsibilities of Community: A
Code of Student Conduct

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).
 - Is this a federal or state mandate? ☒ Yes ☐ No
 - Describe change: Changes to maintain compliance with federal Title IX regulations, state law regarding student judicial hearings, and internal organizational changes.
2. This policy change was originated by (individual, office or committee/organization):
 - Vice Provost for Student Affairs and Enrollment Management – Submitted 8-15-17
 - Contact Laura.Oster-Aaland@nds.edu

This portion will be completed by Mary Asheim.

Note: Items routed as information by SCC will have date that policy was routed listed below.

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

Senate Coordinating Committee: Will go to the 9/14/17 SCC meeting for information only due to the need to expedite these changes

Faculty Senate:

Staff Senate:

Student Government:

President's Cabinet:

The formatting of this policy will be updated on the website once the content has final approval. Please do not make formatting changes on this copy. If you have suggestions on formatting, please route them to nds.policy.manual@nds.edu. All suggestions will be considered, however due to policy format guidelines, they may not be possible. Thank you for your understanding!

North Dakota State University

Policy Manual

SECTION 601

RIGHTS AND RESPONSIBILITIES OF COMMUNITY: A CODE OF STUDENT CONDUCT

SOURCE: NDSU President

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1. Introduction

1.1 General NDSU Values

[North Dakota State University \(NDSU\)](#) students have an opportunity to gain the most from their education when every member of the NDSU community takes responsibility to observe and help maintain a code of personal conduct that contributes to the educational effectiveness of the [University](#). The Code of Student Conduct is derived from three core values that support an educationally purposeful environment:

- Respect for the NDSU Community;

- Respect for the Protection and Rights of Others; and
- Respect for individuals in the Conduct Resolution Process.

The intent of this ~~C~~ode is to foster educational development of personal accountability and commitment to the community.

Respect for the NDSU Community

All NDSU stakeholders have a responsibility to respect the NDSU community. It is vital for all individuals to conduct themselves in a manner that does not negatively affect the educational mission of the ~~U~~niversity or the welfare of themselves or others. This includes promoting an environment conducive to learning and nurturing a sense of shared and mutual community responsibility. Community responsibility also involves awareness of how personal decisions affect others.

Respect for the Protection and Rights of Others

A community respecting the protection and rights of others is necessary to provide a positive and enriching educational environment. Conduct that inhibits the educational process is of concern, whether it occurs on or off ~~U~~niversity premises.

Respect for Individuals in the Conduct Resolution Process

All NDSU students have identified rights within the Code of Student Conduct and as afforded by due process as outlined in this Code. The ~~U~~niversity will work with students in an educational and fair manner to assist them in reflecting upon and growing from their personal experiences.

1.2 General Complaint Procedures

Students may report concerns, issues and complaints ~~through utilizing the Problems and Complaints procedure guidelines and form, available at~~ <https://www.ndsu.edu/enrollmentmanagement/forms/>. The procedure is designed to provide for orderly collection of information, to address students' complaints in a timely manner by appropriate ~~U~~niversity personnel, and to help students learn effective conflict resolution skills.

Students also may arrange a meeting with a staff member in the Student Affairs Office, Memorial Union 250, for advice and direction in resolving the problem. Complaints regarding student conduct covered in this ~~C~~ode will be resolved according to procedures described in this document.

1.3 ~~Code~~ Authority

~~The President of NDSU is charged with the responsibility for development and administration~~

of institutional policies and rules governing the role of students and their conduct. The President also has the responsibility of establishing guidelines for students that set forth conduct standards and provide for appropriate procedures and sanctions for violation of those standards, consistent with procedural fairness ([North Dakota State Board of Higher Education Policy Manual, 305.1](#)). The Vice Provost for Student Affairs and Enrollment Management (the "Vice Provost"), as delegated by the President, has responsibility for supervision of the process of handling the University's response to student violations of University rules and regulations, including the imposition of sanctions. The Vice Provost may delegate this responsibility as approved by the President.

[The Vice Provost for Student Affairs and Enrollment Management \(the "Vice Provost"\), as delegated by the President, has responsibility for supervision of the process of handling the University's response to student violations of University rules and regulations, including the imposition of sanctions. All student non-academic conduct that violates University rules and regulations and conduct occurring off-campus that affects the University is considered the responsibility of the Vice Provost.](#)

[This authority includes the overall supervision of the various administrative committees and boards charged with hearing complaints against students or student organizations for violation of those rules and regulations. Student organizations and University employees are required to inform the Vice Provost whenever action is deemed necessary against a student or student organization.](#)

A Code of Student Conduct contains statements of University policies relevant to student life. Development and enforcement of these standards of conduct are an educational endeavor designed to foster students' personal, social and ethical development. This document forms the basis for student conduct expectations as a member of the NDSU community. The enforcement of these standards serves to promote the protection of the rights, responsibilities, and health and safety of members of the NDSU community.

[The content of this code was developed with input from a committee of individuals that included student, faculty, and staff representatives, in consultation with the Vice Provost and NDSU's designated legal advisor.](#)

[Contents of the code may be subject to change prior to the reprinting of this document. If changes are made, documents relating to the changes will be available from the Office of the Vice Provost or the Student Affairs Office, printed in the Spectrum or other appropriate university publications, and/or communicated to students through official university electronic media. These changes will be included in future code revisions. An attempt also has been made to reference local, state or federal laws that complement university policies.](#)

Conduct described in this [Code](#) is illustrative rather than exhaustive. [The term “including” should be interpreted to mean “including, but not limited to.”](#) ~~In the event there arises some~~[All ambiguityambiguities, inconsistencyinconsistencies, or need for clarifications of these statements, the definition, interpretation or clarification will be determined at the discretion of the](#)[the Code will be resolved by the](#) Vice Provost, ~~from whom any student, staff or faculty member may request written clarification.~~ [Faculty, staff, and students are encouraged to request clarification if a clause or rule is unclear.](#) Final authority for interpretation of this [Code](#) lies with the Vice Provost.

[Administrators identified in this document may designate one or more individuals to act on their behalf.](#)

Questions should be referred to the Student Affairs Office, 250 Memorial Union.

2. Community Expectations

2.1 General Student Responsibilities

All students are expected to observe the [Uuniversity](#) standards published in ~~this code and those outlined in any other university policies, procedures, contracts or license contracts published elsewhere~~[the University Policy Manual.](#) ~~This section outlines responsibilities that pertain specifically to students. However, students must follow all other University policies, procedures, contracts, or license contracts published elsewhere.~~ In addition, students are expected to observe the laws of the community, the state, the nation and relevant jurisdictions when touring ~~and/or~~ studying abroad.

2.2 Persons Covered Under This Code

For the purpose of this document, “student” is defined as any individual who has been admitted to the [Uuniversity](#) ~~or enrolled for credit or non-credit courses, was previously enrolled in the university, and/or uses university resources for purposes related to the university’s educational mission, including, but not limited to, performing research and taking classes.~~ ~~Visitors attending an on campus event also may be covered under this code.~~

Students ~~no longer~~[previously](#) enrolled in the [Uuniversity](#) may be held accountable under this [Code](#) for those violations committed after they were admitted and before they left the [Uuniversity](#). Student organizations are held to the same conduct standards that apply to individual students.

Commented [MA1]: Do we have authority over visitors?

2.3 Official University Communication

NDSU will use the student’s email address as provided by the [Uuniversity](#). This address is considered the official form of communication for all purposes ([NDSU Policy 609, E-mail as an Official Communication Method to Students](#)). It is the student’s responsibility to maintain

the accuracy of all personal data. ~~It is required that s~~Students ~~continue to~~must monitor the University provided email account ~~at all times~~for important announcements, notifications, and other messages.

2.4 Prohibited Conduct Not on University Property

The University may discipline a student for acts of prohibited conduct committed outside of University property which, in the University's ~~discretion~~determination, may adversely affect the University community ~~and/or~~ the pursuit of its objectives. When NDSU becomes aware of alleged ~~Ceode~~ violations through law enforcement or other third party reports, the University may pursue charges under this ~~Ceode~~ against all NDSU students identified on such reports.

2.5 Tri-College Policies

NDSU students who are charged with a violation of institutional policy at Concordia College, ~~or~~ Minnesota State University Moorhead, [Minnesota State Community and Technical College](#), or [North Dakota State College of Science](#) will be referred to NDSU and may be subject to action under this ~~Ceode~~.

2.6 Multiple Accountabilities

Because of the varying roles/relationships/responsibilities students may have within and outside of the University, a student may be held accountable for prohibited conduct under other university, local, state or federal policies/laws/jurisdictions, including relevant jurisdictions when touring and/or studying abroad. Examples of other areas of accountability may include:

- Student athletes under the Student ~~Athletic-Athlete~~ Code [of Conduct](#)
- Student leaders within student organizations
- Personnel actions with student employees
- Academic actions under academic programs' professional standards
- Criminal charges or civil suits

Actions under this ~~Ceode~~ are educational (administrative) as are other actions taken under NDSU policies. Because the University's procedures are educational and not criminal in nature, such separate proceedings do not constitute double~~/triple~~ jeopardy. The University may proceed under this ~~Ceode~~ before, during or after the other NDSU administrative processes, or legal proceedings, ~~and~~ NDSU does not typically wait for a court finding [prior to proceeding with University process](#). Findings under this ~~Ceode~~ may differ from judgments in criminal courts.

2.7 Financial Responsibility

All students must pay in full any debts to NDSU. For the complete text of the NDSU Collection Policy, please consult the Customer Account Services staff or [NDSU Policy 513, NDSU Collection Policy](#).

NDSU bears no responsibility for financial obligations of individual students or student organizations. Any debts incurred, either on or off campus, by students or student groups will be the responsibility of the individual, organization and its leadership. In the event an organization dissolves and is no longer in existence, individuals holding leadership positions at the time the debt was incurred will maintain responsibility for settling outstanding debts.

NDSU will normally take no action on behalf of creditors in the case of debts incurred by students, student organizations or other student groups. NDSU officials will not use the power of the state to act as a collection agency for private debts of students.

2.8 Attempts

~~Individuals who attempt to commit acts prohibited by the Code of Student Conduct may be charged, found responsible and sanctioned to the same extent as if they had committed the prohibited acts.~~

2.9-8 Bias-Motivated Violations

Any ~~Code~~ violation that is determined to have been motivated by hate based on ~~age, color, disability, gender expression/identity, genetic information, marital status, national origin, public assistance status, race, religion, sex, sexual orientation, or status as a U.S. veteran~~[protected classes](#) may result in enhanced sanctions above those typically assigned for the same violations when not motivated by hate. ~~North Dakota State University does not discriminate on the basis of age, color, disability, gender expression/identity, genetic information, marital status, national origin, public assistance status, race, religion, sex, sexual orientation, or status as a U.S. veteran.~~ See [NDSU Policy 100, Equal Opportunity and Non-Discrimination Policy](#) for further information.

2.10-9 Repeated Code Violations

Repeated violations of this ~~Code~~ are relevant in determining a student's continued membership in the ~~U~~university community. Progressively more severe sanctions, including suspension or expulsion from the ~~U~~university, may be assigned, depending on the nature of the violation(s).

2.11 Designees

~~Administrators identified in this document may designate one or more individuals to act on their behalf.~~

Commented [MA2]: Moved to the last paragraph of 1.3

6.3. Prohibited Conduct

3.1 Violations of Law

The University reserves the right to address any conduct occurring on or off campus that may be construed as potential or alleged violations of local, state or federal laws.

3.2 Complicity in or Attempts to Commit Prohibited Acts

Complicity is association with and/or participation in an act prohibited by this Code. To avoid being complicit to Code violations, students are expected to do one or more of the following:

- a) Personally confront those involved and stop the violation, except in cases of violence;
- b) Bring the violation to the awareness of a staff member; or
- c) Leave the scene of the violation, if not responsible for the space in which the violation is occurring.

~~Complicit students~~ Students who are complicit or attempt to commit prohibited acts may be sanctioned to the same extent as if they had committed the prohibited act. Students are accountable for their guests' conduct and may be sanctioned under this provision as if they had committed the violations themselves.

3.3 Alcohol on NDSU Property

Regardless of a person's age, the manufacture, sale, transfer, purchase, transportation, possession, use or consumption of alcohol, and/or possession or display of empty alcohol beverage containers anywhere on NDSU owned or controlled property and/or sponsored or supervised events is prohibited, except as authorized by [NDSU Policy 155 Alcohol and Other Drugs: Unlawful and Unauthorized Use By Students and Employees](#).

3.4 Off Campus Alcohol

Students may face campus charges for alcohol related incidents occurring off campus. Such incidents include, but are not limited to: minor in possession/consumption/under the influence of alcohol, driving under the influence of alcohol, and public consumption of alcohol.

3.5 Drugs Other Than Alcohol

Possession, consumption, being under the influence, or transport of illegal drugs or any other controlled substances is prohibited except pursuant to a physician's, dentist's or other authorized medical personnel's prescriptions. The manufacture, exchange, distribution, purchase or sale of illegal drugs or controlled substances is prohibited. The possession of drug paraphernalia for illegal drug use is prohibited as well.

3.6 Conduct While Under the Influence of Alcohol or Other Drugs

Being under the influence of alcohol or other drugs is a violation of this [Code](#) when the person:

- a) Endangers, or may endanger, the safety of others, property or themselves; or
- b) Causes a disturbance.

3.7 Alcohol at Student Organization Events

Recognized NDSU student organizations planning off campus events at a venue where alcohol may be present must complete and submit an [Event Risk Management Planning Notification Form](#) and a guest list to the Student Activities Office, Memorial Union 120. Events involving alcohol must be closed events, intended only for organization membership and invited guests, and alcohol must be sold and served by a licensed third party vendor.

Student organization or public funds may not be used for the purchase of alcoholic beverages or gift cards to alcohol establishments.

Sale of alcoholic beverages by students and student organizations is prohibited. This includes any action that can be remotely construed as an alcohol sale, such as charging admission to parties, passing the hat, selling empty cups and selling drink tickets. Alcohol, if available, must be sold and served by licensed third party vendors.

Common sources or a bulk quantity of alcohol, such as cases or kegs, are not permitted at any student organization sponsored event.

No activities or promotions shall encourage excessive and/or rapid consumption of alcoholic beverages. This includes contests, drinking games and discounts or special pricing of alcoholic beverages. Use of alcohol at events is expected to be lawful and responsible.

Alcoholic beverages may not be used as awards or prizes in connection with events or activities. Prize coupons and/or gift cards donated by establishments with a liquor license must include the statement, "Not valid for purchase of alcohol."

3.8 Advertising Related to Alcohol

Alcohol promotional activities, including advertising, shall not be associated with otherwise existing campus events, programs or campus organizational functions on or off campus. This includes novelty items, giveaways, and apparel associated with the event. Advertising of establishments that sell alcohol must adhere to the following guidelines:

- Advertising of establishments that sell alcohol shall not include brand names, logos, prices, visual images or verbal phrases that refer to consumption of alcoholic beverages. Advertising of establishments that sell alcohol shall not encourage any form of alcohol abuse or promote alcohol specials such as two for ones, happy hour drink specials or any ads that encourage rapid and extensive consumption of alcohol.
- Advertising of establishments that sell alcohol shall not portray drinking as a solution to personal or academic problems or as necessary to social, sexual or academic success.
- Advertising of establishments that sell alcohol shall not associate consumption of alcoholic beverages with performance of tasks that require skilled reactions such as operation of motor vehicles or athletic performance.
- Advertising of establishments that sell alcohol shall include a statement of low-risk such as “know when to say when” or “please use our products legally and in a responsible manner.”

For additional policy details, consult [NDSU Policy 155. Alcohol and Other Drugs: Unlawful and Unauthorized Use by Students and Employees](#), and the Event Risk Management guidelines, available in the Student Activities Office, Memorial Union 120.

3.9 Good Samaritan Responsibilities

All students are expected to protect the well-being of fellow students and others wherever events occur. If a person needs emergency medical attention, particularly resulting from the use of alcohol or other drugs, students are expected to call an ambulance or other appropriate emergency response personnel (ambulance, police, fire, etc.) to gain that assistance. Students/student organizations who fail to respond appropriately may be subject to serious [University](#) sanctions and may potentially be subject to additional civil and/or criminal liability.

Students who appropriately report will not be subject to the Student Conduct process for charges related to alcohol or drug use, nor will the incident become part of the student's conduct record. However, all students [including the student(s) needing assistance and reporter(s)] may be required to have an educational meeting with [University](#) personnel. This protection may not apply if other conduct violations occurred within the same incident. This protection will only apply once in a two year period. Subsequent incidents will not be eligible for protection under this policy.

3.10 Smoking

Smoking, including the use of electronic cigarettes, is prohibited on the [North Dakota State University](#) grounds and in [University](#) buildings, residence halls, apartments and enclosed structures. ([NDSU Policy 153. Smoke-Free Facilities](#))

3.11 Animals

With the exception of animals authorized by NDSU Disability Services or those defined as service animals under the Americans with Disability Act (ADA), privately owned animals are prohibited inside campus buildings, with the exception of fish. Animals in outdoor areas must be on a leash, must be under control of the owners or their designees at all times and should not be left unattended. Owners are responsible for any health or safety issues that may arise concerning the presence of these animals on [University](#) properties and at NDSU outdoor sponsored or supervised events. Questions may be directed to the Facilities Management Director, Thorson Maintenance Center, 701-231-7911. See [NDSU Policy 100.2, Use of Service and Assistance Animals](#), for further information.

3.12 Intellectual Property Infringement

Infringement of any intellectual property without authorization is prohibited. When reproducing or distributing information, users are responsible for observation of copyrights and other intellectual property rights of others and all state and federal laws, institutional and North Dakota University System (NDUS) policies. Generally, materials owned by others cannot be used without the owner's permission. NDSU assumes no obligation to monitor users for infringing activities, but will, when such activities are called to the appropriate official's attention, investigate to determine if there is likely infringement and take appropriate action. For more information, see [NDSU Policy 190. Employee Responsibility and Activities: Intellectual Property](#).

3.13 Use of NDSU's Name or Trademarks

Use of NDSU's name without prior authorization is prohibited. For additional information and guidance, please see [NDSU Policy 700.1, Use of University Name](#).

3.14 Sale of Class Lecture Notes/Materials

Students are prohibited from transferring their class lecture notes or instructor provided materials for commercial purposes unless approved by the course instructor. In addition to copyright issues raised by such practices, commercial sales or transfers may interfere with the educational purposes of the instruction and potentially inhibit free discussion of ideas central to the academic purposes of instruction at NDSU. Note: This policy does not prevent note taking provided as part of an ADA accommodation.

3.15 Misuse of Proprietary Information

Unauthorized use or misuse of proprietary information, in whatever form, is prohibited. "Proprietary" means property in which the [University](#) or its employees and/or students have a legal interest or responsibility to maintain confidentiality ([NDSU Policy 343, Confidential Proprietary Information](#)).

3.16 Computer Related Conduct

Failure to follow University acceptable use of electronic communication devices is prohibited.
Please see [NDSU Policy 158: Acceptable Use of Electronic Communications Devices](#). If additional questions remain, contact the Information Technology Services [Help Desk](#) in Quentin Burdick Building.

Following are common violations found in the two policies noted above. For a complete listing, please view both documents above.

- ~~Unauthorized use, sharing, lending or borrowing of an account;~~
- ~~Using computer services or facilities for purposes other than those for which the account was issued;~~
- ~~Using university network resources and services to play or store game programs;~~
- ~~Using the university's computer system for commercial purposes without written authorization of the Information Technology Security Officer;~~
- ~~Copying, altering or destroying the files or output of another individual without the express permission of that individual;~~
- ~~Altering system software or hardware configurations, or disrupting or interfering with the delivery or administration of computer resources;~~
- ~~Misrepresenting oneself as another individual or entity in electronic communication;~~
- ~~Using the university's network system to download copyright protected media including, but not limited to, books, music, movies, television programs, games and software without proof of purchase or permission;~~
- ~~Exceeding university bandwidth limits;~~
- ~~Sharing or distributing copyright protected media;~~
- ~~Abusing or misusing the computer facilities so as to cause damage, program disturbances or harassment to other persons;~~
- ~~Using the university's network system to enter obscene material into university-owned computers or send obscene material through the Internet or any other electronic system; and/or~~
- ~~Any other violation of university or NDUS policies governing electronic communications, as referenced above.~~

3.17 Deception/Falsification/Misrepresentation

Withholding or providing false information is prohibited. This includes but is not limited to:

- Falsely representing an entity and/or committing or using the resources of an entity without proper authorization;
- Knowingly, intentionally or recklessly making false accusations of prohibited conduct

against another individual;

- Providing false information or falsified evidence with the intent of harming another person; and/or
- Attempting to intimidate witnesses and/or altering or destroying evidence necessary to conflict resolution.

3.18 Financial Aid Misuse

Misuse of financial aid through fraud or abuse is prohibited.

3.19 Disruption of University Business

Disruption or obstruction of [University](#) business, facilities, and grounds, such that the function or service is materially or substantially disrupted or obstructed, is prohibited. University business includes (but is not limited to): teaching, research, administration, public service functions, meetings of [University](#) committees or boards, or any other authorized [University](#) activity or organization on or off [University](#) premises.

3.20 Failure to Comply

Failure to comply with the instructions or directions of all [University](#) and/or emergency personnel in the performance of their duties is prohibited. Such acts may include, but are not limited to, recklessly obstructing or delaying any [University](#) proceedings, providing misleading or false information during an investigation, resisting or fleeing a police officer, failing to comply with assigned [University](#) conduct sanctions, or engaging in verbal and/or physical abuse directed toward any [University](#) personnel.

3.21 Identification

Students are expected to carry [University](#) identification at all times. Failure to produce a [University](#) identification card upon request by any [University](#) personnel in the performance of their duties is prohibited. Guests are expected to carry valid identification.

3.22 Bribery

Offering, giving, receiving or soliciting anything of value to influence the official decision or action of [University](#) personnel, or a person in a position of trust or influence, is prohibited.

Bribing others to fulfill or otherwise attempt to evade academic responsibilities, such as homework, papers, and exams, is prohibited.

3.23 Arson

Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, or personal property of another is prohibited.

3.24 Burglary

The unlawful entry into a building or another structure with the intent to commit a felony or theft is prohibited. This includes, but is not limited to, unlawful entry with intent to commit a larceny or felony, housebreaking and safecracking. Attempts to commit the aforementioned also would constitute a violation of this policy.

3.25 Robbery

The taking of, or attempting to take, anything of value under confrontational circumstances from the control, custody or care of a person or persons by force or threat of force or violence or by putting the victim in fear is prohibited.

3.26 Motor Vehicle Theft

The theft or attempted theft of a motor vehicle is prohibited. This includes, but is not limited to, persons having unlawful access even though the vehicle is later abandoned, such as joyriding.

3.27 Theft of Property

Theft or removal of property belonging to the [University](#) or another individual is prohibited. This includes, but is not limited to, furniture, artwork, plants, electronics, books, window screens and signs.

3.28 Theft of Services

Using [University](#) services to which one is not entitled is prohibited. This includes, but is not limited to, using campus laundry services intended only for campus residents, using parking services not purchased, using parking lots other than those assigned by campus personnel, and unauthorized use of [University](#) printing services.

3.29 Possession of Stolen Property

Possession of goods that one knows or that any reasonable person would realize were stolen ~~is prohibited; as is also, to receive~~[ing](#), retain[ing](#), conceal[ing](#), or dispose[ing](#) of property knowing that it was stolen. If it can reasonably be demonstrated that the receiver was unknowing, the property should be returned to its owner with no action taken against the receiver.

3.30 Vandalism

The willful destruction or defacement of property belonging to the [University](#) or another individual is prohibited. This includes, but is not limited to, writing on or tearing down bulletin boards, spray painting or unauthorized chalking of buildings or sidewalks, and intentionally breaking or damaging property.

3.31 Trespassing

~~To Enter~~ing and/or remaining in or on property to which a person does not have a legitimate right or purpose to enter or remain is prohibited. Such property may include but is not limited to vehicles, apartments, houses, fenced yards, and/or other buildings or portions of buildings, such as roofs. Properties need not be specifically posted with No Trespass signs.

3.32 Unauthorized Sales or Solicitations

Unauthorized sales or solicitations in residence halls, university apartments, or in any other campus buildings are prohibited at any time. For questions regarding sales in the Memorial Union, see the Memorial Union Administrative Office, Room 246. For questions regarding sales in residence life facilities, see the Associate Director of Residence Life, West Bison Court. For questions concerning sales in any other areas, begin the inquiry at the Student Affairs Office, Memorial Union, Room 250.

3.33 Traffic Safety and Parking Enforcement

~~University traffic and parking regulations are published in a separate pamphlet titled "NDSU Parking Regulations" which may be obtained from the NDSU Parking Office, 1801 15th Avenue North. Following are common violations described in the NDSU Parking Regulations brochure: Failure to follow University traffic safety and parking enforcement is prohibited. Please see NDSU Parking Regulations.~~

- ~~• Improper operation of motor vehicles on campus including, but not limited to, driving on sidewalks or grass~~
- ~~• Failure to cooperate with the lawful direction of traffic enforcement personnel in the performance of their duties~~
- ~~• Failure to report an accident that occurs on the NDSU campus, or involves an NDSU official vehicle, in the manner and time limit required by law or by university regulations~~
- ~~• Failure of persons in motorized vehicles or on bicycles, skateboards, roller blades and/or scooters to yield the right of way to pedestrians or abide by any traffic laws~~
- ~~• Falsifying registration information, reproducing, defacing, forging, altering, obscuring or transferring a permit is prohibited. Retaining and using a found permit also is prohibited. Parking permit theft may be processed under this code in place of or in addition to filing of criminal charges for theft of services. Upon completion of investigations by university police and the NDSU Parking Office, sanctions and/or fines may be administered. Only the NDSU Parking Office is authorized to re-sell permits.~~

3.34 Unauthorized Entry/Use of Facilities

Unauthorized entry/use of facilities is prohibited. Examples include, but are not limited to:

- Unauthorized entry onto the property of the [University](#) or into a [University](#) facility or any portion thereof that has been reserved, restricted in use or placed off limits; unauthorized presence in any [University](#) facility after closing hours; and unauthorized possession or use of a key/access card to any [University](#) facility are prohibited. Unauthorized activities shall include, but are not limited to, entry, use or occupancy to which students are not permitted by virtue of enrollment, employment, class schedule, and/or gender in facilities restricted by gender. University areas that are restricted include, but are not limited to, all building roofs, fire escapes, steam tunnels, elevator shafts, equipment and mechanical storage rooms and construction sites. The use of fire escapes is strictly limited to emergency purposes.
- Duplication, manufacture, possession, or loaning of any key/access card or unlocking device for use on [University](#) facilities, locks or other property on [University](#) premises without proper authorization are prohibited.

Entrance doors for on-campus housing facilities are locked 24-hours a day. Guests must meet their resident-host at the entrance door to gain entry into the building. A resident must escort non-residents at all times.

3.35 Intimidation

Conduct in any form that involves an expressed or implied threat to interfere or that has the purpose or reasonably foreseeable effect of interfering with an individual's personal safety, safety of property, academic efforts, employment or participation in [University](#) sponsored activities, and causes the person to have a reasonable apprehension that such harm is about to occur, is prohibited.

3.36 Physical Assault

Physical assault of another person is prohibited and includes, but is not limited to:

- Use of physical force, violence, intoxicants or other substances to restrict the freedom of action or movement of another person, and/or endangers the health or safety of another person;
- Unwanted physical touching by one person upon another, with or without use/threatening display of a weapon, and regardless if obvious or aggravated bodily injury is sustained.

3.37 Instigation/Provocation

The face-to-face use of personally abusive epithets that, when addressed to any person, are inherently likely to provoke immediate violent reaction whether or not the reaction occurs [is prohibited](#).

3.38 Disorderly Conduct

Disorderly conduct is behavior that intentionally or recklessly creates a risk of public inconvenience, annoyance or alarm without proper authority. These behaviors are prohibited and include, but are not limited to, fighting, engaging in violent behavior, making unreasonable noise, obstructing vehicular or pedestrian traffic, disturbing a lawful assembly, and streaking.

Students may also be charged with Disorderly Conduct for participating in or hosting noisy or loud parties or other public disturbances on or off campus. Loud parties consist of two or more individuals whose conduct leads to noise complaints.

3.39 Discrimination, Harassment, and Retaliation

[North Dakota State University NDSU](#) is fully committed to equal opportunity in educational programs/activities and employment decisions for all individuals. Any discriminatory (different or unequal treatment) or harassing actions(s) (unwelcome behavior that has the intent or effect of unreasonably interfering with the individual's academic or employment endeavors or creating a hostile, intimidating or offensive environment) taken against another based on age, color, disability, gender expression/identity, genetic information, marital status, national origin, public assistance status, race, religion, sex, sexual orientation, or status as a U.S. veteran, [or other protected class as defined by local, state, or federal law, or participation in lawful activity off NDSU's premises during nonworking hours which is not in direct conflict with the essential business-related interests of NDSU](#), is prohibited. Any attempt to retaliate because of one's participation in a protected act (anyone who, in good faith, alleges discrimination, harassment or sexual harassment or who provides information related to an equal opportunity grievance) is also prohibited. See [NDSU Policy 100, Equal Opportunity and Non-Discrimination](#) and [NDSU Policy 156, Discrimination, Harassment, and Retaliation Complaint Procedures](#).

3.40 Sexual and Gender-Based Harassment, Sexual Misconduct, and Title IX Compliance

[See NDSU Policy 603—Sexual Misconduct and Title IX Compliance.](#)

[Individuals concerned about equal opportunity violations should request assistance from the university's Vice Provost for Faculty and Equity, NDSU's designated legal advisor, Counseling Center, Disability Services Office, or an appropriate administrator/office. In addition, the university's equal opportunity grievance procedure is available for any person\(s\) wanting to file a complaint alleging discrimination, harassment, sexual harassment or retaliation.](#)

[See related policy, NDSU Policy 162.1, Consensual Relationships. Consensual relationships are defined as those romantic or sexual relationships in which both parties appear to have consented, but where there is a definite power differential within the University between the two parties. The actual or perceived imbalance of power that exists in a relationship when](#)

one of the parties in the relationship is an instructor or supervisor (including graduate assistants) and the other is a student or supervisee. Where a power differential exists, the instructor (including graduate students) or supervisor must report the matter, as soon as possible, to his/her immediate supervisor so appropriate steps may be taken. Accordingly, suitable arrangements will be made for the objective evaluation of the student's, employee's, or prospective employee's academic or job performance and for the protection of individual and University interests. A copy of this policy may be requested from the Student Affairs Office, Memorial Union 250.

North Dakota State University (NDSU) strives to create a campus community free from interpersonal abuse including sexual misconduct. [For complete information regarding sexual misconduct and Title IX compliance, please see NDSU Policy 603—Sexual Misconduct and Title IX Compliance](#) NDSU Policy 162, Sexual and Gender-Based Harassment, Sexual Misconduct, and Title IX Policy.

Students are encouraged to report incidents or information related to sexual misconduct as soon as possible. Anyone who becomes aware of a Title IX complaint or violation of this policy and has the authority to take action on the complaint or violation, shall report the complaint or violation either to the Title IX Coordinator/Equity Office or Student Affairs Office:

Title IX Coordinator/Equity Office
Old Main 201
Phone: 701-231-7708

Student Affairs Office
Memorial Union 250
Phone: 701-231-[82406537](tel:70123182406537)

[For complete information regarding sexual misconduct and Title IX compliance, please see NDSU Policy 603, Sexual Misconduct and Title IX Compliance.](#)

Commented [MA3]: Moving up to first paragraph

3.41 Other Acts of Harassment

Any action or any series of actions that interfere with individuals' academic efforts, employment, personal safety or participation in University sponsored co-curricular activities is prohibited.

3.42 Stalking

Stalking is prohibited. Stalking is a pattern of repeated and unwanted attention, harassment, contact or any other course of conduct that would cause a reasonable person to feel fear for safety to self or the safety of others; or suffer substantial emotional distress.

3.43 Lewd or Obscene Conduct

Lewd or obscene behavior that flagrantly flaunts community standards with respect to sexuality is prohibited. Lewd behavior includes, but is not limited to, sexual acts in public places, and exposing genitalia.

3.44 Endangerment ~~or Safety~~ of Individuals

Endangerment of individuals is prohibited. Examples include, but are not limited to:

- Initiating or circulating a false report or warning, ~~concerning an impending bombing, a fire, or other emergency or catastrophe knowing that the report is false, or knowingly transmitting such a false report to an official or an official agency, is prohibited.~~
- Willful failure to comply with orders issued by any emergency personnel during any real or perceived emergency condition, ~~is prohibited. Examples include, but are not limited to, tornado, fire, fire drill, bomb threat or situations requiring shelter in place.~~
- Tampering with any fire protection sign or device or any other emergency equipment, ~~including, but not limited to, fire extinguishers, fire hoses, smoke/heat detectors, sprinkler systems and other alarm systems, for reasons other than an actual or perceived emergency, is prohibited.~~
- Tampering with elevator controls, elevator shaft access, and/or other elevator equipment, ~~by acts including, but not limited to, jumping, elevator surfing, falsely sounding alarms and stopping between floors, is prohibited.~~
- Willful failure to follow safety standards, ~~is prohibited.~~
- Creating a risk of bodily harm or falsely creating the impression of risk of bodily harm to others, ~~and is prohibited.~~
- Knowingly focusing, pointing or shining a laser pointer at an aircraft or at a person, ~~is prohibited. A laser pointer is any device that creates a visible light used for aiming, targeting or pointing out features.~~

3.45 Hazing

Hazing is prohibited regardless of location, intent or consent of participants. Hazing is defined as any action or situation that intentionally or unintentionally endangers a student for admission into or affiliation with a student organization or group. Such activities and situations include, but are not limited to, paddling in any form; creating excessive fatigue; forced consumption of any substance; forced road trips; morally degrading, demeaning, unsanitary, humiliating games or stunts; and harassment, ridicule or other activities prohibited by law or University policy.

It is the responsibility of the organization and its leadership in conjunction with the (inter)national organization, if any, to protect potential members, members or other persons associated with the organization from any hazing activity or practice conducted, condoned, or

encouraged by the current members of the organization, alumni or other associates.

3.46 Sporting Activity Restrictions

Riding skateboards or scooters and using in-line skates, roller skates, and bicycles are prohibited inside all [University](#) facilities. Use of water guns, water balloons and throwing of flying discs, balls or other objects also are prohibited indoors, except when authorized. Use of projectile launchers is prohibited on campus without documented permission by an appropriate [University](#) official. Launchers may include those intended for water balloons, potatoes, pumpkins and other items. For guidance, contact the Director of [University Police and Safety Office](#).

3.47 Weapons/Firearms/Explosives

Unauthorized and/or illegal possession, display or use of firearms, explosives or other weapons is prohibited.

- Firearms and weapons include, but are not limited to, airsoft guns, BB guns, dart guns, handguns, paint ball guns, pellet guns, rifles, shotguns, stun gun or similar device designed to deliver an electric shock, daggers, knives, sabers, swords, and bows and arrows.
- Explosives include, but are not limited to, bombs, explosives, fireworks and other incendiary devices. Incendiary devices are defined as any flammable liquid enclosed in a readily breakable container that can be equipped with an igniter of any type.
- Other weapons include, but are not limited to, martial arts implements, dangerous fuels and chemicals. Any object may be considered a weapon when used to inflict or threaten infliction of bodily injury or property damage.
- Throwing or casting any object into, upon or against any building, structure, motor vehicle or at any person is prohibited.

This policy shall not prohibit persons or student organizations from possessing, storing or using weapons at approved locations for the purpose of meeting requirements of educational programs and/or a student group recognized by the [University](#). For authorization, contact the Director of the [University Police and Safety Office](#).

The [University Police and Safety Office](#) provides limited, temporary storage space for on-campus residents to store ammunition and sporting arms, such as those used for hunting and other shooting sports. Weapons should be checked in immediately upon arrival to NDSU and checked-out immediately prior to leaving the campus. An officer must be present for check-in/check-out. The [University Police and Safety Office](#) is open and available for check-in/check-out on a 24/7 basis.

7.4. Student Organizations/Activities

4.1 Responsibilities of Student Organizations and Affiliated University Groups

A student organization or a group affiliated with the [University](#) shall be deemed responsible for acts of prohibited conduct committed by individuals when such acts:

- a) Are mandated, sponsored, approved, or encouraged by the group or organization, whether explicitly or implicitly; or
- b) Take place in the context of a tradition, custom, or past practice of the group or organization; or
- c) Are reasonably foreseeable as a result of an activity carried on by the student organization or affiliated [University](#) group.

Students residing in properties owned by organizations or groups affiliated with the [University](#) will be held responsible for their conduct, conduct of their guests and controlling access to their premises.

4.2 Student Organizations and Affiliated University Group Compliance with University Policy

Student organizations and affiliated [University](#) groups must be in compliance with [University](#) policies, procedures, and regulations. Prohibited conduct includes, but is not limited to, misappropriation of funds, misuse of property, improper registration or misrepresentation of an organization or group, or abuse of student election regulations.

4.3 Conduct Resolution and Enforcement Procedures

For information concerning the [Code](#) resolution procedure(s) to be utilized, refer to Part 5. Procedures and Part 6, Hearing Procedures for Potential Suspension or Expulsion Cases.

When a student organization or an affiliated [University](#) group is charged with prohibited conduct, the presiding officer or individuals affiliated with the group shall be required to participate as representatives of the group in proceedings conducted under this [Code](#).

In some cases, organizational officers or members also may be charged with individual violations related to the original incident involving the organization, in separate proceedings.

Because conduct records of student organizations are not protected by the Family Educational Rights and Privacy Act (FERPA), any individual is entitled to learn the results of conduct actions taken against student organizations as long as those disclosures do not compromise the privacy of any individual student's education record. In such situations, federally protected individual names will be removed.

4.4 Recognition

Recognition of student organizations is granted by the [Student Government Executive Commission of the Congress of Student Organizations Commission](#) and registered in the Student Activities Office in the Memorial Union. Although student organizations are independent [organizations from NDSU units which exist at NDSU and are not considered agents of the University](#), they are expected to uphold and comply with [University policies](#); the Code of Student Conduct; and local, state and federal laws.

[Student organization purposes must be compatible with the educational mission and purpose of the university.](#)

Students and student organizations are free to examine and express opinions publicly and privately. They are free to support causes by orderly means that do not disrupt regular and essential operations of the [University](#). At the same time, it should be made clear to the academic and the larger community that in their public expressions or demonstrations, students or student organizations speak only for themselves.

Commented [MA4]: Kim Bruemmer questioned this statement because she doesn't know if many fit the educational mission and purpose of the university outside of providing opportunities for students to engage with campus. -- Chris Wilson agrees.

4.5 Membership

Membership must be limited to current students, faculty and staff of NDSU. Students who transfer to another Tri-College institution who want to retain membership in an NDSU registered student organization may be eligible for on-going membership, contingent upon approval from the Vice Provost. In the case of dual college or tri-college recognized student organizations, membership criteria as defined in the [Congress of Student Organizations \(CSO\)](#) guidelines must be met.

4.6 Registration Requirements

The following information must be electronically filed with the Student Activities Office:

- a. Organization registration form.
- b. [Signed agreement by local student organization officers that there will be no illegal discrimination on the basis of age, color, disability, gender expression/identity, genetic information, marital status, national origin, public assistance status, race, religion, sex, sexual orientation or status as a U.S. veteran, or any form of discrimination in the selection of members or officers on a local level.](#)
- c. [Signed agreement by local student organization officer\(s\) that there will be no participation in any activities that could be considered hazing.](#)
- d. [Request to check Eligibility for Participation Form.](#)
- b. [Privacy Statements by students in leadership positions, and](#)
- e. Copy of the current constitution.

Commented [MA5]: These three are all one privacy statement that everyone entering into MyNDSU will agree to before using the system. It's not done on an annual basis. -- Combined using name of form

Students holding elected or appointed leadership positions must meet the following academic and good conduct eligibility standards:

- a. Students in leadership positions must have attained and must maintain during the term of participation a minimal cumulative grade [point](#) average of 2.0, [and may not be on academic probation.](#)
- b. Students in leadership positions must be enrolled for and maintain a minimum of nine (9) semester credits during the term of participation and have successfully completed nine (9) credits from the most previous semester.
- c. Students in leadership positions must be in good conduct standing with the Student Affairs Office.

Additional information regarding eligibility for participation in co-curricular activities can be found on the [Student Affairs webpage.](#)

Commented [MA6]: Kim is currently working with Laura and Matt on possibly changing these requirements.

Commented [MA7]: Will this be staying the same? If so, should Kim update her records to state that conduct will be checked by the Office of Student Affairs? --Student Affairs will check

Field Code Changed

4.7 National/International Affiliated Organizations

National/international affiliated organizations must uphold the policies and procedures of their national/international organizations in addition to [University](#) policies and procedures. University policies will supersede in the case of conflicting policies.

4.8 On and Off Campus Activities/Events

All on and off campus activities/events must follow all guidelines and procedures set by the [Memorial Union](#) Student Activities Office.

• [Chalking](#)

[Individuals who want to chalk on sidewalks near the Memorial Union should seek permission from the Associate Director of the Memorial Union. Contact the Director of Facilities Management to seek permission to chalk in any other area. Chalking on any other surfaces is prohibited. The content of messages is limited to the promotion of a specific event.](#)

Commented [MA8]: There is no chalking on campus for student organizations anymore. Special departments could be granted permission on a case by case basis with Facilities Management.

Posters, Signs, Leaflets

Placing posters, signs or leaflets, except on one's own personal property or in areas authorized and provided for that purpose by the [University](#), is prohibited. Individuals should seek permission from those persons who have administrative control of that location. For guidance when this person is unknown, contact the Student Affairs Office.

4.9 Fraternities and Sororities

• Membership

Social fraternities and sororities are chartered with a single institution and therefore are ineligible for Tri-College/ Dual-College recognition; membership is limited to students

enrolled at NDSU.

- **Residents of Greek Chapter Houses**

Only initiated member(s) of that chapter currently enrolled at NDSU, or a house employee, may reside in the house during the fall and spring semesters without authorization from the Student Affairs Office and by chapter leadership.

- **Summer Rules**

Fraternity and sorority presidents are to furnish names of the summer house managers to the Assistant Director of Fraternity and Sorority Life, [Memorial Union Student Activities Office](#). Chapter leadership is required to inform summer residents of [University](#) and fraternity/sorority life policies.

- **Alcohol and Other Drugs**

Fraternity Houses – No alcoholic beverages are permitted in common areas of chapter property at any time. Members who are 21 years of age may consume alcohol in the privacy of their rooms/suites with no more than three non-room/suite residents who are also 21 years of age or older. If multiple individuals live in one room/suite, all residents must be 21 years of age or older. Illegal drugs are not permitted on chapter property at any time.

Sorority Houses – National Panhellenic Conference policy requires alcohol free facilities for all house chapters. Illegal drugs are not permitted on chapter property at any time.

- **Code Violations**

As is the case with all [University](#) student organizations, fraternities and sororities will be held responsible for any conflicts with [University](#) policies occurring in chapter residences or at functions or social events sponsored by chapters.

4.10. Commercial Solicitations and Distribution Issues

Policies and procedures exist for students who wish to distribute information. For additional information, see [NDSU Policy 154, Distribution of Literature](#).

8.5. Procedures

Resolution of Alleged Code Violations

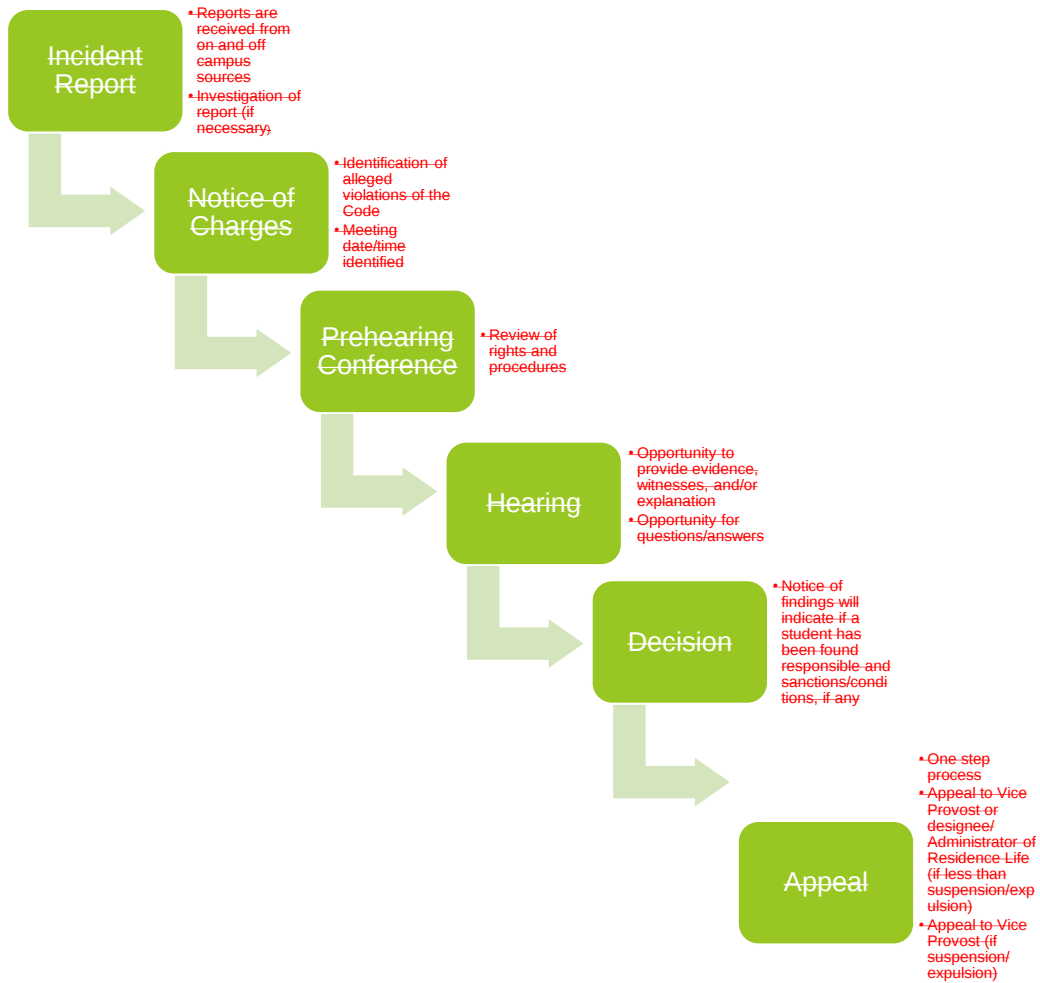
The [Code](#) resolution process generally includes the following steps:

- a) Receipt of an incident report;
- b) Creation of a conduct file;
- c) Implementation of interim actions, if necessary;
- d) Investigation of incident, if necessary;
- e) Notice of [alleged violations charges](#);
- f) Prehearing [Conference](#),
- g) [Administrative Hearing](#),

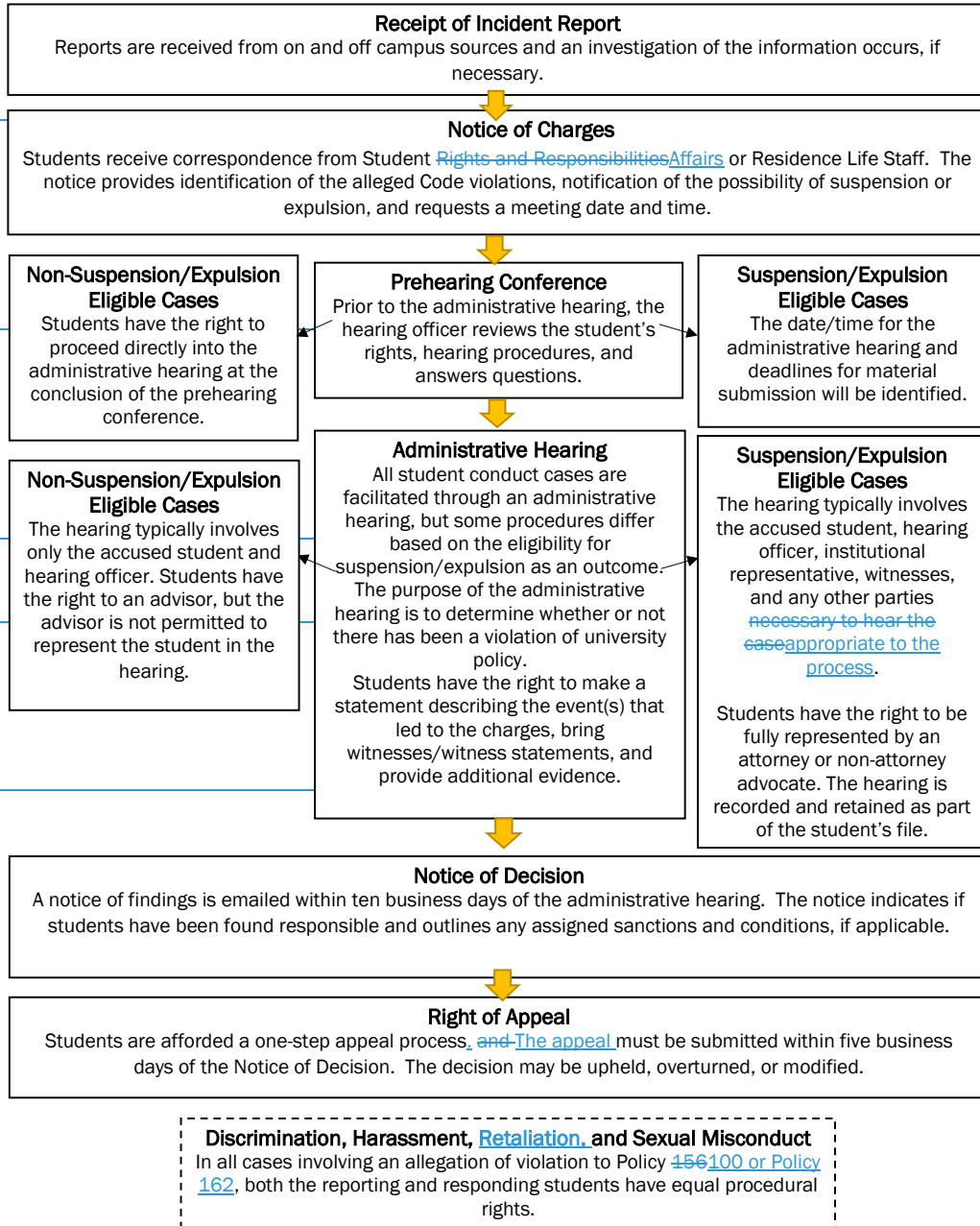
- h) ~~Notification-Notice of findingsdecision;~~ including sanctions, and terms and conditions, as assigned,
- i) ~~Right of Appeal (if student chooses);~~ and
- j) ~~Notification-Notice of appeal decision (if applicable).~~

A detailed description of these steps is provided below. Cases related to ~~civil rights and Title IX compliance~~ discrimination, harassment, retaliation, and sexual misconduct will require some modification of the resolution process, as approved by the NDSU Title IX Coordinator.

Resolution of Alleged Code Violations



Resolution of Alleged Student Code Violations Flowchart



5.1 Reporting and Investigating Complaints

When provided information by law enforcement agencies, the [University](#) reserves the right to initiate action under this [Code](#) when alleged violations of the [Code](#) are believed to have occurred. Reports and investigations are used to determine whether a student is responsible for alleged violations of the Code of Student Conduct, and include the following purposes:

- a) To provide for the education of students;
- b) To promote the health, safety and well-being of [University](#) community members;
- c) To provide for fair inquiries concerning alleged violations of [University](#) policies;
- d) To determine whether or not any individual student has violated a [University](#) policy;
- e) To allow for consideration of extenuating or mitigating factors when a violation has been found to exist;
- f) To determine a resolution ~~that will be appropriate~~; and
- g) To help the student make a constructive response toward self-discipline.

5.2 Reporting Alleged Violations

Alleged violations should be reported as soon as possible following the discovery of alleged prohibited conduct and may be initiated by law enforcement, any member of the NDSU community, or other interested parties. An alleged violation should be reported to the:

- a) Student Affairs Office, 250 Memorial Union, ~~and/or~~
- b) Department of Residence Life, West Bison Court, ~~and/or~~
- c) [Equity Office, 201 Old Main.](#)

5.3 Investigations

Investigation means to gather the facts, details and circumstances associated with a complaint. The investigation may include interviewing witnesses, review of documents or other steps that will assist the Vice Provost and/or designee to determine whether charges are warranted. ~~Written findings of the investigation along with a recommendation for Dismissal of the complaint or a recommendation of pursuing an alternative resolution, or charges will be produced by the investigator(s) may result following an investigation and provided to the Student Affairs Office. If the report indicates reasonable cause to believe that a violation occurred, then the Vice Provost's designee shall proceed with a Notice of Charges. This determination is made at the discretion of the Vice Provost and/or designee based on recommendations from investigators.~~

Commented [MA9]: Provides clarification of who determines whether reasonable cause is present

The University may independently investigate an allegation of student conduct, and may also initiate an investigation at the request of any member of the NDSU community or affected party. ~~Student Affairs hearing officers and other~~ Designated University personnel are authorized to investigate alleged violations of the Code of Student Conduct.

All cases of discrimination, harassment, retaliation, and sexual misconduct involving a potential violation by a student shall be investigated by the Equity Office utilizing the procedures set forth in Sections 1 through 8.8 of NDSU Policy 156. The Final Investigative Report as set forth in NDSU Policy 156 shall constitute the Investigation Determination for purposes of Section 5.6 below.

Any person believed to have information relevant to an investigation may also be contacted and requested to make an appointment to discuss the matter. Failure to comply with a request to make and keep an appointment relevant to an investigation may result in a conduct hold being placed on a student's registration and records.

5.4 Interim Measures

In the interest of safety and security, interim actions may be implemented by the Student Affairs Office prior to a completed investigation or conduct hearing. Specific actions will be based on the circumstances of the allegations and may include, but not limited to no contact orders, housing/workplace changes, loss of privileges, restricted access to campus, or temporary emergency suspension.

5.5 Searches and Seizures

University policy on the privacy of student rooms stipulates that entry and search of University residences by University officials will be permitted only in one or more of the following instances:

- a) The student consents to the search;
- b) The officials responsible fear an imminent danger to health, safety, life or property;
- c) The Vice Provost or designee provides a written administrative authorization specifying reasons for the search, objects of information sought and area to be searched; or;
- d) University officials fear imminent destruction of evidence relevant to a suspected violation of University policies.

When students are suspected of violating NDUS or NDSU Acceptable Use Policies, student computers, associated peripheral devices, and media storage devices may be taken into temporary custody on authority of the Information Technology Security ~~Staff Officer (ITSO)~~ to collect and preserve evidence of possible violations of local, state or federal laws (NDSU Policy 158, Acceptable Use of Electronic Communications Devices). If additional questions

remain, contact the [Information Technology Security Officer \(ITSO\)](#).

The [University](#) requires that [University](#) officials notify the Vice Provost and/or designee of searches [when they become aware of the action](#). The [University](#) will not intervene between students and searches authorized under law by any law enforcement agencies.

The right to inspect residence hall rooms and university apartments without notice is reserved by the [University](#) for purposes of maintenance, cleaning, fire, personal safety and administering provisions of the license [contract/agreements](#). The [University](#) will provide reasonable notice, when possible. Such entry by the [University](#) shall not be regarded as a search, but is separately agreed to and authorized by the student through provisions in the [residence hall agreements or university apartment license/residence life license contract](#). Items that pose an imminent danger to health, safety, life, or property may be taken into temporary custody of residence life staff, university police, or other emergency personnel.

5.6 Notice of Charges

~~Within a reasonable number of business days (generally 15) of receipt of the complaint~~[If the investigation determines that charges are appropriate](#), a written notice will be sent, ~~usually~~ via authorized [University](#) email, to the ~~accused~~[responding](#) student to arrange a prehearing conference.

The notice of charges will include ~~when known~~:

- Nature of the alleged [Code](#) violation;
- Date, time and place of the alleged [Code](#) violation;
- Source of the information;
- ~~Summary of the evidence to be presented;~~
- Maximum sanction applicable if found in violation of the Code of Student Conduct;
- The student's right to be represented by an attorney or nonattorney 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.

The student must be given notice in writing of a summary of the charges and evidence to be presented in sufficient time to ensure an adequate opportunity to prepare for the hearing. The [University](#) will provide the student oral or written notification of the hearing at least ~~three-five~~ business days prior to the hearing date. Students may consent to a shorter notice period, if they so choose.

5.7 Prehearing Conference

During the prehearing conference, the hearing officer will discuss the:

- a) Student's rights and responsibilities, ~~and~~
- b) Nature of the complaint and how the Code of Student Conduct may have been violated, ~~and-~~
- c) Process for resolution of alleged Code violations.

The student may request to proceed with an immediate hearing, except in cases which may result in suspension or expulsion. The hearing officer may refuse to hear the case and refer it to another hearing officer.

5.8 Conduct Hearings

The Code of Student Conduct resolution process is facilitated through an administrative hearing to determine whether or not there has been a violation of University policy. Although all cases are heard administratively, some procedures differ between cases that are not eligible for suspension/expulsion and those that are eligible for suspension/expulsion. The University reserves the right to determine procedures and appropriate individuals to include in the process. In an administrative hearing, the responding student has a right to make a written and/or oral statement describing the event(s) that lead to the charges, bring witnesses or witness statements, and provide any additional evidence. ~~An administrative hearing involves the accused student, hearing officer and any other individuals necessary to determine whether or not there has been a violation of university policies. The hearing officer is the NDSU representative assigned to process an alleged violation of university policies. At this hearing, the student has a right to make a written and/or oral statement describing the event(s) that led to the charges.~~

In all cases involving an allegation of discrimination, harassment, retaliation, or sexual misconduct, the accused student and the alleged victim both reporting and responding students shall have equal procedural rights as detailed in NDSU Policy 156, Discrimination, Harassment, and Retaliation Complaint Procedures.

~~When a case has potential to result in suspension or expulsion, the hearing will be recorded and retained as part of the student's file. In some situations, the hearing officer may recommend to the Vice Provost that a video recording may be more appropriate than an audio recording. Notice will be provided to the student no less than two business days before the hearing. Access to the recording will be made available for the purpose of preparing an appeal. Requests for access should be directed to the Student Affairs Office.~~

~~The hearing officer will provide written notice of the findings to the student stating whether or~~

~~not the Code of Student Conduct was violated. The written notice will include sanctions and terms and/or conditions for continued enrollment or re-enrollment, if any. The notice will generally be provided within 10 business days following the hearing. The Vice Provost may grant time extensions, if necessary.~~

University administrators who have direct responsibility for student organizations will process conduct cases related to fraternities, sororities and student organizations. Individual organizational boards will address only violations of those organizational standards, not violations of this ~~C~~code.

Non-Suspension/Expulsion Eligible Conduct Hearings

~~A non-suspension/expulsion eligible conduct hearing is an administrative hearing that generally involves only the responding student and the hearing officer. The hearing officer is the NDSU staff member assigned individual appointed by the University to process an alleged violation of University policy. The hearing officer shall typically be a University employee, however, the University may, in its discretion, retain a non-employee to serve as a hearing officer at the University's expense.~~

~~Following the hearing, the student will receive written notification of the hearing outcome.~~

Suspension/Expulsion Eligible Conduct Hearings

~~A suspension/expulsion eligible conduct hearing is an administrative hearing that involves the responding student, hearing officer, institutional representative, and any other individual(s) appropriate to the process. The hearing officer is the individual appointed by the University to process an alleged violation of University policy. The hearing officer shall typically be a University employee, however, the University may, in its discretion, retain a non-employee to serve as a hearing officer at the University's expense. The institutional representative is the staff member assigned individual appointed by the University to present the findings at the hearing.~~

~~Prior to the hearing, any materials being utilized during or witnesses being called to the hearing must be submitted to the Student Affairs Office by a deadline set during the prehearing conference.~~

~~The hearing will be recorded and retained as part of the student's conduct file. Access to the recording will be made available for the purpose of preparing an appeal. Requests for access should be directed to the Student Affairs Office.~~

~~Following the hearing, the student(s) will receive written notification of the hearing outcome.~~

5.9 Student Advisory Options

The student has the right to have a person present who may act in an advisory capacity. Hearing advisors may not serve as witnesses. Hearing advisors who do not comply with hearing procedures or the directives of the hearing officer may be cautioned by the hearing officer and if they persist, may be asked to leave.

If a student chooses to have an attorney present as his or her hearing advisor, NDSU may request legal representation be present as well. In cases that do not involve potential for suspension or expulsion, the role of an attorney shall be to advise his or her client, not to participate in the hearing. Attorneys who do not respect this provision may be cautioned by the hearing officer and if they persist, may be asked to leave.

In cases that could result in suspension or expulsion, attorneys or nonattorney advocates may fully participate, which means they may make opening and closing statements, examine and cross-examine ~~(through the hearing officer)~~ witnesses present during the hearing, and provide the student with support, guidance and advice throughout the process.

5.10 Default Proceedings and Unresolved Charges

When a student/organization fails to appear for a hearing appointment without advance notice, or leaves the ~~Un~~iversity with unresolved charges, the hearing officer may make a decision in the student/organization's absence, providing the student/organization was issued adequate written notice of the date, time and place of the scheduled hearing via the NDSU email system.

In certain cases, the hearing officer reserves the option to place a registration hold on the student's records and archive the case until such time the student requests re-registration or a resolution of the pending matter. ~~The hearing officer also may place a transcript notation, "may not register for non-academic reasons," after recommendation to and approval from the Vice Provost or designee.~~

5.11 Student Organizations in Default

In the event a student organization becomes inactive rather than appear for a hearing, the default decision will typically be withdrawal of recognition granted by the Congress of Student Organizations ~~Commission~~. In addition, officers of the organization at the time of the incident may face conduct proceedings individually (see Section 3.20, Failure to Comply) and also may be charged with one or more of the original alleged violations of the ~~Ce~~ode arising from the alleged misconduct by the organization.

If the organization requests registration at a later date, the Vice Provost or designee will assign a hearing officer to meet with the student organization leadership to determine

responsibility for the original charges, determine or recommend the appropriate sanction, and if that sanction is less than suspension or expulsion, will assess the need for any current remedial actions.

5.12 Conflicts of Interest

Any hearing officer who has a conflicting interest in the particular case may not participate. Each party has the right to challenge the appointment of a hearing officer. Challenges must be submitted in writing to the Vice Provost or designee at least two-five business days prior to the hearing. If a party fails to raise a perceived conflict by objecting to that person two-five business days in advance, any objection is deemed to be waived. An individual may not be disqualified solely on the basis of his or her position in the University community.

5.13 Burden of Proof

The burden of proof will rest upon the hearing officerUniversity.

5.14 Standard of Proof

The standard of proof will be a "more likely than notpreponderance of the evidence." A student is found to have violated this code-when the student:

- a) The student Admits to the violation or
- b) Information available at the time ofEvidence admitted at the hearing supports a finding of responsibilityindicates by a preponderance of the evidence that the student is responsible for a violation.

5.15 Witnesses/Witness Statements

~~The accused student and the hearing officer~~All parties will be given reasonable opportunity to present witnesses and/or witness statements and will be allowed to address questions to any witnesses participating in the hearing. ~~An absolute right of cross-examination is not granted under this code.~~All questions will be addressed through the hearing officer, ~~who will determine if the questions are relevant and reasonable, and if necessary, will exclude questions that are redundant or irrelevant in determining responsibility however, the hearing officer may allow for direct questioning of non-party witnesses.~~ Witnesses will be given reasonable latitude to respond fully to questions and will only remain for the duration of their own testimonies. All written statements that are to be considered are to be provided at least two business days prior to the hearing. Written statements must also be signed and dated, with the name of the witness printed below to ensure legibility or sent electronically directly by the witness. Deviations to the time restriction may be granted as long as all parties have sufficient time to prepare.

Character witnesses are not permitted. The hearing officer will exclude any information from

the hearing documentation that appears to be a character statement rather than facts or evidence related to the case. If the ~~accused-responding~~ student is found responsible for violating this ~~Code~~, character statements may be considered during sanctioning. ~~The accused student~~All parties may submit up to three letters to the hearing officer, at least two business days prior to the hearing. Each letter must be dated and signed, with the name of the individual signing printed below to ensure legibility or sent electronically from the author of the written statement.

5.16 Evidence

~~The accused student and the hearing officer~~All parties will be given reasonable opportunity to present any written or oral information or other documentation that is relevant in determining responsibility. All pertinent information that is to be considered is to be provided at least two business days prior to the hearing. Deviations to the time restriction may be granted as long as all parties have sufficient time to prepare.

Because the hearing is an educational process, formal rules of evidence do not apply. For this reason, hearsay evidence may be permitted. It refers to testimony given by a witness who speaks about information received from others, rather than information given directly by that witness. The value of such evidence rests with the discretion of each hearing officer.

5.17 Self Incrimination

~~Accused students and witnesses~~Parties shall not be compelled to incriminate themselves by being obligated to testify that they engaged in conduct constituting a violation of this ~~Code~~ and/or local, state or federal law.

5.18 Closed Hearings

All hearings are generally closed except to those persons who are part of the proceedings; ~~unless otherwise arranged by prior mutual written agreement between the charged student and the Vice Provost or designee.~~ The Vice Provost or designee may permit a limited number of NDSU personnel to be present as observers for the purpose of training. Other exceptions may also be made as deemed necessary-appropriate by the Vice Provost or designee.

5.19 Appeals

Students sanctioned for violations of any part of this Code of Student Conduct or relevant ~~U~~university policies may appeal. Students are limited to one appeal and that decision is final (see Section ~~VIII-8~~ Appeal Procedures).

9-6. Hearing Procedures for Potential Suspension or Expulsion Cases

6.1 Introduction

With all parties present, the hearing officer will call the meeting to order and will ask all parties participating in the hearing to introduce themselves and identify their role in the proceedings.

The hearing officer will describe the general outline of the hearing and will read the honesty statement. If a student is represented by an attorney or nonattorney advocate, that individual has the ability to fully participate in the hearing as indicated in section 5.9, Student Advisory Options. Hearing advisors (attorney or nonattorney advocates) will be required to sign a confidentiality statement pertaining to information about all parties involved in the hearing.

The hearing officer will dismiss witnesses until they are called to speak.

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 students willfully provide false information, they will be in violation of NDSU's Code of Student Conduct. As a result, they also may be subject to additional disciplinary action. Dishonest behavior by any faculty or staff members will be reported to supervisors for any necessary disciplinary action.

6.2 Complaint and Response

The ~~hearing officer will introduce~~ institutional representative will present the case.

The ~~accused-responding~~ student (and/or attorney or nonattorney advocate) will be permitted to respond to the charges and present information that is relevant in determining whether the student violated one or more sections of the ~~Code~~.

6.3 Presentation of Witnesses

~~The hearing officer and the accused student~~ All parties will ~~shall~~ be allowed to present witnesses who may be asked questions by the hearing officer, ~~accused-responding~~ student (and/or attorney or nonattorney advocate), reporting party, and Vice Provost or designee. All questions will be directed to the hearing officer who will determine relevancy and reasonableness to the proceeding, request clarification if necessary, ask if the respondent understands the question and request a response.

6.4 ~~Final Questions~~ Questioning of Parties

The ~~hearing officer~~ institutional representative, reporting student (and/or attorney or nonattorney advocate), and ~~accused-responding~~ student (and/or attorney or nonattorney advocate) will be permitted to ask questions of each other.

Questions will also be permitted by the hearing officer and the Vice Provost's or designee, who may question either party.

The hearing officer and accused student (and/or attorney or nonattorney advocate) may be permitted to ask additional questions of each other.

6.5 Closing Statements

The accused student (and/or attorney or nonattorney advocate) All parties will have an opportunity for a closing statement.

6.6 ~~Deliberation and~~ Notice of Decision

If the hearing officer believes that suspension or expulsion is warranted, the hearing officer will make this written recommendation to the Vice Provost or designee. When the recommendation has been approved by the Vice Provost/designee, it will be returned to the hearing officer with the Vice Provost's/designee's endorsement, and the hearing officer will issue the written decision.

The hearing officer will provide written notice of findings decision to the responding student stating whether or not the Code of Student Conduct was violated. The written notice will include sanctions, and terms, and conditions for continued enrollment or re-enrollment, if any. The notice will generally be provided within 10 business days following the hearing. The Vice Provost may grant time extensions, if necessary.

10.7. Sanctions and Conditions

A sanction is a consequence placed upon any student for violations of specified University policies. Sanctions help define the student's relationship with the University in the context of current and potential future conduct, including a notice that further violations may lead to more severe conduct sanctions.

If a student is found not responsible for the alleged Code violation(s), no action will be taken against the accused-responding student; however, having been through the Code process, the student is considered knowledgeable regarding the Code's provisions and expectations, and that knowledge may be taken into consideration in the event of future Code actions.

In cases in which the student is found responsible for violating one or more policies, a sanction may be imposed. Sanctions may not include suspension or expulsion unless the student receives prior written notice that the case was serious enough to warrant suspension or expulsion. The sanctions listed below are assigned based on the severity of the incident and/or past conduct history:

1. ~~Written W~~arning,
2. Conduct probation,
3. Supervised conduct probation,
4. Conduct suspension, ~~or~~
5. ~~Conduct E~~xpulsion, ~~or~~
6. ~~Recommendation to the provost to withhold or rescind a degree.~~

~~Written decisions are generally rendered within 10 business days from the date of the hearing. In cases of code violations serious enough to warrant suspension or expulsion, the hearing officer will make a recommendation to the Vice Provost. When approval of the recommended sanction is received, the hearing officer will issue the written decision. Sanctions of suspension and expulsion are noted on students' academic transcript. The hearing officer will issue the written decision within 10 business days from the date of hearing. Sanctions of suspension are noted in the student's transcript throughout the duration of the suspension period, while sanctions of expulsion remain permanently.~~

When certain mitigating circumstances exist, such as an extended period of time between the incident and reenrollment, a finding of responsibility may result in no sanctions ~~required~~imposed.

With each sanction, terms and conditions and/or restorative actions may be assigned. In addition, notification may be given to other ~~U~~niversity officials as necessary. Terms and conditions include, but are not limited to:

1. Alcohol or other drug programming, evaluation and /or testing,
2. Written assignments,
3. Participation in a specific activity or project,
4. Restricted access,
5. Loss of privileges,
6. No contact orders,
7. Restitution, and/or
8. Confiscation.

In assigning a sanction and/or terms and conditions for inappropriate student conduct, the hearing officer, in consultation with the Vice Provost designee, will consider:

- a) Facts of the case as presented from all relevant sources, including the ~~accused~~responding student,
- b) Existence of any physical evidence or written or oral information provided by the ~~accused~~responding student and/or witnesses,
- c) Type and severity of the offense,

- d) Impact on the victim(s), the educational community and its members,
- e) Previous incidents of prohibited conduct committed by the accused student, and
- f) The ability and/or willingness of the student to accept responsibility.

[Parents or guardians of students under 21 may be contacted by an NDSU administrator following alcohol and/or other drug related incidents.](#)

7.1 Sanctions

Written Warning

A warning is a written notification that subsequent [code](#) violations will normally result in more severe sanctions.

Conduct Probation

Conduct probation is a written notification of a specified period of review and observation during which the student must demonstrate the ability to comply with [University](#) policies; local, state and federal laws; and any other terms or conditions that have been imposed in writing. The specific terms of the probation will be determined on a case-by-case basis. Further prohibited conduct may result in additional sanctions to be assigned, including, but not limited to, suspension or expulsion.

Supervised Conduct Probation

Supervised conduct probation generally requires meetings with a member of [the Division of Student Affairs or Residence Life](#) at regularly established intervals to monitor progress in behavioral, academic, social, vocational and other areas of the student's life necessary to strive for overall success at NDSU. The supervisor may assign educational tasks and/or projects as deemed necessary and appropriate to assist the student in personal growth. Further prohibited conduct may result in additional sanctions to be assigned, including, but not limited to, suspension or expulsion.

Conduct Suspension

Conduct suspension is a written notification of the termination of status as an enrolled student or registered student organization for a specified period of time not to exceed two academic years. In cases of crimes of violence, hate crimes, and/or Title IX related violations, the Vice Provost may specify a longer period of suspension.

- a) A student may not re-enroll during the period of conduct suspension.
- b) The student's eligibility for any refund of tuition/fees will be subject to the [University's](#) normal withdrawal policy.
- c) The notice of conduct suspension will include the conditions for readmission that must be met prior to application for readmission. Students may obtain [a reactivation of student](#)

~~status (after absence) form~~ information regarding reactivation from Registration and Records, Ceres Hall, or online through [One Stop](#). An interview with a member of the Student Affairs Office staff also will be required prior to acceptance of the student's application for readmission.

- d) ~~While a student is under conduct suspension from NDSU, no academic credit earned during the suspension period will be accepted for transfer from any other higher education institution at any time.~~ The student's transcript will carry a notation "may not register for nonacademic reasons [<effective date range>](#)" without further explanation. ~~Upon completion of the suspension the notation will be removed by the University. If the student is subsequently readmitted, the original notation will remain on the transcript and a new notation will be added, "eligible for registration effective ..."~~
- e) A student who has been suspended must vacate residence life facilities within the time frame established in the written notice of the conduct suspension.
- f) In addition to being ineligible for enrollment, a student is also ineligible for employment with NDSU.
- g) There may be other restrictions placed on the suspended student including, but not limited to, restricted access to the entire campus, specified campus facilities, or portions of specified campus facilities. The student also may be required to obtain prior written permission from a member of the Student Affairs Office staff before being on any portion of the NDSU campus during the period of suspension. Approval is generally granted only to permit a student to conduct business related to the [University](#).
- h) Conduct suspension is a ~~matter of~~ permanent [conduct](#) record. A permanent record indicates that student conduct files may be retained indefinitely at the discretion of the Vice Provost, but not less than seven (7) years.
- i) Student organizations placed on suspension may have all rights and privileges provided by CSO revoked for the duration of their suspension. In order to regain all rights and privileges, the student organization is required to comply with and complete any and all sanctions and terms and conditions.

[Conduct Expulsion](#)

Expulsion is a written notification that the student is permanently ineligible to return to the [University](#). The expulsion will be recorded on the student's transcript as "may not register for nonacademic reasons" and is a ~~matter of~~ permanent record.

[Conduct expulsion is a permanent conduct record. A permanent record indicates that student conduct files may be retained indefinitely at the discretion of the Vice Provost, but not less than seven \(7\) years.](#)

The student must leave [University](#) residences and cease all use of [University](#) owned or controlled buildings, properties and services as designated in the expulsion notice. The

expulsion notice will also include any other specific restrictions and a time frame during which these restrictions apply. These may include restricted access to the entire campus, specified campus facilities, or portions of specified campus facilities.

Written requests for exceptions to restrictions may be directed to the Vice Provost or designee; however, approval is generally only granted for the purpose of conducting official [University](#) business. Requests for readmission will not be approved.

[Degree Rescission](#)

[If a person has been awarded an NDSU degree and it is subsequently discovered that the person committed a serious breach of this code while attending the university, the university may, upon separate proceedings, elect to rescind the degree. See Section 9.1, Registration/Graduation Hold, regarding graduation holds for similar reasons.](#)

7.2 Conditions

Alcohol and Other Drug Programming, Evaluation, and/or Testing

A student may be required to participate in alcohol and other drug programming as a result of participating in any incident involving the use or abuse of alcohol and other drugs. The [University](#) reserves the right to require alcohol/drug testing and/or evaluation as a condition of enrollment or continued enrollment when:

- a) A student's conduct endangers or may endanger the safety of themselves, others, or property, and/or
- b) A pattern of conduct has been demonstrated by a student.

Written Assignments

Students may be required to complete written assignments as a means of reflecting and/or learning more about a particular topic.

Participation in a Specific Activity or Project

A student may be required to participate in a specific activity or project, such as public service; an educational class; and/or meeting with a designated [University](#) official or other assignment.

Restricted Access

Students may have access to [University](#) facilities and grounds restricted for a specified period of time. Restricted access may include but is not limited to entry into [University](#) facilities or athletic fields, access to specific [University](#) offices, and visiting and/or living in any [University](#) housing facility. Students found in violation of restricted access directives may be issued a trespass citation by University Police and may be subject to further conduct

action.

Loss of Privileges

A student may be denied various privileges associated with being a student at NDSU. Such privileges may include, but are not limited to, one or more of the following:

- a) Participating in or attending events sponsored by the [U](#)niversity or by students;
- b) Holding office in any [Congress of Student Organizations \(CSO\)](#) recognized student organizations;
- c) Receiving or being a guest in residence life facilities;
- d) Access to parts of or all [U](#)niversity property, including eligibility to reside in [U](#)niversity facilities;
- e) Receiving financial aid;
- f) Being employed by the [U](#)niversity;
- g) Representing the [U](#)niversity, including travel on behalf of the [U](#)niversity;
- h) Sponsoring or hosting organization or campus wide functions;
- i) Using IT services; and
- j) Maintaining recognized student organization status with the CSO.

No Contact Order

Students may be prohibited from direct or indirect physical and/or verbal contact with another individual or group. Reasonable restrictions to protect the safety and welfare of others may also be imposed. These include, but are not limited to, any and all forms of communication, access to [U](#)niversity owned or controlled locations, and specified minimum distances.

Restitution

A student may be required to repair, pay the cost for repair or pay for cost of replacement of any university or state property damaged by the student. In each case, the goal will be to return the damaged property to its existing condition at the time of damage. The determination of the method used to calculate restitution shall be the responsibility of the hearing officer, taking into consideration the fair market value or cost to repair the damaged item(s). In the case of personal injury, the responsible party may be required to cover the cost of medical care for others harmed as a result of the student's actions.

When available and appropriate, secondary markets may be utilized. The decision maker shall consider information and/or evidence provided by both parties to achieve a fair and just result. Failure to make timely arrangements for restitution may result in the cancellation of the student's registration, prevention of the student's re-registration, or more severe sanctions including, but not limited to, conduct suspension or expulsion. When the

responsible party is a student organization, additional sanctions or terms and conditions also may be assigned for failure to make timely arrangements for restitution.

Confiscation

In addition to items seized as evidence, goods used or possessed in violation of [University](#) policies and/or local, state or federal laws, may be confiscated and not be returned to the student. This includes, but not limited to, falsified information or identification.

~~11.8.~~ [Appeal Procedures](#)

Students sanctioned for violations of this [Code](#) may make one appeal. Cases resulting in suspension or expulsion are appealed to the Vice Provost or designee. All other appeals are addressed to the Vice Provost or designee, or an administrator of Residence Life, depending upon who served as the hearing officer.

8.1 Deadline for Appeals

An appeal of any conduct process decision must be made in writing within five business days following the date the sanction notice is [sent-provided](#) to the student. ~~via the NDSU email account. When necessary to utilize U.S. mail, students will be afforded 10 business days from the date of letter to submit an appeal. If hand delivered, a notation of that date will be made in the student's conduct file.~~ In extraordinary circumstances, the Vice Provost may grant time extensions. The [University](#) reserves the right, however, to reduce the time allowed for a student appeal in cases that may have the potential to result in harm to persons and/or property. The reduced time for appeal will be specified in the decision letter along with the rationale for allowing reduced time for an appeal. The appeal must be written by the student and shall contain the student's name, date of the decision or action, and reason(s) for the appeal.

8.2 Appeal [Letters Documentation](#)

Appeals must be submitted to the appeal officer specified in the decision letter [using the designated \[appeal form\]\(#\)](#). ~~and The documentation~~ must specify in detail one or more of the following bases of appeal:

- a) The severity of the sanction was not consistent with the severity of the offense,
- ~~b) The decision was made in an arbitrary or capricious manner,~~
- ~~e~~b) The finding of the [Code](#) having been violated [or not](#) was not substantiated by the evidence, and/or
- ~~d~~c) The student's [due process](#) rights [as outlined in this Code](#) were violated. Those rights believed to be violated must be specified.

Commented [MA10]: Will need to add a link when available

In all cases involving an allegation of discrimination, harassment, retaliation, or sexual misconduct, the reporting party is also allowed to file an appeal within the same parameters identified above. In these cases an appeal could result in a different decision regarding the finding of responsible or not responsible and/or stronger, the same, or lesser sanctions than originally imposed.

A copy of an appeal will be given to the other party who will have the opportunity to respond. Students will have no more than 5 business days to submit their response to the other party's appeal, however, the response cannot include an appeal if the time period for appeal has already expired.

8.3 Emergency Provisions

Normally a properly filed notice of appeal suspends the imposition of sanctions until the appeal is decided; however, some emergency provisions may be sustained throughout the appeal to protect persons and/or property. Such provisions will be explained in the original letter to the student outlining the decision, along with the rationale for maintaining those emergency provisions throughout the appeal.

8.4 Appeal Advisory Board

The appeal officer reserves the right to appoint an appeal advisory board to review appeals. In such instances, the appointed advisory board will make a recommendation that the appeal officer may accept or reject. The decision of the appeal officer will generally be issued within 10 business days of receiving the recommendation from the advisory board and that decision will be final.

8.5 Review

The appeal officer/advisory board will review the written ~~letter of appeal~~appeal documentation/response to appeal from the student(s) and materials from the original hearing, including the recording. In reviewing the appropriateness of sanctions, the student's entire conduct file may be considered. After reviewing these materials, the appeal officer/~~advisory board~~ may decide to do one of the following:

- a) Issue a decision based solely on the ~~written materials~~evidence,
- b) Issue a decision based on a review of ~~written materials~~evidence and discussion with the involved principals,
- c) Recall one or more witnesses,
- d) Return the case to the ~~body hearing officer~~ conducting the original hearing for presentation of new evidence and reconsideration of the decision and/or sanctions.

8.6 Decision/Sanction

When the ~~accused-reporting~~ student ~~makes the appeals~~, the appeal officer/~~advisory board~~ may uphold or ~~lessen-change~~ the original decision/sanction~~-. When the responding student appeals, the appeal officer may but~~ not increase the sanctions/actions imposed by the hearing officer. The decision on the appeal will generally be made within 10 business days of receipt of the appeal, but may take longer during ~~U~~niversity recesses or in the event of complex cases, ~~or when an advisory board has been appointed to make an appeal recommendation.~~

8.7 Appeals by Accuser

An appeal by the accuser may only be allowed when it is alleged that the accuser was the subject of a Title IX violation, including sexual assaults, as defined in this code. In some cases, an accuser's appeal could result in a different decision and/ or stronger sanctions than originally imposed.

Commented [MA11]: Moved to end of Section 8.2

8.7.8 Rehearing Requests for Cases Resulting in Suspension or Expulsion

Any student who is suspended or expelled has the right to request a reconsideration of the case based on new or contradictory evidence that was not available at the time of the original ~~decision/hearing~~, and/or evidence that the student was not afforded due process as outlined in this Code. A request for reconsideration of the case should be submitted to the Vice Provost. Information that may be considered may include police reports, transcripts of legal proceedings and the outcome of any civil or criminal proceeding directly related to the appeal.

12.9. Special Circumstances and Conditions

9.1 Registration/Graduation Hold

- a) If a student (new, current or returning) fails to respond to a request to meet to discuss an alleged violation of this ~~C~~code, or fails to comply with sanctions or terms and conditions assigned as a result of being found responsible for a violation of this ~~C~~code, a hold may be placed on the student's eligibility to register or the student's current registration may be canceled. If registration is canceled, eligibility for any refund of tuition/fees will be subject to the ~~U~~niversity's withdrawal policy.
- b) Students may not be permitted to graduate or officially withdraw from NDSU while disciplinary action is pending. If the student withdraws before NDSU becomes aware of the potential violation of this ~~C~~code, the student's academic records may be placed on hold and the allegations must be resolved prior to the student's readmission.

9.2 Returning and/or New Students

If a student commits an act that violates this ~~C~~code during a period of nonenrollment, a registration hold may be placed to prevent the student's registration until a hearing may be

held on that matter. The student may be notified about these holds at the time the University is first notified about the incident, or notice may be provided when the student subsequently requests enrollment. In addition, a hearing officer, in consultation with the Vice Provost or designee, may place a registration hold to deny a student the eligibility to register. Reasons may include, but are not limited to, the student's arrest or when criminal charges are pending against the student, serious concerns arise about the health or safety of the student or others in the University community, and/or as otherwise provided by [NDSU Policy 607. Admission & Re-Enrollment Safety Risks: Background Checks](#).

9.3 Temporary Emergency Suspension

A student may be temporarily suspended by the Vice Provost, pending a hearing when the student's actions or threats of action indicate a serious threat to the welfare and/or safety of persons or property. No hearing will be required before a temporary suspension is imposed; however, one will be convened within five business days following the suspension. [In unique circumstances, any alteration to this timeline will be at the discretion of the Vice Provost.](#) If the suspension is upheld, the suspension remains subject to the rules outlined in Conduct Suspension (see Section 7.1, Sanctions) and remains a matter of permanent [conduct](#) record. Conditions under which emergency suspension may be imposed:

- a) To ensure the health, safety or well-being of members of the University community,
- b) To preserve University property,
- c) To ensure the suspended student's ~~own physical and emotional~~ safety and well-being, or
- d) To ensure against the disruption of, or interference with, the normal operations of the University.

~~9.4 Conditions Under Which Temporary Emergency Suspension May Be Imposed:~~

- ~~a) To ensure the health, safety or well-being of members of the university community,~~
- ~~b) To preserve university property;~~
- ~~c) To ensure the suspended student's own physical and emotional safety and well-being, or~~
- ~~d) To ensure against disruption of, or interference with, normal operations of the university.~~

~~No hearing will be required before emergency suspension is imposed; however, one will normally be convened within five business days following the suspension. In unique circumstances, any alteration to this timeline will be at the discretion of the Vice Provost. If the suspension is upheld following the hearing, the suspension remains subject to the rules outlined in Conduct Suspension (Section 7.1, Sanctions) and remains a matter of permanent record.~~

9.4 Negotiated Withdrawal

[In rare circumstances, a student may be allowed to negotiate a mutually agreed upon](#)

withdrawal for a specified period of time. Other conditions may also need to be met prior to application for reenrollment. Such conditions will be provided to the student in writing at the time of the negotiated withdrawal.

This action generally results in no notation on the student's academic transcript; however, in instances involving interpersonal violence or felony level criminal conduct, charged or uncharged, a transcript notation may be applied at the discretion of the Vice Provost or designee, "may not register for nonacademic reasons." The Vice Provost or designee will determine whether this notation will remain on the transcript, should the student later be readmitted.

A student requesting readmission will be required to meet with the Vice Provost or designee prior to approval of the student's petition for readmission. The student must be academically eligible for readmission to NDSU and may be required to pass a criminal background check at the student's expense prior to readmission.

9.5 Administrative Withdrawal ~~for Psychiatric Reasons~~

A student may be subject to administrative withdrawal if it is determined by clear and convincing evidence that the student ~~suffers from a mental disorder as defined by the current American Psychiatric Association Diagnostic Manual and, as a result of such a disorder,~~ engages or threatens to engage in -conduct that:

- a) Poses a significant ~~danger of causing imminent~~threat of harm to ~~the student self~~ or others, or
- b) ~~Directly and substantially impedes the lawful activities of other members~~Poses a threat of disruption of, or interference with, the normal operations of the campus~~University~~ community.

Consideration will be given first to use of normal conduct processes of counseling, voluntary withdrawal, ~~use of state commitment laws,~~ or use of other alternatives whenever appropriate.

Students wishing to return to the University may obtain information regarding reactivation from Registration and Records, Ceres Hall, or online through One Stop. An interview with a member of the Student Affairs Office staff also will be required prior to acceptance of the student's application of readmission.

Commented [MA12]: Inserted readmission procedure per Chris Wilson

~~Conduct Violations~~

~~A student accused of violating this code may not be subject to the conduct process if the~~

student, as a result of a mental disorder:

- a) — Lacks the capacity to respond to pending conduct charges, or
- b) — Lacks the capacity to know the nature or wrongfulness of the conduct at the time of the offense. Students subject to conduct charges who wish to introduce relevant evidence of any mental disorder must so inform the Vice Provost in writing at least two business days prior to any conduct hearing. The Vice Provost may elect to appoint a designee to act in administering this policy. If the Vice Provost determines that the evidence may have merit, the case will then be resolved in accordance with these standards and procedures. If it is determined the student does not meet the criteria mentioned above, the case will be returned to the conduct process.

Evaluation Referral

The Vice Provost may refer a student for an evaluation by an independent, licensed psychiatrist or psychologist chosen by the institution if the Vice Provost reasonably believes the student may meet the criteria in Section 9.4, Conditions Under Which Temporary Emergency Suspension May Be Imposed, or if a student subject to conduct charges wants to introduce relevant evidence of any mental disorder. A student referred for evaluation will be informed in writing by NDSU email and the evaluation must be scheduled no later than five days from the date of the referral letter. The evaluation will be at the student's expense. If a student fails to complete an independent evaluation, he or she may be subject to the conduct process or an immediate interim withdrawal.

Interim Withdrawal

As stated above, an interim withdrawal may be implemented if a student fails to complete an evaluation with a licensed psychologist or psychiatrist. Also, an interim withdrawal may be undertaken immediately if the Vice Provost determines a student may be suffering from a mental disorder, and the student's conduct poses an imminent danger.

A student subject to interim withdrawal shall be given written notice and may be assisted throughout this process by an individual of his or her choice. The student, whether or not an evaluation has been completed, shall be given the opportunity to appear personally before the Vice Provost within 72 hours of the effective date of the interim withdrawal to review:

- a) — Reliability of the information concerning the student's conduct, and
- b) — Whether the student's conduct poses an imminent danger.

During an interim withdrawal, the Vice Provost may place restrictions including, but not limited to, class attendance and use of campus services and facilities.

Involuntary Withdrawal

A student under consideration for involuntary withdrawal will be accorded an informal conference with the Vice Provost or designee. The informal conference will be held within seven business days after an evaluation by a licensed psychologist or psychiatrist has been completed. Prior to the informal conference, the Vice Provost and the student will have an opportunity to review independently the psychological or psychiatric evaluation.

- a) The Vice Provost conducts informal conference proceedings. An individual of his or her choice may assist the student in the informal conference. The student will remain withdrawn on an interim basis pending completion of the informal conference.
- b) A written decision shall be rendered by the Vice Provost containing a statement of reasons for any determination leading to involuntary withdrawal. The student also should be advised as to when a petition for reinstatement would be considered, along with any conditions for reinstatement. The student may appeal the decision to the Vice Provost.

9.6 Negotiated Withdrawal

In rare circumstances, a student may be allowed to negotiate a mutually agreed upon withdrawal for a specified period of time. Other conditions may also need to be met prior to application for reenrollment. Such conditions will be provided to the student in writing at the time of the negotiated withdrawal.

This action generally results in no notation on the student's academic transcript; however, in instances involving interpersonal violence or felony level criminal conduct, charged or uncharged, a transcript notation may be applied at the discretion of the Vice Provost or designee, "may not register for nonacademic reasons." The Vice Provost or designee will determine whether this notation will remain on the transcript, should the student later be readmitted.

A student requesting readmission will be required to meet with the Vice Provost or designee prior to approval of the student's petition for readmission. The student must be academically eligible for readmission to NDSU and may be required to pass a criminal background check at the student's expense prior to readmission.

9.76 Interim Actions

In the interest of safety and security, interim actions may be implemented by the Vice Provost prior to a completed investigation or conduct hearing. Specific actions will be based on the circumstances of the allegations and may include, but not limited to no contact orders, housing/workplace changes, loss of privileges, or temporary emergency suspension.

9.87 Crimes of Violence

The term "crime of violence" means:

Commented [MA13]: Moving to preceed 9.5 Administrative Withdrawal because we usually try for a Negotiated Whithdrawal first and resort to an Administrative Whithdrawal if that doesn't happen.

- a) An offense that has an element of use, attempted use, or threatened use of physical violence against the person or property of another, or
- b) Any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

Examples include, but are not limited to, arson, auto theft, assault, aggravated assault, burglary, kidnapping/abduction, manslaughter, murder, resisting arrest through the use or threat of physical force, robbery, vandalism, and sexual offenses.

In cases of crimes of violence, the Vice Provost may increase, but not decrease, timelines stated in the [Code](#) and may determine by whom the case is heard.

9.98 Notification of Hearing Outcomes for Crimes of Violence

Individuals who are victims of crimes of violence have a right to be notified of the outcome of complaint resolution procedures, upon written request to the Vice Provost. If the victim is deceased as a result of such crime or offense, the next of kin of such victim shall be treated as the alleged victim.

Notification shall be limited to the responsible student(s), part(s) of the [Code](#) violated, and assigned sanction(s). Individuals in receipt of this information may assume personal civil liability for releasing this information to others.

9.10 Incarcerated Students

~~In cases involving incarceration, a hearing will be held when the student is available for a hearing. Under these circumstances, the Vice Provost or designee may determine that an administrative hearing be held rather than a Conduct Board hearing.~~

Commented [MA14]: Chris Wilson inquired about the plan for incarcerated students. – Incarcerated students fall under Section 9.1.

16.10. Conduct Records

10.1 Disclosure

All conduct records are confidential and may not be disclosed in whole or in part except as provided under law, including but not limited to, the Family Education Rights and Privacy Act (FERPA), the USA Patriot Act and lawful court orders.

The conduct record shall be separate from the student's academic record, but shall be considered a part of the student's educational record. All conduct records shall be retained in the Student Affairs Office or other offices as authorized by the Vice Provost.

As provided under FERPA, information concerning [Code](#) violations for alcohol and/or drugs

may be shared with parents ~~in accordance with the Parental Notification Policy~~. In addition, ~~Ce~~ode violations may also be shared with some academic departments upon request and as necessary to fulfill their professional obligations. A ~~memorandum of understanding procedure~~ exists ~~between Student Affairs and Athletics~~ that provides for full exchange of information concerning ~~Ce~~ode violations by student athletes with the pertinent ~~coaches athletic personnel~~ and the Athletic Director.

~~Suspension and expulsion are the only completed conduct actions reflected on the official academic transcript of the student (see section 7.1, Sanctions). At the direction of the Vice Provost, the registrar shall place on the student's permanent academic record the words "may not register for nonacademic reasons." When the student is determined eligible to return to NDSU following a suspension, the original transcript notation will remain and a new transcript notation will be added: "eligible for registration effective"~~

10.2 Retention and Destruction

Sanctions Less than Suspension or Expulsion

In cases in which students are found in violation and receive a sanction less than Suspension or Expulsion, with or without additional terms and conditions, all records related to that students' cumulative conduct history will be retained for seven years from the date of the student's last conduct violation. Student conduct records may be retained indefinitely at the discretion of the Vice Provost.

Suspension or Expulsion

In cases in which students are found in violation and receive a sanction of suspension or expulsion, conduct records will be retained on a permanent basis.

Student Organization Records

Records of conduct violations involving student organizations will be retained for seven years following the date of the incident. Student organization conduct records may be retained indefinitely at the discretion of the Vice Provost.

FINAL NOTE Occasionally there may be a need to update certain details such as changes to staff titles, office locations, etc. that are mentioned in this document. The Vice Provost may make editorial changes relating to this document as long as the substance of the document is not affected.

There are a number of additional ~~U~~university policies that pertain to students and are too numerous to include within the text of this ~~Ce~~ode. Students are urged to read these documents that may be found at the locations listed below. NDSU students are responsible for knowing the contents of ~~these all NDSU~~ policies and may be held accountable under A Code of Student Conduct for any

violations of [these policies](#) policy. For assistance using any of these policies, please contact the Student Affairs Office.

Related University Policy Statements

1. [Bank and Investment Accounts for Student Organization Bank Accounts](#)
2. [NDSU Policy 703, NDSU Card Terms and Conditions](#)
3. [NDSU Policy 162.1, Consensual Relationships](#)
4. [License Agreement for Residence Halls](#)
5. [SBHE Policy 506.1, Immunization: TB Testing](#)
6. [Federally Mandated Sexual Assault Prevention Training](#)
8. [SBHE Policy 401.2, Political Activities](#)
9. [License Agreement for University Apartments](#)
10. [NDSU Policy 154.1, Sale or Distribution of Racially and Sexually Offensive Material](#)
11. [Student Organization Guidelines and Procedures](#)

Related University Policy Statements	Website
1. Academic dishonesty Code of Academic Responsibility and Conduct	www.ndsu.edu/fileadmin/policy/335.pdf
2. Academics freedom (ND State Board of Higher Education Policy #401.1	www.ndus.edu/makers/procedures/sbhhe/default.asp?PID=77&SID=5
3.1 Bank and Investment Accounts for Student Organization Bank Accounts	www.ndsu.edu/accounting/bi_accounts/stdntorgs/
4.2. NDSU Card Terms and Conditions Policy	www.ndsu.edu/fileadmin/policy/703.pdf
5. Conflict of interest, NDSU Policy Manual	www.ndsu.edu/fileadmin/policy/151.pdf
6.3 Consensual Relationships, NDSU Policy Manual	www.ndsu.edu/fileadmin/policy/162_1.pdf
7. Due process requirements	www.ndus.edu/makers/procedures/sbhhe/default.asp?PID=746&SID=6
8. Eligibility for participation in co-curricular activities	www.ndsu.edu/student_life/policies_and_forms/eligibility_for_participation_in_co_curricular_activities/
9. Employment, chapter 1 of the NDSU Policy Manual	www.ndsu.edu/policy
10. Equal opportunity grievance procedures	http://www.ndsu.edu/fileadmin/policy/156.pdf
11. Fitness for duty, NDSU Policy Manual	www.ndsu.edu/fileadmin/policy/161.pdf
12. License Agreement for Residence Halls	www.ndsu.edu/fileadmin/reslife/Misc/NDSU_License_17-18.pdf
4. Grade appeals board	www.ndsu.edu/fileadmin/policy/337.pdf

14.	Graduate college Policies	https://bulletin.ndsu.edu/graduate/policies/
15.	<u>Immunization; TB Testing, NDUS Policy 506.1</u>	www.ndus.edu/makers/procedures/sbhe/default.asp?PID=74&SID=6
16.	NDUS procedures 1901.2—Computer and network usage	www.ndus.edu/makers/procedures/sbhe/default.asp?PID=126&SID=11
17.	<u>Parental Notification Policy</u>	www.ndus.edu/makers/procedures/sbhe/default.asp?PID=126&SID=11
18.	<u>Political Activities, NDUS Policy 401.2</u>	www.ndus.edu/makers/procedures/sbhe/default.asp?PID=78&SID=5
19.	Public/open records, NDSU Policy Manual	www.ndsu.edu/fileadmin/policy/718.pdf
20.	Purchasing policies for student organizations, NDSU policy Manual	www.ndsu.edu/fileadmin/policy/400.pdf
21.	<u>License Agreement for University Apartments</u>	www.ndsu.edu/fileadmin/reslife/Misc/2017-2018_Apartment_License_Agreement_-_FINAL.pdf
22.	Resident tuition law and guidelines (ND State Board of Higher Education Policy #504)	www.ndus.edu/makers/procedures/sbhe/default.asp?PID=72&SID=6
23.	<u>Sale or Distribution of Racially and Sexually Offensive Material Policy</u>	www.ndsu.edu/fileadmin/policy/154_1.pdf
24.	Sexual misconduct and Title IX compliance	www.ndsu.edu/fileadmin/policy/603.pdf
25.	Smoke free facilities, NDSU Policy Manual	www.ndsu.edu/fileadmin/policy/153.pdf
26.	Student Affairs related policies, chapter 6 of the NDSU Policy Manual	www.ndsu.edu/policy
27.	Student records: Notification of rights under FERPA	https://www.ndsu.edu/registrar/records/ferpa/
28.	Teaching policies, chapter 3 of the NDSU Policy Manual	www.ndsu.edu/policy/section_3_non_banded_staff_employment_faculty_and_other/
29.	Traffic and safety/university policy, NDSU Policy Manual	www.ndsu.edu/fileadmin/policy/706.pdf
30.	Transportation and motor pool, NDSU Policy Manual	www.ndsu.edu/fileadmin/policy/709.pdf
31.	<u>Tri-College University</u>	www.ndsu.edu/fileadmin/mu.ndsu.edu/Q9SAQ/Tri-College_Dual-College_Organization_Recognition.doc
32.	University policy on anti harassment	www.ndsu.edu/fileadmin/policy/163.pdf
33.	University policy on equal opportunity	www.ndsu.edu/fileadmin/policy/100.pdf
34.	University policy on sexual harassment	www.ndsu.edu/fileadmin/policy/162.pdf
35.	Use of university name	www.ndsu.edu/fileadmin/policy/700_1.pdf
36.	Webpage development policies, NDSU Policy Manual	www.ndsu.edu/fileadmin/policy/710_1.pdf

8/11/17

HISTORY:

New	
Amended	September 27, 1999
Amended	May 31, 2011
Amended	August 23, 2014
Amended	September 18, 2015
Housekeeping	October 6, 2015
Housekeeping	June 23, 2017

Attachment 6

Policy 130 Version 1 9/6/17

Policy Change Cover Sheet

This form must be attached to each policy presented. All areas in **red**, including the header, must be completed; if not, it will be sent back to you for completion.



If the changes you are requesting include housekeeping, please submit those changes to nds.policy.manual@nds.edu first so that a clean policy can be presented to the committees.

SECTION: 130 Annual Leave

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).
 - Is this a federal or state mandate? ☐ Yes ☒ No
 - During Time, Labor, and Absence Management (TLAB) NDUS System Office provided feedback that there were too many instances where leave without pay was being used when employees had available annual leave balance available to use. Also indicated that majority of leave without pay instances for less than 1 day did not appear consistent with NDSU's Policy 149 for purposes outlined.
 - Policy 149 Leave Without Pay:
 - "Leave without pay may be authorized for benefited employees, who have maintained a record of good performance, for purposes such as education, research, temporary employment with another university, governmental, or private agency when such employment will contribute to the employee's expertise in his or her field and make the employee more effective upon return to employment, literary pursuits, or any other purpose that will improve the employee professionally and will directly or indirectly benefit the institution or system. In addition, a leave without pay may be granted for necessary absences due to illness (when family medical leave is not available or has expired) or other important matters."
 - With the implementation of TLAB, when leave is taken in less than 1 day increments it causes leave accruals to be inaccurate, resulting in a need to manually go in and adjust.
2. This policy change was originated by (individual, office or committee/organization):
 - Human Resources and Payroll 9/6/17
 - Noah.fischer@nds.edu

This portion will be completed by Mary Asheim.

Note: Items routed as information by SCC will have date that policy was routed listed below.

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

Senate Coordinating Committee: 9/14/17

Faculty Senate:

Staff Senate:

Student Government:

President's Cabinet:

The formatting of this policy will be updated on the website once the content has final approval. Please do not make formatting changes on this copy. If you have suggestions on formatting, please route them to nds.policy.manual@nds.edu. All suggestions will be considered, however due to policy format guidelines, they may not be possible. Thank you for your understanding!

North Dakota State University
Policy Manual

SECTION 130
ANNUAL LEAVE

SOURCE: NDUS Human Resources Policy Manual, Section 6
NDSU President

- 1. Annual leave with pay is earned by eligible employees for the purpose of freeing them from their regular duties to spend time in rest and recreation or to attend to personal matters. Upon approval, annual leave may only be used in place of regularly scheduled work hours and shall not cause overtime. Such leave should be programmed to insure that leave is taken rather than carried forward from year to year.
- 2. University operations govern annual leave periods. Consideration is given first to the convenience of the administration, departmental needs, then the employee's departmental seniority and finally to the employee's preference. Annual leave is computed on the basis of the employee's hours/week, and months/year.

2.1 The employee must obtain authorization from his/her department head before taking annual leave. The form of this authorization is to be determined by the respective department head.

2.2 The employee is responsible for furnishing a leave request to their supervisor or department head with a completed "Notification of Employee Leave" card upon returning to work.

2.3 The employee is required to use applicable accrued annual and compensatory time before authorized leave without pay. Leave without pay must be taken in full day increments.
2.2

- 3. Annual leave with pay for full-time benefited, broadbanded staff employees is earned on the basis of continuous service from date of employment as follows:

First through third year - the equivalent of 12 days per year
Fourth through seventh year - the equivalent of 15 days per year
Eighth through twelfth year - the equivalent of 18 days per year
Thirteenth through eighteenth year - the equivalent of 21 days per year
Over eighteen years - the equivalent of 24 days per year

Annual leave for full-time, non-banded employees in the following job categories is earned on the same basis as for staff employees: graduate research fellows (2230), graduate teaching fellows (2235), post doc research fellows (2240), research scientists (2420), extension program assistants (2530), and international exchange scientists (2810).

Graduate teaching, research or service assistants and experiment station project assistants do not earn annual leave.

- 3.1 Years of service shall be computed from the employment anniversary dates.

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3.2 Annual leave for part-time staff employees and the non-banded employees identified above in 3 is earned on a prorated basis.

4. Presidents, executive deans, provosts, vice presidents, positions excluded from the broadbanding system, and other positions approved by the President or chancellor at the time of hire are entitled to accrue a minimum of twelve working days and a maximum of 24 working days of annual leave each year to be taken at the convenience of the administration. Accrual rates for these employees are determined by the institution president. For any of these employees who are less than full-time, the annual leave will be prorated.

Each department may negotiate annual leave accrual on a case-by case basis during the recruitment, with prior Presidential approval. Current benefitted employees are not eligible.

5. Annual leave for 12 month faculty and other non-banded job categories not identified in #3 above is earned at the rate of 16 hours per month, 24 days per year. Annual leave will be prorated for those who are less than full-time. For non-banded employees on 9, 10, or 11, month appointments, see Section 320.
6. All eligible employees may accumulate annual leave hours. Full-time employees may accumulate up to 30 working days or 240 hours which shall be carried forward on January 1st of each year. Part-time employees may accumulate up to the equivalent number of days or hours on a prorated basis. Any accumulation in excess of 30 days or 240 hours (or the equivalent on a prorated basis for part-time employees) on December 31st of each year shall be cancelled.
7. All employees eligible to accumulate annual leave must take at least forty hours (or the equivalent on a prorated basis for part-time employees) of annual leave each year, except for the year during which they are hired.
8. When a holiday occurs during annual leave, the holiday is not considered a day of annual leave time.
9. At the discretion of the department head and the concurrence of the Director of Human Resources/Payroll or designee, an employee may be granted annual leave in advance of the accumulation thereof up to a maximum of 40 hours. In rare cases, such as leave due to a workers compensation claim or shared leave, the HR/Payroll office may process leave which exceeds the 40 hour advance. Annual leave taken in advance of accumulation may be deducted from the employee's last paycheck provided the employee has signed an agreement authorizing the deduction. This agreement must be submitted to and approved by the Office of Human Resources and Payroll prior to the employee obtaining a negative accrual balance.
10. Benefited employees terminating employment must be paid for earned unused annual leave subject to all approved payroll matched reductions/deductions. "Unused annual leave" shall include any leave carried over from the previous year and all accrued leave up to the date of termination. Proper termination notice must be given and any unearned annual leave taken shall be deducted from the employee's last paycheck.
 - 10.1 Annual leave earned by an employee on a 12 month appointment may not be carried forward by the employee to be used or paid for during the term of a subsequent appointment for less than 12 months and must be paid out.
11. In case of death, payment of all earned, unused annual leave shall be paid according to Section 34-01-12 of the North Dakota Century Code. (See Section 183.)

12. Accrued annual leave for employees previously employed with other North Dakota institutions or agencies may be transferred to institutions under the State Board of Higher Education according to agreements between the employee and the institution. If re-employment occurs within one calendar year, the re-employing institution shall credit the employee with prior years of service from any state agency in computing annual leave accrual rate.
13. When employment begins or ends during a pay period, the accrual of annual leave shall be prorated for the pay period when the employee is hired or terminated and does not work a full pay period.
14. Leave requests are processed on an on-going basis. The approving supervisor is responsible for verifying leave balances before approving. Corrections to leave will be handled by the Office of Human Resources and Payroll.

HISTORY:

New	July 1990
Amended	April 1996
Amended	March 1998
Amended	October 1999
Amended	April 2002
Amended	October 2003
Amended	March 2006
Housekeeping	April 2010
Housekeeping	May 15, 2012
Housekeeping	April 11, 2013
Housekeeping	July 12, 2013
Amended	March 26, 2014
Amended	November 7, 2014
Amended	June 22, 2015
Housekeeping	March 31, 2017

Attachment 7

Policy 143 Version 1 9/6/17

Policy Change Cover Sheet

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SECTION:

143 Sick Leave

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).

- Is this a federal or state mandate? ☐ Yes ☒ No
- During Time, Labor, and Absence Management (TLAB) NDUS System Office provided feedback that there were too many instances where leave without pay was being used when employees had available sick leave balance available to use. Also indicated that majority of leave without pay instances for less than 1 day did not appear consistent with NDSU's Policy 149 for purposes outlined.
- Policy 149 Leave Without Pay:
- "Leave without pay may be authorized for benefited employees, who have maintained a record of good performance, for purposes such as education, research, temporary employment with another university, governmental, or private agency when such employment will contribute to the employee's expertise in his or her field and make the employee more effective upon return to employment, literary pursuits, or any other purpose that will improve the employee professionally and will directly or indirectly benefit the institution or system. In addition, a leave without pay may be granted for necessary absences due to illness (when family medical leave is not available or has expired) or other important matters."
- For serious health conditions, leave is typically designated as Family and Medical Leave act Eligible. NDSU Policy 135 FMLA states "an employee is required to use applicable, accrued paid and donated leave and compensatory time before authorized unpaid FMLA leave."
- With the implementation of TLAB, when leave is taken in less than 1 day increments it causes leave accruals to be inaccurate, resulting in a need to manually go in and adjust.

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

- Human Resources and Payroll 9/6/17
- Noah.fischer@nds.edu

This portion will be completed by Mary Asheim.

Note: Items routed as information by SCC will have date that policy was routed listed below.

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

Senate Coordinating Committee: 9/14/17

Faculty Senate:

Staff Senate:

Student Government:

President's Cabinet:

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North Dakota State University

Policy Manual

SECTION 143

SICK/DEPENDENT LEAVE

SOURCE: NDSU PRESIDENT
NDUS Human Resource Policy Manual

1. Sick leave, including maternity, is a benefit granted by the University to eligible employees and is not a benefit considered to be earned by the employee such as annual leave. It is an insurance benefit allowing employees to build a reserve of days they can use for their extended illnesses. *Abuse of this benefit may be grounds for disciplinary action or termination.* Employees are responsible for informing their supervisors prior to the start of their work schedule of their sickness.

- 1.1 The employing department may require satisfactory medical verification as deemed necessary by the department head prior to the payment of sick leave.

- 1.2 The employee is responsible for furnishing a leave request to their supervisor or department head ~~with a completed "Notification of Employee Leave" card~~ upon returning to work.

- 1.3 Sick leave may only be used in place of regularly scheduled work hours and shall not cause overtime.

- 1.3
 - 1.4 The employee is required to use applicable accrued sick and compensatory time before authorized leave without pay. Leave without pay must be taken in full day increments.

2. Sick leave is granted on the basis of continuous service from date of employment for benefited staff employees, *and benefited 12-month academic staff and other non-banded staff.*
3. Sick leave for full-time eligible employees accrues based on rate per hour at a rate equivalent to 12 days per year. Sick leave for eligible part-time employees working 20 hours or more per week is granted on a prorated basis. Sick leave accumulation is unlimited.
4. Sick leave may be granted to employees who become ill while on vacation provided satisfactory medical proof of such illness is submitted.
5. When a holiday occurs during a paid sick leave, the holiday is not considered a day of sick leave.
6. Upon termination, employees with ten years of continuous state service will receive a payment equivalent to 10% of the dollar value of their accrued sick leave. The amount is computed on the basis of the employee's salary at the time of termination and shall be in the form of a lump-sum payment.
7. At the discretion of the department head and the concurrence of the Director of Human Resources/Payroll or designee, an employee may be granted sick leave in advance of the

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accumulation thereof up to a maximum of 40 hours. In rare cases, such as leave due to a workers compensation claim or shared leave, the HR/Payroll office may process leave which exceeds the 40 hour advance.. Sick leave taken in advance of accumulation may be deducted from the employee's last paycheck provided the employee has signed an agreement authorizing the deduction. This agreement must be submitted to and approved by the Office of Human Resources and Payroll prior to the employee obtaining a negative accrual balance.

8. *Unless an approved leave of absence has been granted, an employee who is off the payroll for one year shall lose unused sick leave.*
9. Accrued sick leave is transferable from any state agency to the employing institution if employment with the institution occurs within one calendar year of separation of service with the state agency. In the event of a Reduction in Force, sick leave is transferable if reemployment occurs within two calendar years.
10. Sick leave may be used by the employee when:
 - 10.1 The employee is unable to work due to a mental or physical condition (including maternity).
 - 10.2 The employee has an appointment for the diagnosis or treatment of a medically related condition.
 - 10.3 The employee wishes to attend to the needs of an eligible family member who is ill or to assist them in obtaining other services related to their health. Eligible family members include the employee's spouse, parent (natural, adoptive, foster, and step-parent); child (natural, adoptive, foster, and step-child); or any other family member who is financially or legally dependent upon the employee or who resides with the employee for the purpose of the employee providing care to the family member.
 - 10.4 Sick leave used for the purposes described in 10.3 shall not exceed eighty (80) hours per calendar year.
 - 10.5 In the case of a serious health condition of an eligible family member, an employee may take up to a total of four-hundred-eighty (480) hours of sick leave in any twelve-month (12) period, including the eighty (80) hours in section 10.4 above.
 - 10.6 The employee is caring for a newborn child or for a child placed with the employee, by a licensed child-placing agency, for adoption or as a precondition to adoption, but not both. Sick leave in such cases is limited to six (6) weeks during the first six (6) months from birth or placement.
 - 10.7 The employee seeks for oneself or to assist a parent, child, spouse, sibling, or any other individual who regularly resides in the household or who within the prior six months regularly resided in the household, with the consequences of domestic violence, a sex offense, stalking, or terrorizing. Sick leave may be used to seek legal or law enforcement remedies; treatment by a health care provider for physical or mental injuries; obtain services from a domestic violence shelter, rape crisis center, or social services program; obtain mental health counseling; and participate in safety planning, relocation or other actions to increase the employee's or immediate family member's safety from future domestic violence, a sex offense, stalking or terrorizing. The immediate supervisor may limit the use of sick leave for this section to forty (40) hours per calendar year.

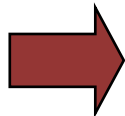
11. *The accrual of sick leave shall be prorated for the pay period in which employment begins or ends.*
12. *Sick leave is not accrued during developmental leaves or leaves of absence without pay.*
13. *Accumulated sick leave may be used for any period(s) of actual disability caused or contributed to by pregnancy. Beyond the period of disability, an employee may request use of annual leave, family leave, and/or leave without pay to provide for an extended post-delivery period away from work.*
14. *Leave requests are processed on an on-going basis. The approving supervisor is responsible for verifying leave balances before approving. Corrections to leave will be handled by the Office of Human Resources and Payroll.*
-

HISTORY:

New	July 1990
Amended	April 1992
Amended	July 1997
Amended	April 2002
Amended	January 2004
Amended	November 2005
Amended	January 2007
Amended	March 2008
Amended	November 7, 2011
Housekeeping	July 12, 2013
Amended	October 5, 2015
Housekeeping	March 31, 2017

Policy Change Cover Sheet

This form must be attached to each policy presented. All areas in **red**, including the header, must be completed; if not, it will be sent back to you for completion.



If the changes you are requesting include housekeeping, please submit those changes to ndsuh.policy.manual@ndsuh.edu first so that a clean policy can be presented to the committees.

SECTION:

149 Leave Without Pay

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).

- Is this a federal or state mandate? ☐ Yes ☒ No
- During Time, Labor, and Absence Management (TLAB) NDUS System Office provided feedback that there were too many instances where leave without pay was being used when employees had available sick leave balance available to use. Also indicated that majority of leave without pay instances for less than 1 day did not appear consistent with NDSU's Policy 149 for purposes outlined.
- Policy 149 Leave Without Pay:
- "Leave without pay may be authorized for benefited employees, who have maintained a record of good performance, for purposes such as education, research, temporary employment with another university, governmental, or private agency when such employment will contribute to the employee's expertise in his or her field and make the employee more effective upon return to employment, literary pursuits, or any other purpose that will improve the employee professionally and will directly or indirectly benefit the institution or system. In addition, a leave without pay may be granted for necessary absences due to illness (when family medical leave is not available or has expired) or other important matters."
- With the implementation of TLAB, when leave is taken in less than 1 day increments it causes leave accruals to be inaccurate, resulting in a need to manually go in and adjust.
- The revisions clarify that leave without pay be requested in full day increments, and that if an employee has applicable paid leave to use, it be used prior to requesting leave without pay.

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

- Human Resources and Payroll 9/6/17
- Noah.fischer@ndsuh.edu

This portion will be completed by Mary Asheim.

Note: Items routed as information by SCC will have date that policy was routed listed below.

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

Senate Coordinating Committee:

Faculty Senate:

Staff Senate:

Student Government:

President's Cabinet:

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North Dakota State University

Policy Manual

SECTION 149

LEAVE WITHOUT PAY

SOURCE: SBHE Policy Manual, Section 701.1

1. Leave without pay may be authorized for benefited employees, who have maintained a record of good performance, for purposes such as education, research, temporary employment with another university, governmental, or private agency when such employment will contribute to the employee's expertise in his or her field and make the employee more effective upon return to employment, literary pursuits, or any other purpose that will improve the employee professionally and will directly or indirectly benefit the institution or system. In addition, a leave without pay may be granted for necessary absences due to illness (when family medical leave is not available or has expired) or other important matters. [Leave without pay must be requested in full day increments.](#)
2. Requests for leave without pay for the President shall be approved by the Board. Requests for leave without pay for institution employees shall be approved by the institution president or designee.

All Employees

In cases where a leave without pay is requested due to sickness, the employee may be requested to provide medical certification to verify the existence of a health condition including date of commencement and probable duration of the illness. [An employee is required to use applicable, accrued paid and donated leave and compensatory time before requesting leave without pay.](#)

Broadbanded Employees

Leave without pay for a period of less than 21 working days may be authorized by the department head. Leave without pay for 21 or more working days requires advance approval of the appropriate vice president and should be requested through the Office of Human Resources/Payroll.

Leave may not be granted for a period in excess of one calendar year, except for military service. Failure of an employee to report for duty or reinstatement on expiration of leave granted is cause for automatic termination.

Externally Funded Research Faculty

Research faculty (so designated by their titles) who are funded totally on externally generated funds may, when their project and funding are completed, request a leave without pay while they submit proposals for additional funding. Such a leave must be approved as other leaves without pay but allows the research faculty member to retain their research faculty title and use it when submitting funding proposals. Research faculty applying for a leave without pay under these circumstances should follow the NDSU Guidelines below but use the [Leave Without Pay form](#), located on the Provost's web page.

3. An employee who is on an approved leave of absence without pay may continue to be covered by employer benefits (health, basic life and employee assistant program) and/or voluntary benefits (optional life, dental, etc.) provided:

- a) the employee remits the appropriate premium(s) to the Human Resources/Payroll Office,
- b) such coverage is not inconsistent or contrary to insurance contracts, and
- c) such coverage would not be contrary to State law.

- 4. Leave of absence shall be granted with assurance of reinstatement to the same position or to other employment in the department recommending the leave unless circumstances make it clearly impractical.
- 5. Employees on leave without pay shall retain their year's service rights and accumulated benefits but shall earn no additional benefits.
- 6. **NDSU Guidelines** Proposals for leave of absence without pay shall be in writing and submitted on the University's [Leave Without Pay form](#) (located on the Provost's web page) for approval through appropriate channels. An individual requesting a leave without pay for a reason other than illness should inform the department chair or unit administrator at least six months prior to the anticipated leave and submit the request for administrative approval at least three months prior to the leave.

No proposal for leave without pay shall be approved unless the employee agrees, in writing, to provide notification to the University by a specific date of the employee's resignation or of the employee's intent to return to NDSU. The date is to be negotiated prior to approval of the proposal. Failure by the employee after a specific request by the responsible supervisor to either provide the notification of the intent to return or to submit a resignation by the required date shall be deemed to be a resignation.

HISTORY:

New	March 13, 1987
Amended	April 1995
Amended	October 1996
Amended	October 1998
Amended	April 2002
Amended	April 2006
Housekeeping	August 7, 2014

Attachment 9

Policy 156 Version 1 08/17/2017

Policy Change Cover Sheet

This form must be attached to each policy presented. All areas in **red**, including the header, must be completed; if not, it will be sent back to you for completion.



If the changes you are requesting include housekeeping, please submit those changes to nds.policy.manual@nds.edu first so that a clean policy can be presented to the committees.

SECTION: Policy 156 Discrimination, Harassment, and Retaliation Complaint Procedures

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).
 - Is this a federal or state mandate? ☒ Yes ☐ No
 - Describe change: Changes to maintain compliance with federal Title IX regulations, state law, and internal organizational changes. Added information from Policy 603 so that procedure is now contained in one policy.
2. This policy change was originated by (individual, office or committee/organization):
 - Office of the Provost
 - Canan Bilen-Green canan.bilen.green@nds.edu

This portion will be completed by Mary Asheim.

Note: Items routed as information by SCC will have date that policy was routed listed below.

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

Senate Coordinating Committee: Will go to the 9/14/17 SCC meeting for information only due to the need to expedite these changes

Faculty Senate:

Staff Senate:

Student Government:

President's Cabinet:

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North Dakota State University

Policy Manual

SECTION 156

DISCRIMINATION, HARASSMENT, AND RETALIATION COMPLAINT PROCEDURES

SOURCE: NDSU President

1. INTRODUCTION

- 1.1 North Dakota State University (NDSU) prohibits discrimination in its employment decisions and educational programs and activities 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, spousal relationship to current employee, status as a U.S. veteran, or participation in lawful activity off NDSU's premises during nonworking hours which is not in direct conflict with the essential business-related interests of NDSU or other protected classes as defined by federal, state, or local law. (See [NDSU Section 100, Equal Opportunity and Non-Discrimination Policy](#)).
- 1.2 NDSU is committed to providing a safe and non-discriminatory learning, living, and working environment for all members of its university community. Specifically, NDSU is committed to taking action to:
 - 1) Stop discrimination;
 - 2) Remedy the effects of discrimination;
 - 3) Prevent the recurrence of discrimination; and
 - 4) Educate the university community about their rights and responsibilities regarding discrimination.
- 1.3 NDSU has committed itself to the establishment and adoption of procedures to resolve complaints of discrimination in violation of NDSU's Equal Opportunity and Non-Discrimination Policy, including complaints of harassment or retaliation. A central purpose of these complaint procedures is to provide a system at NDSU to conduct adequate, reliable, and impartial investigations of complaints of discrimination. NDSU's primary concern is to enact and implement complaint procedures that encourage reporting of discrimination and that ensure the rights of NDSU students, employees, and all other participants in its educational programs and activities are protected.

2. DEFINITIONS

- 2.1 **Discrimination** – Different or unequal treatment of an individual (or group), based on one or more of the protected classes of the individual (or group), except as where permitted or required by law, that negatively affects their education, employment, or other participation in educational programs or activities.
 - 2.1.1 Protected classes for purposes of these procedures are: age, color, gender expression/identity, genetic information, marital status, national origin, physical or mental disability, pregnancy, public assistance status, race, religion, sex, sexual orientation, spousal relationship to current employee, status as a U.S.

veteran, or participation in lawful activity off NDSU's premises during nonworking hours, which is not in direct conflict with the essential business-related interests of NDSU. (See [NDSU Section 100, Equal Opportunity and Non-Discrimination Policy](#)).

- 2.2 **Discrimination complaint** – A complaint alleging discrimination in violation of NDSU's Equal Opportunity and Non-Discrimination Policy, including complaints of harassment or retaliation.
- 2.3 **Equity Director** – For purposes of these procedures, the Equity Director is NDSU's Vice Provost and Title IX/ADA Coordinator.
- 2.4 **Equity Office** – For purposes of these procedures, the Equity Office is NDSU's Office of the Vice Provost for Faculty and Equity.
- 2.5 **Harassment** – A form of discrimination; unwelcome oral, written, graphic, or physical conduct, based on one or more of the protected classes (see 2.1.1) of an individual (or group), that is sufficiently severe, persistent, or pervasive so as to unreasonably interfere with their education, employment, or other participation in educational programs or activities or that creates a working, learning, or educational program or activity environment that a reasonable person would find hostile, intimidating, or abusive. Harassment may include, but is not limited to, threats, physical contact or violence, offensive jokes, insults or put-downs, slurs or name calling, vandalism/graffiti, or offensive objects or pictures. Petty slights, annoyances, and isolated incidents (unless very serious) typically do not rise to the level of harassment.

3. FILING A DISCRIMINATION COMPLAINT

- 3.1 Current or former NDSU students or employees, applicants for admission or employment, or any other participants in NDSU's educational programs or activities, or any group thereof, are encouraged to file a complaint if they believe they have been discriminated against in violation of NDSU's Equal Opportunity and Non-Discrimination Policy, which may include a complaint of harassment or retaliation. A complaint may be filed concerning alleged discriminatory conduct that occurred on NDSU's premises or off campus.

- 3.1.1 **How to file a discrimination complaint** – A discrimination complaint is initiated by completing a NDSU Discrimination/Harassment/Retaliation Complaint Form (Complaint Form) and filing it with the Equity Director. The Complaint Form is available online at <https://www.ndsu.edu/equity/forms/> or by contacting the Equity Office in Suite 201, Old Main, NDSU Main Campus, 701-231-7708, ndsu.eoaa@ndsu.edu. The Complaint Form is also available in the Student Affairs Office, Memorial Union 250, NDSU Main Campus, 701-231-8240. The Complaint Form can be submitted via email at ndsu.eoaa@ndsu.edu or by bringing it to the Equity Office. The Equity Office is available to assist with completing the Complaint Form as needed.

~~Anyone who would like to file a~~The Equity Office will investigate all discrimination complaint against a student or student organization also has the option of filing the complaint with the Student Affairs Office, Memorial Union 250, NDSU Main Campus, 701-231-8240. Discrimination complaints filed against a student or student organization will be resolved in coordination with the Student AffairsNDSU. The Equity Office. If a discrimination complaint against a student or student organization will be

~~resolved through formal coordinate the resolution, a hearing, and any appeal, will be administered by the of these complaints involving employees. The Student Affairs Office, in coordination with the Equity Office, under the will coordinate the resolution of these complaints involving students, including hearings, sanctions, and appeals, pursuant to procedures found in the Rights and Responsibilities of Community: A Code of Student Conduct. (Section 601). The Equity Office will investigate all discrimination, harassment, retaliation, and sexual misconduct complaints involving employees utilizing the procedures set forth in this policy and will coordinate the resolution of those complaints.~~

~~The Equity Office will investigate all discrimination, harassment, retaliation, and sexual misconduct complaints utilizing Sections 1 through 8.8 of this policy if the complaint identifies an alleged violation by a student. The adjudication of the matter resolution of the complaint including pre-hearing, hearing and appeals will be conducted by the Student Affairs Office pursuant to NDSU Policy 601, will be conducted by the Student Affairs Office, in coordination with the Equity Office, pursuant to NDSU Policy 601.~~

- 3.1.2 **Deadline for filing a discrimination complaint** - NDSU encourages those who believe they have been discriminated against to file a discrimination complaint as soon as possible. Unless the Equity Director agrees otherwise in writing, the Complaint Form must be submitted within 180 calendar days of the most recent incident of discrimination.
- 3.1.3 **Confidentiality cannot be guaranteed** - Depending on the nature of the discrimination complaint, NDSU will keep the complaint and its investigation confidential to the extent that it is possible. However, confidentiality cannot be guaranteed under these procedures as NDSU may have an obligation to take specific actions once aware of alleged discriminatory conduct.
- 3.1.4 **Confidential support resources** - If seeking a confidential resource, NDSU students may contact the NDSU Counseling Center at 212 Ceres Hall, NDSU Main Campus, 701-231-7671 and the Student Health Service (Wallman Wellness Center, NDSU Main Campus, 701-231-7331). The Faculty/Staff Assistance Program, as described in NDSU Section 134, is a confidential resource for NDSU employees.
- 3.1.5 **Anonymous reporting** - NDSU students, faculty, and staff may submit an anonymous form to report acts of bias, bigotry, or hate at NDSU. NDSU may be limited in its ability to respond to a report if it is submitted anonymously. Additionally, in very limited circumstances, NDSU may need to take action to learn the identity of an individual who submitted an anonymous report. For more information, see <https://www.ndsu.edu/biasreport/>.

4. RETALIATION PROHIBITED

- 4.1 NDSU encourages reporting of discrimination and will not discipline any individual (or group) who makes a good faith report of discrimination. Any individual (or group) reporting discrimination or otherwise participating in these procedures is entitled to protection from retaliation as a result of their activity under these procedures. Retaliation may include, but is not limited to, intimidation, harassment, reprisal, or other negative changes in education or employment. Anyone who believes they have been retaliated against for their participation under these procedures is encouraged to file a Complaint Form, which will be

processed under these procedures as a separate matter from the originally filed discrimination complaint, if any. Anyone found responsible for retaliation will be subject to disciplinary action, up to and including termination or expulsion.

5. REMEDIAL MEASURES

- 5.1 Upon receipt of a discrimination complaint or as otherwise informed of alleged discrimination under these procedures, NDSU will, where appropriate, take reasonable steps to remedy the harm to those affected by discriminatory conduct. Remedial measures may include, but are not limited to, a no contact directive, a safety plan, residence modifications, academic modifications and support, work schedule and/or location modifications, parking modifications, referral to counseling or other health services, administrative leave, temporary suspension, or any other measure deemed appropriate by NDSU.

6. PRELIMINARY EVALUATION OF DISCRIMINATION COMPLAINT

- 6.1 **Preliminary evaluation determination** - The Equity Director will evaluate the discrimination complaint and decide to either: (1) pursue further action; or (2) dismiss the discrimination complaint. A discrimination complaint may be dismissed if: (1) it fails to allege any facts that suggest discrimination, harassment, or retaliation; or (2) an appropriate resolution or remedy has already been achieved. NDSU will not dismiss a complaint because it alleges discriminatory conduct that took place off campus. Rather, in the course of its investigation of the complaint, NDSU will determine whether the alleged off-campus conduct: (1) occurred within the context of an educational program or activity; and/or (2) has created or reasonably may create a hostile educational or work environment.

Unless there are extenuating circumstances, the preliminary evaluation will be completed within 3 business days of receipt of the discrimination complaint and the decision will be provided in writing to the individual (or group) who filed the complaint. If the Equity Director requires further information from the individual (or group) who filed the discrimination complaint before making a decision, the decision will be made within 3 business days of receipt of the additional information requested. In the case of a dismissal, the Equity Director may provide information or guidance regarding other avenues for support or resolution of the complaint, if appropriate and available.

If the complaint is dismissed, the Reporting Party may submit a request for reconsideration of the complaint within 3 business days of receipt of the preliminary evaluation determination. The Reporting Party may submit additional documentation or information that supplements the original complaint. This may include, but is not limited to, additional evidence or names of witnesses. Complaints resubmitted with no additional information will not be reviewed for reconsideration. Submit all reconsiderations to the Equity Director or by contacting the Equity Office in Suite 201, Old Main, NDSU Main Campus, 701-231-7708, ndsu.eoaa@ndsu.edu. As needed, the Equity Office is available to facilitate finding a resource to assist the party with completing a request for reconsideration.

- 6.2 **Notice of action** - If the Equity Director determines that further action on a discrimination complaint is warranted, the Equity Office will provide written notice to the individual (or group) who filed the discrimination complaint and the individual (or group) against whom the complaint was filed (collectively, the Parties) within 3 business days of the determination made pursuant to 6.1 unless there are extenuating circumstances that delay the proposed timeline. The written notice will include, at a minimum: (1) the names of the Parties; (2) the

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Commented [HM1]: This is remarkably close to "reasonable cause," so I think we should talk through the issue of whether this policy should define reasonable cause.

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basis for the discrimination complaint; (3) a statement that retaliation is prohibited; (4) a statement that requested responses or documentation must be provided in a timely manner; and (5) a description of the resolution process, including a copy of the relevant procedures. A modified notice of action may also be provided to an administrator ~~or a~~ supervisor, or the Student Affairs Office who has control over the environment in which the alleged discriminatory conduct took place. The intent of the modified notice of action is to preserve confidentiality to the extent possible while also putting the administrator ~~or a~~ supervisor, or Student Affairs Office on notice of their responsibility to monitor for retaliation or further discrimination.

7. INFORMAL RESOLUTION

- 7.1 **Informal resolution defined** - Informal resolution is a process in which the Parties attempt to agree upon the resolution of a discrimination complaint without a comprehensive investigatory and determination process. Unless there are extenuating circumstances, the entire informal resolution process will be completed within 30 calendar days of its initiation.
- 7.2 **Informal resolution is optional** - When providing the notice of action to the Parties, the Equity Office may inquire if the Parties are interested in attempting to resolve the discrimination complaint through informal resolution. The Parties will have 3 business days to individually decide if they would like to use informal resolution and should inform the Equity Office of their decisions in writing. The informal resolution process will only be used upon mutual agreement of the Parties. Either party may inform the Equity Office at any time that they want to discontinue their participation in the informal resolution process and the formal resolution process will commence. The Equity Director reserves the right to deny the Parties the option of using the informal resolution process if it is deemed to be inappropriate or inadequate as applied to a particular discrimination complaint.
- 7.3 **Informal resolution process** - Informal resolution may involve the Equity Office, the Student Affairs Office, administrators, supervisors, and/or external moderators working with the Parties to arrive at an appropriate and mutually agreeable resolution of the discrimination complaint. The informal resolution process will not require that the Parties meet face-to-face to resolve the discrimination complaint but may allow it, depending on the nature of the complaint and the power differential between the Parties.
- 7.4 **Informal resolution agreement** - If the Parties resolve the discrimination complaint through the informal resolution process, the Equity Office will draft an informal resolution agreement, which the Parties will sign. A signed copy of the informal resolution agreement will be provided to the Parties, as well as to any administrator ~~or a~~ supervisor, or Student Affairs Office provided with a modified notice of action as described in 6.2. There is no available appeal of a signed informal resolution agreement.

8. FORMAL RESOLUTION

- 8.1 **Formal resolution applicability** - The formal resolution process will commence if: (1) either party elects to use the formal resolution process instead of the informal resolution process; (2) the Parties are unable to mutually agree upon a resolution under the informal resolution process; or (3) the Equity Director determines the informal resolution process is inappropriate or inadequate as applied to a particular discrimination complaint.
- 8.2 **Comprehensive investigation** - A properly trained investigator(s) from the Equity Office will conduct a comprehensive investigation under the formal resolution process in an adequate,

reliable, and impartial manner. Unless there are extenuating circumstances, including when the Parties are unable to mutually agree upon a resolution under the informal resolution process, a comprehensive investigation will commence within 5 business days of providing the notice of action to the Parties as described in 6.2. A comprehensive investigation will include the following steps, as relevant and available:

- (1) An interview with each of the ~~parties~~Parties;
- (2) Interviews with witnesses identified by the Parties or determined otherwise; ~~and~~
- (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 investigators will determine which questions, if any are relevant, and present them to the intended recipient for a response. A review of submitted questions provided by the Parties for the investigator(s) to ask the Parties or witnesses.

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.

8.3 Investigator(s) - A staff member(s) in the Equity Office may conduct the comprehensive investigation of the discrimination complaint or the Equity Director may delegate investigative duties to another properly trained investigator(s). Within 3 business days of notice of the identity of an investigator(s), either party may provide the Equity Director with a written request asking that another investigator(s) be assigned if the party believes there is a conflict of interest with the investigator(s). Where appropriate, a new investigator(s) will be assigned and the Equity Director will provide the Parties with written notice of the newly assigned investigator(s).

8.4 Responsibilities of the Parties – Deadlines for completing actions under these procedures will be communicated in writing to the Parties, who must make every effort to comply with the deadlines communicated to them. Timeliness is particularly important under the formal resolution process as determinations may be made based on available information if a party fails to respond in a timely manner to action requested by an investigator(s). In extenuating circumstances, an extension to a deadline may be granted by the Equity Director and will be communicated in writing to the Parties.

8.5 Standard of proof --In all cases, the applicable standard of proof for determining responsibility for an alleged violation is Consistent with NDSU Policy 601. If the investigation involves an alleged violation by a student, the investigation will use the a reasonable cause standard consistent with Policy 601. For all other investigations, the standard will be The applicable standard of proof under the formal resolution process is “preponderance of the evidence” – meaning, in order for an individual (or group) against whom a discrimination complaint was filed to be held responsible for discrimination, it must be determined that it is *more likely than not* that the individual (or group) violated NDSU’s Equal Opportunity and Non-Discrimination Policy, which —may include harassment or retaliation. ~~For student cases, the Equity Office will use the applicable standard of proof as specified in Policy 601, Code of Student Conduct.~~

In cases involving an alleged violation by an employee, the determination of responsibility shall be made by the investigator(s).

Commented [HM2]: I think this should be more than just a “review” of any submitted questions.

The ability for the parties to ask these questions should be built in to the investigation process (i.e. NDSU should document that each party has this opportunity and whether or not each party has utilized the opportunity). Additionally, unless irrelevant to the matter at hand, NDSU should ask the questions of the intended recipients.

The goal of this addition is to assist NDSU if/when one or both of the parties do not participate in the hearing phase.

In cases involving an alleged violation by a student, the determination of responsibility shall be made by the Hearing Officer, consistent with the procedures detailed in NDSU Policy 601.

Commented [HM3]: Breaking these things out will assist when walking parties through the process.

- 8.6 **Preliminary ~~determination~~investigative report** – After an investigator(s) has finished the comprehensive investigation of a discrimination complaint, the investigator(s) will draft a preliminary investigative report.

For complaints involving an alleged violation by a student, the 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.

Commented [HM4]: In reviewing a number of other institution's policies on this issue, it does not appear that they define reasonable cause. Do you think this is useful/helpful? I am a bit worried of the mixed messages this may send to parties.

For complaints involving an alleged violation by a student, the report shall include the findings of the investigation along with a recommendation regarding the complaint. For all other complaints involving employees, the report shall include the findings of the investigation along with a determination whether the individual (or group) against whom the discrimination complaint was filed is responsible for discrimination, including harassment or retaliation.

Commented [HM5]: See comment HM2

The report will also include, at a minimum, a summary of the relevant information gathered during interviews and otherwise that informed the preliminary investigation. Unless there are extenuating circumstances, the report will be drafted within 30 calendar days of initiation of the comprehensive investigation. The report will be provided to the Parties and, if applicable, a Review Committee as determined by the Equity Office (see 8.7). The Parties will have 5 business days from receipt of the report to respond to the preliminary investigative report and/or any information found in the report in writing. As needed, the Equity Office is available to facilitate finding a resource to assist a party with putting its response in writing. After an investigator(s) has finished the comprehensive investigation of a discrimination complaint, the investigator(s) will draft a preliminary ~~determination~~investigative report. ~~For complaints involving an alleged violation by a student, the report shall include the findings of the investigation along with a recommendation for dismissal of the complaint or charges using the reasonable cause standard. For all other complaints, the report shall include the findings and determine whether that states whether the individual (or group) against whom the complaint discrimination complaint was filed is responsible for a violation~~discrimination, including harassment or retaliation, by a preponderance of the evidence. The report will also include, at a minimum, a summary of the relevant information gathered during interviews and otherwise that informed the preliminary ~~determination~~investigation. Unless there are extenuating circumstances, the report will be drafted within 30 calendar days of initiation of the comprehensive investigation. The report will be provided to the Parties and the review committeeReview Committee (see 8.7). The Parties will have 5 business days from receipt of the report to ~~respond in writing to dispute the preliminary determination~~ investigative report and/or any information found in the report in writing. As needed, the Equity Office is available to facilitate finding a resource to assist a party with putting its response in writing.

- 8.7 **Review ~~committee~~Committee** – A Review Committee, at the discretion of the Equity Office, will may be utilized to provide feedback on the preliminary investigative report. Upon

~~completion of the preliminary report, the Equity Office shall have the option of utilizing a Review Committee to provide advice and guidance regarding the preliminary report. Unless there are extenuating circumstances, a review committee~~ Review Committee will meet within 10 calendar days of issuance of the preliminary ~~determination~~ investigative report in order to ~~make a final determination on~~ finalize the investigative report ~~and to recommend disciplinary action, if any. The review committee~~ Review Committee will be comprised of no fewer than 3 properly trained NDSU ~~faculty or staff~~ members, ~~and/or students~~ that do not have a conflict of interest with the Parties. If a party ~~believes there is a conflict of interest with a member(s) of the review committee~~ Review Committee, the party should follow the procedures and deadline established in 8.3 to dispute the member(s). Prior to meeting, Review Committee members will review the preliminary investigative report and any written response to the report made by the Parties. The Review Committee may ask the investigator(s) who issued the preliminary investigative report to be available during their meeting in order to answer questions related to the investigation and to provide access to documentation in the investigative file as needed. In limited circumstances, the Review Committee may request that the investigator(s) gather additional information if the committee decides it cannot make a recommendation without the additional information. In that case, each party will be provided with the additional information gathered and will have the opportunity to respond to it in writing.

8.8 **Final ~~determination~~ investigative report** ~~Upon completion of any feedback provided by a Review Committee, the preliminary investigation report will become the final investigative report. Prior to meeting, review committee~~ Review Committee members will review the preliminary ~~determination~~ investigative report and any written response to the report made by the ~~The review committee~~ Review Committee may ask the investigator(s) who issued the preliminary ~~determination~~ investigative report to be available during their meeting in order to answer questions related to the investigation and to provide access to documentation in the investigative file as needed. In limited circumstances, the review committee Review Committee may request that the investigator(s) gather additional information if the committee decides it cannot make a determination recommendation without the additional information. In that case, each party will be provided with the additional information gathered and will have the opportunity to respond to it in writing. ~~Upon completion of the preliminary report if no Review Committee is utilized or upon completion of the Review Committee's work if a Review Committee is utilized, the preliminary investigation will become a final investigation report.~~ For complaints involving an alleged violation by a student, the final report shall be provided to the Student Affairs, and the Vice Provost for Student Affairs or designee shall make the determination as to how to proceed with adjudicating or dismissing complaints based upon the final investigation report pursuant to NDSU Policy 601. Office 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.

The final investigative report for employees will include recommended disciplinary action, if any, in addition to a finding as to whether, discriminatory conduct, including harassment or retaliation, occurred. The final investigative report as well as notice of the right to appeal for employees as afforded in 8.12, will be provided in writing to the Parties.

~~The final determination~~ investigative report will include recommended disciplinary action, if any, in addition to a finding as to whether, by a preponderance of the evidence, discriminatory conduct, including harassment or retaliation, occurred. The final

Commented [HM6]: I realize that this is a repeat of the information I added to 8.6, but due to the structure of this policy, it seems like it needs to be in both places (i.e. reasonable cause could present itself between 8.6 and 8.8).

~~determinationinvestigative report, as well as notice of the right to appeal as afforded in 8.12, will be provided in writing to the Parties. The final investigative report in cases where a student is the respondent will be provided to Student Affairs for the student adjudication process to commence as outlined in Rights and Responsibilities of Community: A Code of Student Conduct (Section 601).~~

8.9 **Disciplinary action for discriminatory conduct** – NDSU does not tolerate discrimination, including harassment or retaliation, and will take appropriate disciplinary action against anyone found responsible for discrimination. Students found responsible for discrimination under the procedures in Rights and Responsibilities of Community: A Code of Student Conduct ([Section 601](#)) will be subject to disciplinary action, up to and including expulsion. Employees found responsible for discrimination under these procedures will be subject to disciplinary action, up to and including termination. The disciplinary action recommended by the ~~review~~ [Review Committee](#) will depend on the severity of the discriminatory conduct and whether the ~~individual~~ (or group) was previously found responsible for discrimination.

8.10 **Imposition of disciplinary action** – ~~Disciplinary action will be imposed by the appropriate administrator or supervisor on behalf of NDSU.~~ If neither party exercises the right to appeal ~~as afforded in 8.12, the Equity Director will either: (1) notify any administrator or supervisor (for employees) or supervisor Student Affairs Office (for students) provided with a modified notice of action as described in 6.2 that the matter has been resolved without recommended disciplinary action; or (2) provide the final determinationinvestigative report to the appropriate administrator or supervisor, or Student Affairs Office whether previously provided a modified notice of action as described in 6.2 or otherwise, and consult with the administrator or supervisor, or Student Affairs Office regarding imposition of the recommended disciplinary action. If either party exercises the right to appeal, (1) or (2) will be conducted by the Equity Director once the appeal process has concluded.~~

~~Disciplinary action will be imposed for employees by the appropriate administrator or supervisor on behalf of NDSU. If the administrator or supervisor disagrees with the recommended disciplinary action, the administrator or supervisor must provide its basis for disagreement in writing to the Equity Director within 3 business days of receipt of the final determination. If either party exercises the right to appeal, (1) or (2) will be conducted by the Equity Director once the appeal process has concludedinvestigative report.~~

~~Disciplinary action will be imposed for students pursuant to the procedures outlined in Rights and Responsibilities of Community: A Code of Student Conduct (Section 601) after it has been determined whether there was a violation. These procedures include the notification of the findings of the pre hearing, hearing, sanctions, terms and conditions, and the appeal process.~~

8.11 **Conclusion of formal resolution** – Excluding any appeal, the formal resolution process will be completed within 60 calendar days of the date the discrimination 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.

8.12 **Appeal of ~~final determinationinvestigative report~~** – Within 5 business days of receipt of the ~~final determinationinvestigative report~~ either party may appeal the ~~determinationreport~~ by completing a NDSU Discrimination Appeal Form (Appeal Form) and filing it with the Equity Director. The Appeal Form is available online at <https://www.ndsu.edu/equity/forms/> or by

contacting the Equity Office in Suite 201, Old Main, NDSU Main Campus, 701-231-7708, ndsuoaaa@ndsuo.edu. The Appeal Form can be submitted via email at ndsuoaaa@ndsuo.edu or by bringing it to the Equity Office. As needed, the Equity Office is available to facilitate finding a resource to assist a party with completing the Appeal Form.

The grounds upon which a party can request an appeal are: (1) the recommended disciplinary action is substantially disproportionate to the findings; (2) procedural error led to an improper ~~final determination~~investigative report; and/or (3) new evidence that was previously unavailable should be considered as it could have had a significant impact on the ~~final determination~~investigative report. If an appeal is granted under (3), the Equity Director will require that the ~~review committee~~Review Committee meet again to determine if the ~~final determination~~investigative report should be altered in light of the new evidence. The party who did not provide the new evidence will have the opportunity to respond to the evidence in writing. If the ~~final determination~~investigative report is altered under (3), the Parties will be afforded the opportunity to appeal again under (1) and/or (2) within 5 business days of receipt of the altered ~~final determination~~investigative report. If an appeal is granted under (1) or (2), the Equity Director will evaluate the ~~final determination~~investigative report in an impartial manner in light of the information found in the Appeal Form and will alter or reaffirm the ~~final determination~~investigative report accordingly. Unless there are extenuating circumstances, the appeal process will be completed within 10 business days of submission of the Appeal Form and the results will be provided in writing to the Parties. In cases in which there is a conflict of interest, such as when the grounds for appeal involve action taken by the Equity Director, the Provost will conduct the appeal process.

9. INTERSECTION WITH OTHER RELEVANT NDSU POLICIES

- 9.1 The procedures described above do not eliminate the rights of a party to subsequently participate in pre-disciplinary action review and/or an appeal as afforded elsewhere under NDSU policy. Furthermore, for purposes of these procedures, an appeal process available to the individual (or group) against whom a discrimination complaint was filed must be available to the individual (or group) who filed the discrimination complaint.
- 9.2 **Nonbanded, nonacademic staff** – The applicable policy for nonbanded, nonacademic staff regarding subsequent pre-disciplinary action review and/or an appeal is NDSU [Section 183, Nonrenewal and Dismissal of Nonbanded, Nonacademic Staff](#).
- 9.3 **Regular staff employees** – The applicable policies for regular staff employees regarding subsequent pre-disciplinary action review and/or an appeal are NDSU [Section 220, Staff Job Discipline/Dismissal](#) and NDSU [Section 231, Appeal Procedure for Disciplinary and Reduction in Force Actions](#).
- 9.4 **Faculty** – The applicable policies for faculty regarding subsequent pre-disciplinary action review and/or an appeal are NDSU [Section 350.3, Board Regulations on Nonrenewal, Termination or Dismissal of Faculty](#) and NDSU [Section 350.4, Board Regulations on Hearings and Appeals](#).

10. NOTICE OF MANDATORY REPORTING RESPONSIBILITIES AND TRAINING

- 10.1 It is the responsibility of the entire university community to foster a safe and non-discriminatory learning, living, and working environment. NDSU employees have specific responsibilities when they observe discrimination or receive a report of discrimination.

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NDSU employees must not dissuade an individual (or group) from providing them with a report of discrimination but should inform the individual (or group) of their mandatory reporting responsibilities as described below.

10.1.1 Observance of discrimination – All NDSU employees who observe discrimination, including harassment or retaliation, must document the discrimination and contact the Equity Office in accordance with 10.2.

10.1.2 Report of discrimination – All NDSU employees who receive a report of discrimination *involving a student*, including harassment or retaliation, must document the report and contact the Equity Office in accordance with 10.2. NDSU supervisors, managers, department heads, deans, directors, or administrators who receive a report of discrimination *involving employees*, including harassment or retaliation, must document the report and contact the Equity Office in accordance with 10.2. The provisions of 10.1.2 do not apply to confidential support resources providing services as described in 3.1.4.

10.2 To comply with 10.1.1 or 10.1.2, NDSU employees must promptly complete and submit an NDSU Discrimination/Harassment/Retaliation Report Form (Report Form) to the Equity Director. The Report Form is available online at <https://www.ndsu.edu/equity/forms/> or by contacting the Equity Office in Suite 201, Old Main, NDSU Main Campus, 701-231-7708, ndsu.eoaa@ndsu.edu or ndsu.eoaa@ndsu.edu. The Report Form can be submitted via email at ndsu.eoaa@ndsu.edu or by bringing it to the Equity Office. The Equity Office can assist with completing the Report Form as needed. The Equity Office is the official university record holder for documentation under these procedures.

10.3 Upon receipt of a Report Form, NDSU will initiate its discrimination complaint procedures.

10.4 **Mandatory training** - All NDSU employees must complete equal opportunity and non-discrimination training on an annual basis. In addition to mandatory training, employees are encouraged to contact the Equity Office with any questions they may have related to equal opportunity and non-discrimination at NDSU, including inquiries regarding their responsibilities as mandatory reporters.

11. DISCRETIONARY INVESTIGATION

11.1 The Equity Office reserves the right to initiate an investigation under these procedures at its discretion in the absence of a discrimination complaint or report of discrimination in order to fulfill NDSU's commitment to taking action to stop discrimination, remedy its effects, and prevent its recurrence.

12. FILING WITH AN EXTERNAL AGENCY

12.1 An individual (or group) also has the right to file a discrimination complaint with one or more of the following external agencies. Please note that these agencies have their own deadlines for filing a discrimination complaint. Please contact the agencies directly for more information about applicable deadlines.

North Dakota Department of Labor and Human Rights
Phone: 1-800-582-8032
TTY: 1-800-366-6888
humanrights@nd.gov

www.nd.gov/labor

U.S. Department of Education
Office for Civil Rights
Phone: 1-800-421-3481
TDD: 1-800-877-8339
OCR@ed.gov
www2.ed.gov/ocr

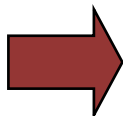
U.S. Equal Employment Opportunity Commission
Phone: 1-800-669-4000
TTY: 1-800-669-6820
info@eeoc.gov
www.eeoc.gov

HISTORY:

New	December 20, 1977
Amended	September 1993
Amended	January 1996
Amended	June 2000
Amended	October 2007
Housekeeping	September 2009
Amended	March 16, 2010
Housekeeping	February 14, 2011
Amended	April 25, 2016
Housekeeping	May 20, 2016
Housekeeping	June 22, 2017

Policy Change Cover Sheet

This form must be attached to each policy presented. All areas in **red**, including the header, must be completed; if not, it will be sent back to you for completion.



If the changes you are requesting include housekeeping, please submit those changes to nds.policy.manual@nds.edu first so that a clean policy can be presented to the committees.

SECTION:

Policy 333 Class Attendance Policy and Procedure

1. Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).
 - Is this a federal or state mandate? ☐ Yes XNo
 - Describe change: Language has been added to clarify what types of absences must be excused. The policy does have to change to be compliant with Title IX rules.
2. This policy change was originated by (individual, office or committee/organization):
 - Charlene Wolf-Hall, Vice Provost, on behalf of the University Curriculum Committee, University Athletics Committee, and the Title IX Coordinator
 - Charlene.hall@nds.edu

This portion will be completed by Kelly Hoyt.

Note: Items routed as information by SCC will have date that policy was routed listed below.

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

Senate Coordinating Committee: 9/14/17

Faculty Senate:

Staff Senate:

Student Government:

President's Cabinet:

The formatting of this policy will be updated on the website once the **content** has final approval. Please do not make formatting changes on this copy. If you have suggestions on formatting, please route them to nds.policy.manual@nds.edu. All suggestions will be considered, however due to policy format guidelines, they may not be possible. Thank you for your understanding!

North Dakota State University

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SECTION 333

CLASS ATTENDANCE POLICY ~~AND PROCEDURE~~

SOURCE: NDSU Faculty Senate Policy

1. ATTENDANCE

Attendance in classes is expected and important. (The term “class” includes class, online class, laboratory, field trips, group exercises, or other activities.) However, there are instances in which students are unable to attend class and in which those absences must be excused. These instances are described in the following sections. Absences not covered by this policy are excusable at the discretion of the instructor. Class attendance policies may not have discriminatory effect (intentional or unintentional) on members of a protected class (see NDSU Policy 100). Students and instructors should note that the NDSU Student Health Service does not provide students with excuses for class absences or tardiness due to illness or injury.

2. INSTRUCTOR RESPONSIBILITY

- a. Students must be clearly informed on the first day of class in writing in the syllabus (1) of class policy regarding class absence (including if supporting documentation is required; and (2) of class policy for making up missed assignments. It is recognized that sometimes an assignment is impossible to make-up.
- b. Excused students should be given reasonable opportunity to make up work missed due to the absence, if possible. Suggestions for best practices for managing make up work are available through the Provost’s Office.

3. STUDENT RESPONSIBILITIES AND RECOURSE

Students who anticipate excusable absences shall notify the instructor as soon as possible, preferably by the third week of class, but no later than one week before the absence. In the case of unanticipated excusable events, the student needs to contact the instructor as soon as possible. Students have the responsibility to visit with the instructor if exams or assignments are scheduled during times where absences are required.

Students who feel that they are being treated unfairly through class policies may file a grievance or complaint through the Provost’s Office by following directions at https://www.ndsu.edu/provost/academics/student_grievances/.

4. UNIVERSITY SANCTIONED EVENTS

North Dakota State University values and supports the required participation of students in university sanctioned activities. A university sanctioned event or activity shall be one in which a student represents the university to external constituencies in academic or extra-curricular activities. These include but are not limited to mandatory participation as a student athlete in NCAA-sanctioned competition, student government congresses, performing arts outreach, exhibitions, competitions, academic meetings, and conferences.

5. PREGNANT STUDENTS

Absences due to pregnancy or related conditions, including recovery from childbirth, shall be excused for as long as the student's doctor deems the absences medically necessary. When the student returns to class the student must be provided the opportunity to make up any work missed. Alternatives include allowing the student to take an incomplete and complete the course at a later date, or retaking the course or taking an online course. Further, recognizing the need for flexibility when childcare responsibilities impact a student, instructors are encouraged to accommodate students with childcare responsibilities.

6. RELIGIOUS ACCOMMODATIONS

Religious observances may require absence from a class session and other required class activities. A student who is to be excused from class for a religious observance is not required to provide a second party certification of the reason for the absence. A list of common religious holidays and events is available through the Equity Office.

7. OTHER EXCUSED ABSENCES

- a. Legally mandated absences such as jury duty or court subpoena.
- b. Absences due to military duty or veteran status, including service related medical appointments where failure to appear might result in a loss of benefits.

1. GENERAL PHILOSOPHY

- ~~a. Attendance in classes is expected. Only the course instructor can excuse a student from course responsibilities. (The term course includes class, laboratory, field trips, group exercises, or other activities.)~~
- ~~b. If class attendance is a component of the course grade, the course instructor must clearly communicate this to the class in writing in the syllabus.~~

2. FACULTY RESPONSIBILITY

- ~~a. The course instructor must clearly inform students on the first day of class and in writing in the syllabus (1) of their policy regarding class absence (including if supporting documentation is required; and (2) policy for making up missed assignments. It is recognized that sometimes an assignment is impossible to make up.~~

- b. ~~The course instructor must exercise a fair and consistent standard for resolving questions of missed assignments, the type, extent, manner, and time frame of the make-up assignments.~~

3. STUDENT RESPONSIBILITY

- a. ~~Students are responsible for informing course instructors of absences. If absences are known (e.g., university sanctioned activity, such as student government, judging, clubs, athletic competition, fine arts performances), course instructors shall be informed with written notification as far in advance as possible (preferably a two week notice). Where advance notification is not possible (e.g., illness, family emergency), students should contact their course instructor as soon as possible about the absence. Veterans and student servicemembers with special circumstances or who are activated, to include State Active Duty, are encouraged to notify the instructor as soon as possible, provide Activation Orders if possible, and inform the NDSU Office of Military and Veterans Services to facilitate a smooth exit from and successful re-entry to the University.~~
- b. ~~When a student misses class for any reason, the student is responsible for contacting the instructor to make arrangements to follow the course instructor's policy in making up any missed assignments, if permitted.~~

HISTORY:

New	May 20, 1970
Amended	December 12, 1977
Amended	April 1992
Amended	October 2004
Amended	June 2007
Housekeeping	February 14, 2011
Amended	January 28, 2014
Amended	April 24, 2014

North Dakota State University

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SECTION 152.2

MEMBERSHIP IN PROFESSIONAL AND SERVICE ORGANIZATIONS

SOURCE: NDSU President

1. Employees are encouraged to join and participate in professional and service organizations.
2. Normally, dues and membership fees are the employee's own personal responsibility. The University may pay organization or institutional fees in professional and service organizations when the membership is regarded, either by the organization or the University, as an institutional membership or is otherwise considered directly beneficial to the University. In such cases, all benefits of membership, such as resource materials, belong to the University. All such funded memberships must be approved by the employee's supervisor who has budgetary responsibility for the unit or division. For the colleges of the University, this shall mean the Dean.
3. Paid membership fees in professional and service organizations are also allowable when they are an allowable cost pursuant to a sponsored grant or contract pursuant to NDSU Policy 812(12). Approval must still be obtained pursuant to subsection 2.
4. No other funded memberships are authorized unless specifically approved by a Vice President or the President.

HISTORY:

New December 1993