

Faculty Senate Minutes

Fargo, ND

North Dakota State University

Nov. 13, 2017

I. Call to order at 3:01 pm in Prairie Rose, Memorial Union.

II. Attendance/substitutions

Dr. S. Haring presiding and the following senators were present: D. Bajwa, E. Berry, A. Braaten, U. Burghaus, E. Conwell, A. Daigh, L. del Rio Mendoza, S. Duffield, A. Flood, J. Frenzel, E. Gillam, K. Gordon, T. Greives, R. Hearne, D. Johnson, J. Johnson, J. M. Jones, E. Khan, B. Klamm, Z. Liu, K. Lyman, S. Markell, K. Nelson, W. Olfert, T. Peters, R. Pieri, F. Salajan, S. Salem, K. Sassi, M. Secor-Turner, M. Selekwa, M. Smith, W. Sun, K. Swanson, A. Ungar, M. Vosen Callens, A. Wagner, A. Werremeyer, T. West, C. Whitsel, D. Wyum, and R. Yellavajjala

No substitutions

III. Adoption of agenda

MOTION (Klamm/Hearne): to adopt the agenda. MOTION CARRIED WITH UNANIMOUS CONSENT.

IV. Approval of previous meeting minutes from October 9, 2017

MOTION (West/Khan): to approve the minutes from October 9, 2017. MOTION CARRIED WITH UNANIMOUS CONSENT.

V. Consent agenda

a. There are no items on the consent agenda this month.

VI. Announcements

a. Stuart Haring, Faculty Senate President

- Reminder - Provost open meeting on Nov. 29 1-2pm in Minard 204.
- VP Research – Kelly Rusch – open meetings as well.
- Task force created by Gov. Burgum to evaluate higher ed. Participants sought. We want to make sure that faculty is represented and that faculty from NDSU is represented.
- Student Body President has asked President Haring to appoint someone to be on Open Education Resources Committee and President Haring asked for nominations.

b. Erin Gillam, Faculty Senate President-Elect

- No report

MOTION (Gillam/del Rio Mendoza): to add UCC report to this part of the agenda.

(Attachment 1)

MOTION CARRIED WITH UNANIMOUS CONSENT.

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MOTION (Gordon/Hearne): to approve the UCC report. MOTION CARRIED WITH UNANIMOUS CONSENT.

VII. Unfinished Business

- a. Standing committees – liaison contacts
- b. The following policies are up for input at the next Faculty Senate meeting. These policies were on the October 9 FS agenda, but were not voted on.

130 Annual Leave – Noah Fischer (**Attachment 2**)

MOTION (Markell/del Rio Mendoza): to reject Policy 130. MOTION PASSED WITH A VOTE OF 24-12-5. The following senators voted aye: E. Berry, A. Braaten, U. Burghaus, E. Conwell, A. Daigh, L. del Rio Mendoza, A. Flood, J. Frenzel, T. Greives, D. Johnson, Z. Liu, S. Markell, K. Nelson, T. Peters, R. Pieri, F. Salajan, M. Secor-Turner, M. Smith, W. Sun, A. Ungar, M. Vosen Callens, A. Werremeyer, T. West, and D. Wyum; the following senators voted nay: S. Duffield, E. Gillam, R. Hearne, J. Johnson, J. M. Jones, E. Khan, B. Klamm, W. Olfert, S. Salem, K. Sassi, K. Swanson, and R. Yellavajjala; the following senators voted to abstain: D. Bajwa, K. Gordon, K. Lyman, A. Wagner, and C. Whitsel.

143 Sick Leave – Noah Fischer (**Attachment 3**)

MOTION (Markell/Peters): to reject policy 143. MOTION PASSED WITH A VOTE OF 28-8-5. The following senators voted aye: E. Berry, A. Braaten, U. Burghaus, E. Conwell, A. Daigh, L. del Rio Mendoza, A. Flood, J. Frenzel, T. Greives, R. Hearne, D. Johnson, Z. Liu, S. Markell, K. Nelson, W. Olfert, T. Peters, R. Pieri, F. Salajan, M. Secor-Turner, M. Smith, W. Sun, A. Ungar, M. Vosen Callens, A. Wagner, A. Werremeyer, T. West, D. Wyum, and R. Yellavajjala; the following senators voted nay: S. Duffield, E. Gillam, J. Johnson, J. M. Jones, E. Khan, B. Klamm, S. Salem, and K. Swanson; the following senators voted to abstain: D. Bajwa, K. Gordon, K. Lyman, K. Sassi, and C. Whitsel.

149 Leave Without Pay - Noah Fischer (**Attachment 4**)

MOTION (Greives/Gillam): to approve policy 149. MOTION PASSED WITH A VOTE OF 35-4-1. The following senators voted aye: D. Bajwa, E. Berry, A. Braaten, U. Burghaus, E. Conwell, L. del Rio Mendoza, S. Duffield, A. Flood, J. Frenzel, E. Gillam, K. Gordon, T. Greives, R. Hearne, J. Johnson, J. M. Jones, E. Khan, Z. Liu, K. Lyman, K. Nelson, W. Olfert, T. Peters, R. Pieri, F. Salajan, K. Sassi, M. Secor-Turner, M. Smith, W. Sun, K. Swanson, A. Ungar, M. Vosen Callens, A. Wagner, A. Werremeyer, T. West, D. Wyum, and R. Yellavajjala; the following senators voted nay: A. Daigh, D. Johnson, B. Klamm and S. Markell; the following senator voted to abstain: C. Whitsel.

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MOTION (Greives/Berry): to amend section 1 by removing the last sentence. MOTION PASSED WITH A VOTE OF 37-2-2. The following senators voted aye: D. Bajwa, E. Berry, A. Braaten, U. Burghaus, E. Conwell, L. del Rio Mendoza, S. Duffield, A. Flood, J. Frenzel, E. Gillam, K. Gordon, T. Greives, R. Hearne, D. Johnson, J. Johnson, J. M. Jones, E. Khan, Z. Liu, K. Lyman, S. Markell, K. Nelson, W. Olfert, T. Peters, R. Pieri, F. Salajan, S. Salem, K. Sassi, M. Secor-Turner, M. Smith, W. Sun, K. Swanson, A. Ungar, M. Vosen Callens, A. Wagner, A. Werremeyer, T. West, and D. Wyum; the following senators voted nay: B. Klamm and R. Yellavajjala; the following senators voted to abstain: A. Daigh, and C. Whitsel.

156 Discrimination, Harassment, and Retaliation Complaint Procedures – Heather Higgins-Dochtermann (**Attachment 5**)

MOTION (Berry/Greives): to approve policy 156. MOTION PASSED WITH A VOTE OF 40-0-1. The following senators voted aye: D. Bajwa, E. Berry, A. Braaten, U. Burghaus, E. Conwell, A. Daigh, L. del Rio Mendoza, S. Duffield, A. Flood, J. Frenzel, E. Gillam, K. Gordon, T. Greives, R. Hearne, D. Johnson, J. Johnson, J. M. Jones, E. Khan, B. Klamm, Z. Liu, K. Lyman, S. Markell, K. Nelson, W. Olfert, T. Peters, R. Pieri, F. Salajan, S. Salem, K. Sassi, M. Secor-Turner, M. Smith, K. Swanson, A. Ungar, M. Vosen Callens, A. Wagner, A. Werremeyer, T. West, C. Whitsel, D. Wyum, and R. Yellavajjala; the following senator voted to abstain: W. Sun.

333 Class Attendance Policy and Procedure – Charlene Wolf-Hall (**Attachment 6**)

MOTION (Hearne/Lyman): to reject policy 333. MOTION PASSED WITH A VOTE OF 38-1-1. The following senators voted aye: D. Bajwa, E. Berry, A. Braaten, U. Burghaus, E. Conwell, A. Daigh, L. del Rio Mendoza, S. Duffield, A. Flood, J. Frenzel, E. Gillam, K. Gordon, T. Greives, R. Hearne, D. Johnson, J. Johnson, J. M. Jones, E. Khan, B. Klamm, Z. Liu, S. Markell, K. Nelson, W. Olfert, T. Peters, R. Pieri, F. Salajan, S. Salem, K. Sassi, M. Secor-Turner, M. Smith, W. Sun, K. Swanson, A. Ungar, M. Vosen Callens, T. West, C. Whitsel, D. Wyum, and R. Yellavajjala; the following senator voted nay: A. Werremeyer; the following senator voted to abstain: A. Wagner.

VIII. New Business

- a. The following new policies are up for input at the next Faculty Senate meeting

151 Code of Conduct – Heather Higgins-Dochtermann (**Attachment 7**)

MOTION (Pieri/): to reject policy. There was no second to the motion.

MOTION (Hearne/Gillam): to approve Policy 151.

MOTION (Hearne/Salem): to table this policy until a list of what is bullying is included or clarified. MOTION TIED WITH A VOTE OF 19-19-1. The following senators

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voted aye: D. Bajwa, E. Berry, A. Braaten, U. Burghaus, A. Daigh, L. del Rio Mendoza, E. Gillam, K. Gordon, R. Hearne, J. Johnson, B. Klamm, Z. Liu, W. Olfert, T. Peters, F. Salajan, S. Salem, W. Sun, A. Ungar, and T. West; the following senators voted nay: E. Conwell, S. Duffield, A. Flood, J. Frenzel, T. Greives, D. Johnson, J. M. Jones, E. Khan, S. Markell, K. Nelson, R. Pieri, K. Sassi, M. Secor-Turner, M. Smith, K. Swanson, M. Vosen Callens, A. Werremeyer, C. Whitsel, and D. Wyum; the following senator voted to abstain: A. Wagner.

The tie breaking vote by S. Haring was nay. THE MOTION FAILED.

MOTION (Greives/Gillam): to add or peer after supervisor in section 2.3

Friendly suggestion by Flood to amend the amendment to add or peer acting in an evaluative capacity to section 2.3. Greives withdrew the motion above and made a new motion using Flood's language and was seconded by D. Johnson. MOTION PASSED WITH A VOTE OF 34-4-0. The following senators voted aye: D. Bajwa, E. Berry, A. Braaten, U. Burghaus, E. Conwell, A. Daigh, L. del Rio Mendoza, S. Duffield, A. Flood, J. Frenzel, E. Gillam, K. Gordon, T. Greives, R. Hearne, D. Johnson, J. Johnson, J. M. Jones, E. Khan, B. Klamm, Z. Liu, S. Markell, W. Olfert, T. Peters, F. Salajan, S. Salem, K. Sassi, M. Secor-Turner, A. Ungar, M. Vosen Callens, A. Wagner, A. Werremeyer, T. West, C. Whitsel, and D. Wyum; the following senators voted nay: K. Nelson, R. Pieri, W. Sun, and K. Swanson.

MOTION (Salajan/Peters): to amend section 11.4 by removing "dismissal or other". MOTION FAILED WITH A VOTE OF 17-20-2. The following senators voted aye: U. Burghaus, L. del Rio Mendoza, S. Duffield, K. Gordon, J. Johnson, J. M. Jones, E. Khan, B. Klamm, Z. Liu, T. Peters, R. Pieri, F. Salajan, K. Sassi, W. Sun, K. Swanson, A. Ungar, and M. Vosen Callens; the following senators voted nay: D. Bajwa, E. Berry, A. Braaten, E. Conwell, A. Daigh, A. Flood, J. Frenzel, E. Gillam, T. Greives, R. Hearne, D. Johnson, K. Nelson, W. Olfert, S. Salem, M. Secor-Turner, M. Smith, A. Werremeyer, T. West, C. Whitsel, and D. Wyum; the following senators voted to abstain: S. Markell and A. Wagner.

Secor-Turner called the question to vote on the original motion by Hearne/Gillam to approve Policy 151 with the amended changes. MOTION PASSED WITH A VOTE OF 29-9-1. The following senators voted aye: E. Berry, A. Braaten, E. Conwell, A. Daigh, L. del Rio Mendoza, S. Duffield, A. Flood, J. Frenzel, E. Gillam, K. Gordon, T. Greives, R. Hearne, D. Johnson, J. Johnson, J. M. Jones, B. Klamm, Z. Liu, K. Nelson, W. Olfert, T. Peters, K. Sassi, M. Secor-Turner, A. Ungar, M. Vosen Callens, A. Wagner, A. Werremeyer, T. West, C. Whitsel, and D. Wyum; the following senators voted nay: D. Bajwa, U. Burghaus, E. Khan, R. Pieri, F. Salajan, S. Salem, M. Smith, W. Sun, and K. Swanson; the following senator voted to abstain: S. Markell.

MOTION (Gillam/Klamm): to move Policy 352 to Unfinished Business on next month's agenda. MOTION CARRIED WITH UNANIMOUS CONSENT.

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352 Promotion, Tenure and Evaluation – Alan Denton (**Attachment 8**)

All policy documents are available at:

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

IX. Adjourn

MOTION (Hearne/Gillam): to adjourn the meeting. MOTION CARRIED WITH UNANIMOUS CONSENT.

Meeting adjourned at 4:36 pm

Submitted by:

K. Hoyt

Faculty Senate Secretary

**University Curriculum Committee Report
For Faculty Senate Meeting on November 13, 2017**

New Program
M.A., Communication

Program Changes
B.S., Business Administration – removal of BUSN 301 as a required course and replacing CSCI 116, 4 credits to MIS 116, 3 credits as a required course
B.S. to M.S., Dietetics and Nutrition – new accelerated program
B.S., Management – removal of BUSN 301 as a required course and replacing CSCI 116, 4 credits to MIS 116, 3 credits as a required course
B.S., Marketing – removal of BUSN 301 as a required course and replacing CSCI 116, 4 credits to MIS 116, 3 credits as a required course

New Courses				
Subject	No.	Title	Crs.	Effective Term
AHSS	476/676	Practicum in Publishing	3	Spring 2018
NURS	382	Clinical Applications	1	Spring 2018
NURS	456	RN to BSN Immersion IV	1	Spring 2018
NURS	462	Nurses as Leaders	3	Spring 2018
NURS	462L	Nursing Leadership Practicum	1	Spring 2018
NURS	478	BSN Capstone	2	Spring 2018
PHRM	553	Pharmacy-Based Point-of-Care Testing Certificate Program	1	Spring 2018
PHRM	570	Pharmacy Practice Improvement and Project Management	2	Spring 2018
PHRM	572	Pharmacy Law and Ethics	3	Spring 2018
PLSC	782	Population and Quantitative Genetics	4	Spring 2018
TL	757	Intelligent Transportation Solutions	3	Spring 2018
TI	781	Program Evaluation	3	Spring 2018

Course Changes								
From:				To:				
Subject	No.	Title	Crs.	Dept	No.	Title	Crs.	Effective Term
NURS	352	Family Nursing I	5	NURS	352	Family Nursing I	4	Spring 2018

Change in Prerequisites/Co-Requisites and Change in Bulletin Descriptions				
Subject	No.	Title	Prerequisite/Co-requisite Change	Effective Term
CNED	715	Professional Orientation and Ethics	Prereq: admission to CNED program	Spring 2018
NURS	352	Family Nursing I	Prereq: NURS 300, NURS 341, NURS 342	Spring 2018

Program Termination
Ph.D., Couple and Family Therapy

Policy Change Cover Sheet

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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!

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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

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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:

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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.

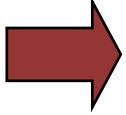
11. *The accrual of sick leave shall be prorated for the pay period in which employment begins or ends.*
12. *Sick leave is not accrued during developmental leaves or leaves of absence without pay.*
13. *Accumulated sick leave may be used for any period(s) of actual disability caused or contributed to 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 nds.policy.manual@nds.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@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:

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

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.



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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, ndsueoaa@ndsueoaa.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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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~~, 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~~, 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~~, 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

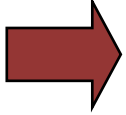
U.S. Equal Employment Opportunity Commission
Phone: 1-800-669-4000
TTY: 1-800-669-6820
info@eeoc.gov
www.eeoc.gov

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:

151 Code of 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).

w policy regarding anti-bullying. The U.S. Department of Education released a letter October 26, 2010 addressing the reduction of bullying in educational settings.

llyng occurs on university campuses, including NDSU. It is important to recognize bullying as unacceptable behavior and to provide a consistent process to address bullying on campus.

e policy updates include defining bullying, defining what is not bullying, and the procedures in which bullying complaints would be addressed.

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

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

This policy started in the General Counsel's Office, however was placed on hold. The Office of HR and Payroll updated the draft and Commission on the Status of Women Faculty (CSWF) with the campus Ombudsperson revised it. HR and CSWF submitted the policy with changes. After further review, CSWF is resubmitting under Policy 151: Code of Conduct.

Submitted on: October 4, 2017 by CSWF

ntact: Heather Higgins-Dochtermann (heather.higginsdocht@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: 10/12/17

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 ndsu.policy.manual@ndsu.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 151 CODE OF CONDUCT

SOURCE: State Policy Manual, Section 308.1
State Policy Manual, Section 611.4
NDSU President

1. Introduction and Application.

This Code of Conduct establishes minimum standards for all NDSU employees. NDSU is committed to uphold the highest ethical and professional standards. All NDSU employees must, at all times, comply with all applicable laws, regulations, policies and procedures. Activities that achieve results unlawfully or in violation of applicable policies or procedures or by unethical behavior - including, but not limited to, payments for illegal acts, indirect contributions, rebates, or bribery - are not tolerated and must be reported. All conduct must meet or exceed minimum standards established by law.

2. General Conduct.

NDSU supports an environment that is free of discrimination or harassment and fosters respect for all members of the university community^(6C1). We are committed to valuing diversity and treating all with fairness, dignity, and respect. As part of that commitment, NDSU prohibits bullying in all forms, and works to prevent bullying in the workplace, the classroom, and in programs and activities, both on and off campus. A victim of bullying does not have to be a member of a protected class listed in NDSU Policy 100.

~~2.~~ All NDSU employees are expected to conduct themselves in a businesslike manner. Unlawful consumption of alcoholic beverages or use of illegal drugs, being at work while under the influence of alcohol or drugs, disruptive behavior, gambling, unauthorized use of public property or resources and other unauthorized activities that disrupt the efficient and economical administration of NDSU, are prohibited. Violation of applicable laws or policies governing possession and use of alcoholic beverages or drugs, including the Drug Free Workplace Act, SBHE Policy 615 or NDSU Policy 155 Alcohol and Other Drugs – Unlawful and Unauthorized Use by Students and Employees are prohibited. Likewise, sexual or other harassment (including actions contributing to a hostile work environment) in violation of federal or state law, as outlined in NDSU Policy 162 Sexual Harassment, Gender-based Harassment, Sexual Misconduct and Title IX, SBHE Policy 603.1, or NDSU Policy 100 Equal Opportunity and Non-Discrimination Policy is prohibited.

All NDSU personnel are subject to the rules and policies of the North Dakota State Board of Higher Education, NDSU, and their respective department or unit. NDSU expects all University personnel to be aware of, and comply with, NDSU's policies and procedures that apply to them, and requires those reporting to them to do the same. Employees are expected to uphold the values of honesty, respect, integrity, and trust.

NDSU requires all employees to act professionally in their interactions with others including:

- A. Following training and job specific requirements as stated in the employee's job description or appointment letter, or as assigned by respective department or unit,
- B. Respecting the value, creativity, and diversity of all persons, which includes diversity of opinions and professional approaches to doing things, (See Policy 100: Equal

Opportunity and Non-discrimination Policy, Policy 325: Academic Freedom, or other relevant policies for guidance.)

- C. Contributing to an environment of respectful and productive working relationships with those with whom the person interacts, and
- D. Making good faith efforts to resolve differences constructively.

2.1 For purposes of this policy, bullying is defined as repeated, persistent, and pervasive offensive or intimidating verbal or written acts or conduct directed toward another or others that has the effect of one or more of the following:

2.1.1 Placing an individual in reasonable fear of harm to the individual's person or property;

2.1.2 Causing a detrimental effect on an individual's mental or physical health;

2.1.3 Substantially interfering with an individual's academic and/or work performance;

2.1.4 Substantially interfering with an individual's ability to participate in or benefit from the services, activities, or privileges provided by the institution; or

2.1.5 Interfering with the targeted individual's right to dignity at work, including retaliation for reporting bullying behavior.

2.2 Bullying by electronic means is prohibited under NDSU Policy 158 and N.D.C.C. 12.1-17-07.

2.3 It is not bullying when a supervisor notes unsatisfactory performance or misconduct; institutes proceedings for workplace sanctions, nonrenewal, or dismissal for cause; or provides feedback regarding work behavior or performance. A victim of bullying does not have to be a member of a protected class listed in NDSU Policy 100.

2.4 Suspected violations of this policy related to bullying should be reported to the NDSU Equity Office, 701.231.7708 or ndsu.eoaa@ndsu.edu-. These reports will be addressed utilizing NDSU Policy 156 Discrimination, Harassment, and Retaliation Complaint Procedures.

3. Conflicts of Interest.

All NDSU employees are expected to perform their duties conscientiously, honestly, and in accordance with the best interests of NDSU. All employees must comply with applicable federal and state laws. Employees may not unlawfully use their position or the knowledge gained as a result of their position for private or personal advantage. All employees are responsible for their own actions. Any individual who has concerns or questions regarding a perceived or potential conflict or regarding application or interpretation of federal or state law or SBHE policy or NDSU policy is encouraged to communicate with a superior or appropriate administrative official at NDSU..

3.1 Conflict of Interest – Contracts.

An employee of NDSU authorized to sell or lease any property or make any contract in the employee's official capacity is subject to the provisions of N.D.C.C. Section 12.1-13-03 and may not be interested in any such sale, lease or contract.

Pursuant to N.D.C.C. Section 48-02-12, employees may not have any interest in a public construction or repair contract.

An employee may not have an interest in any contract involving the expenditure of public or institutional funds entered into by NDSU unless:

- a. *N.D.C.C. Sections 12.1-13-03 and 48-02-12 do not apply; and*

- b. *The contract is approved by the NDSU President or designee or, if the employee in question is the chief financial officer or president of an institution or an officer of the Board, by the Board, following full disclosure of the employee's interest.*

All employees involved in projects receiving federal funds shall consult applicable federal laws and regulations and comply with conflict of interest rules which may govern federal grants or other sponsored agreements.

An employee who violates this policy is subject to dismissal or other disciplinary action.

Employees of NDSU authorized (including delegated authority) by Policy 712 to enter into contracts on behalf of the University must sign the North Dakota State University Conflict of Interest Disclosure Statement. All other employees will be provided notice about this Policy but need only sign the statement if they have a conflict. Notices and collection of statements shall be administered by the Purchasing Office.

Employees have an obligation to act in the best interests of NDSU. Any direct or indirect personal or financial interest which could create a conflict of interest or the appearance of a conflict of interest in any agreement, transaction or relationship must be disclosed by the employee by completing and signing the North Dakota State University Conflict of Interest Disclosure Statement and submitting it to the employee's supervisor. This includes but is not limited to the disclosure of privately owned assets being used or otherwise commingled with state assets and participation in any foundation, business or public entity which may create a conflict with an employee's obligations to NDSU. See also NDSU Policy 152: External Professional Activities.

4. Outside Activities and Employment.

Employees share responsibility for good public relations, especially at the community level. Their readiness to help with religious, charitable, educational, and civic activities brings credit to NDSU and is encouraged. However, employees must comply with applicable federal and state laws, policies in Section 611 of the SBHE Manual and NDSU related policies. At all times, employees must avoid outside activities that create an excessive demand upon their time and attention, thus depriving NDSU of their best efforts in fulfilling their job duties or that create a conflict of interest, or an obligation, interest, or distraction that interferes with the independent exercise of judgment in NDSU's best interest.

5. Gifts, Entertainment and Favors; Kickbacks and Secret Commissions.

Excluding *de minimus* contributions, such as purchase of a meal at reasonable value as part of a conference or other event with no conditions attached to such purchase and as permitted under applicable federal and state laws, employees may not accept favor of any person or organization with whom or with which NDSU has, or is likely to have, business dealings. Similarly, employees may not accept any other preferential treatment under circumstances that because of their position with NDSU, the preferential treatment may influence or be perceived as influencing their official conduct. Employees may not receive payment or compensation of any kind from any source for NDSU duties and responsibilities, except as authorized under applicable law or NDUS and NDSU pay policies. Specifically, the acceptance of "kickbacks" or commissions in any form from vendors, suppliers or others is prohibited.

6. NDSU Funds and Other Assets

Employees who have access to NDSU funds and other assets in any form must follow the prescribed procedures for recording, handling, and protecting money and other assets as detailed in applicable NDSU procedure manuals or other explanatory materials. Any person who has

information concerning possible fraud or dishonesty shall immediately report such information to a superior or appropriate administrative official at NDSU. .

Employees responsible for spending or approving expenditure of NDSU funds or incurring any reimbursable expenses must comply with all applicable laws and policies and use good judgment on behalf of NDSU to ensure that good value is received for every expenditure. NDSU funds and all other assets are for NDSU purposes only and not for personal use or benefit. NDSU or other public equipment, supplies and other property or assets may not be used for private or personal use, except as authorized under SBHE Policy 611.5 or other applicable law or NDSU policy.

7. NDSU Records and Communications.

Accurate and reliable records of many kinds are necessary to meet NDUS NDSU legal and financial obligations and to manage the affairs of the NDUSNDSU. NDUS NDSU books and records must reflect in an accurate and timely manner all business transactions. Employees responsible for accounting and recordkeeping must fully disclose and record all assets and liabilities and exercise diligence in enforcing these requirements. Employees must not make or engage in any false record or communication of any kind, whether internal or external, including, but not limited to, false expense, attendance, enrollment, financial, or similar reports and statements, or false advertising, deceptive marketing practices, or other misleading representations.

8. Dealing with Outside People and Organizations.

NDSU employees must take care to separate their personal roles from their NDSU positions when communicating on matters not involving NDSU business. They may not use NDSU identification, stationery, supplies, and equipment for personal or political matters. When communicating publicly on matters that involve NDSU business, employees may not represent that they speak for the NDSU, unless that is one of their duties or they are otherwise authorized to do so. When dealing with anyone outside the NDSU, including public officials, employees must take care not to compromise the integrity or damage the reputation of NDSU

9. Prompt Communications.

In all matters involving communication with NDSU students, customers, suppliers, government authorities, the public and others, employees must endeavor to make complete, accurate, and timely communications and respond promptly and courteously to all proper requests for information and complaints.

10. Privacy, Confidentiality and Open Records.

Employees must at all times comply with applicable laws, regulations and SBHE and NDSU policies concerning privacy, confidential records, access to open records and records retention.

11. Reporting Suspected Violations; Procedures for Investigating Reports.

Employees shall report suspected violations of this Code to their superior, or appropriate administrative official at NDSU. Alleged violations of this Code involving NDSU employees shall be investigated by the appropriate NDSU officer. All employees shall cooperate in investigations of alleged violations. A violation of this Code is cause for dismissal or other appropriate disciplinary action, in addition to any criminal or other civil sanctions that apply.

11.1 ~~In addition, the Suspected violations of this policy related to fraud should be reported utilizing the NDSU maintains a fraud hotline. and suspected violations may be reported by use of that hotline.~~

11.3 Any employee who makes a report in good faith shall be protected against retaliation of any kind; any employee who retaliates or attempts retaliation in response to a good faith report shall be subject to dismissal or other discipline.

11.4 Failure to report known or suspected violations is in itself a violation and may lead to dismissal or other disciplinary action.

~~Alleged violations of this Code involving NDSU employees shall be investigated by the appropriate NDSU officer. All employees shall cooperate in investigations of alleged violations. A violation of this Code is cause for dismissal or other appropriate disciplinary action, in addition to any criminal or other civil sanctions that apply.~~

Institution Codes.

The NDUS office and each NDUS institution shall adopt and implement a Code of Conduct consistent with this Code and Committee of Sponsoring Organization of the Treadway Commission (COSO) Standards. NDUS office and institution codes shall include:

- a. A Statement of the organization's values;
- b. The people or groups of people affected;
- c. A brief description or list of key behaviors that are accepted and not accepted;
- d. How to identify and resolve conflicts of interest;
- e. How to report violations and to whom;
- f. Consequences of violating the Code;
- g. Consequences of failure to report known or suspected violations; and
- h. How reports will be investigated.

NDSU requires that each new employee reviews the Code of Conduct and sign a statement certifying the employee has read and agrees to comply with the Code. Further, all benefited employees are required to annually certify in writing that they have read and are in compliance with the Code of Conduct.

Resources and Related Policies:

[NDSU Policy 100: Equal Opportunity and Nondiscrimination Policy](#)

[NDSU Policy 110: Employment of Relatives](#)

[NDSU Policy 100.1: Nondiscrimination on the Basis of Disabilities and Reasonable Accommodation](#)

[NDSU Policy 112: Pre-employment and Current Employee Criminal Record Disclosure](#)

[NDSU Policy 151.1: External Activities and Conflicts of Interest](#)

[NDSU Policy 152: External Professional Activities](#)

[NDSU Policy 155: Alcohol and Other Drugs: Unlawful and Unauthorized Use by Students and Employees](#)

[NDSU Policy 156: Discrimination, Harassment, and Retaliation Complaint Procedures](#)

[NDSU Policy 160: Political Activities and Voting Rights of University Employees](#)

[NDSU Policy 161: Fitness for Duty](#)

[NDSU Policy 162: Sexual Harassment, Gender-based Harassment, Sexual Misconduct and Title IX](#)

Policy

[NDSU Policy 162.1: Consensual Relationships](#)

[NDSU Policy 169: Employee Responsibility and Activities: Theft and Fraud](#)

[NDSU Policy 169.1: Employee Misuse of Property Reports - - Protections](#)

[NDSU Policy 190: Employee Responsibility and Activities: Intellectual Responsibility](#)

[NDSU Policy 323: Selection of Textbooks and other Curricular Materials](#)

[NDSU Policy 326: Academic Misconduct](#)

[NDSU Policy 345: Research Involving Human Subjects](#)

[NDSU Policy 340.1: Coursepacks](#)

[NDSU Policy 400: Purchasing - General Policies](#)

[NDSU Policy 406: Surplus Property](#)

[NDSU Policy 505: Property, Plant and Equipment](#)

[NDSU Policy 700: Services and Facilities Usage](#)

[NDSU Policy 700.1: Use of University Name](#)

[NDSU Policy 700.2: Taking Equipment Off-Campus](#)

[NDSU Policy 700.3: Personal Use of State Property](#)

[NDSU Policy 710.1: Web Advisory Board](#)

[NDSU Policy 712: Contract Review](#)

[NDSU Policy 718: Public/Open/Restricted Records](#)

[NDSU Policy 823: Financial Conflict of Interest – Public Health Service Sponsored Research](#)

[NDUS Policy 603.3: Nepotism](#)

[NDUS Policy 611.2: Employee Responsibility and Activities: Intellectual Responsibility](#)

[NDUS Policy 611.4: Employee Responsibility and Activities: Conflict of Interest](#)

[NDUS Policy 611.9: Selection of Textbooks and Other Curricular Materials](#)

[NDUS Policy 803.1: Purchasing Procedures](#)

[Conflict of Interest Form](#)

[NDSU Consulting Authorization Request Form](#)

[NDSU Fraud Hotline](#)

[AAUP Statement of Professional Ethics](#)

[NDSU Research Foundation](#)

[N.D.C.C. Ch. 12.1-13 \(See section 12.1-13-03: Public servant's interest in public contracts.\)](#)

[N.D.C.C. Ch.48-01.2: \(See section 48-01.2-08: Officers must not be interested in contract.\)](#)

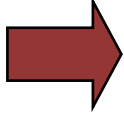
[N.D.C.C. Ch. 44-04: \(See section 44-04-09: Nepotism.\)](#)

HISTORY:

New	July 1990
Amended	November 1996
Amended	June 2000
Amended	October 2001
Amended	December 2002
Housekeeping	August 2009
Amended	March, 25, 2011
Housekeeping	June 24, 2011
Housekeeping	August 18, 2011
Housekeeping	February 1, 2012
Housekeeping	November 19, 2012
Amended	May 6, 2014
Amended	December 2, 2016

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 ☒ No
 - 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:

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North Dakota State University

Policy Manual

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

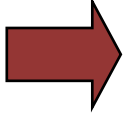
- a. ~~Students are responsible for informing course instructors of absences. If absences are known (e.g., university sanctioned activity, such as student government, judging, clubs, athletic competition, fine arts performances), course instructors shall be informed with written notification as far in 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

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SECTION: Policy 352 – Promotion, Tenure and Evaluation

Section 3.3 COLLEGE AND DEPARTMENTAL PROMOTION, TENURE,

POST-TENURE, AND EVALUATION CRITERIA

Section 5.2 COMPOSITION OF PTE COMMITTEES

Section 6 PTE 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:
 - Sec. 3.3: Amends criteria for promotion to full professor by allowing candidates to (1) choose to be evaluated by the criteria in effect at the time of the previous promotion, if the application is made within eight years of the previous promotion, and (2) choose to be evaluated based on work completed in the eight years immediately prior to applying rather than on their entire post-promotion record.
 - Sec. 5.2: Clarifies involvement in review process of faculty who themselves are applicants for promotion/tenure.
 - Sec. 6: Replaces references to specific calendar deadline dates (e.g., November 1) with "Provost's deadline".
2. **This policy change was originated by (individual, office or committee/organization):**
 - Office/Department/Name and the date submitted: Ad Hoc Committee of the Faculty Senate for Review of Policy 352 – submitted 10-02-2017
 - Email address of the person who should be contacted with revisions: Alan.Denton@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: 10/12/17

Faculty Senate:

Staff Senate:

Student Government:

President's Cabinet:

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North Dakota State University

Policy Manual

SECTION 352

PROMOTION, TENURE AND EVALUATION

SOURCE: NDSU President
NDSU Faculty Senate

1. INTRODUCTION

- 1.1 The promoting of faculty and awarding of tenure, and the prerequisite processes of evaluation and review, are of fundamental importance to the long-term ability of the University to carry out its mission. Promotion recognizes the quality of a faculty member's scholarship and contributions in the areas of teaching, research, and service. Promotion acknowledges that the faculty member's contribution to the university is of increasing value. Tenure assures academic freedom and enhances economic security for faculty members who show promise of sustained contributions in those three areas. Tenure aims to both recognize a candidate's potential long-term value to the institution as evidenced by professional performance and growth and to provide the expectation of continued employment. The decision to award tenure rests on criteria that reflect the potential long-term contribution of the faculty member to the purposes, priorities, and resources of the institution, unit, and program. With the individual autonomy derived from academic freedom and tenure comes the responsibility to create and/or maintain an ethical, respectful, and professional work climate for oneself, one's colleagues, one's students, and others with whom one relates professionally. Due to the emphasis on institutional purposes and priorities, tenure recommendations should be reviewed at department, college, and university levels.
- 1.2 From the University's mission flows the expectation that each faculty member will make contributions of high quality to the areas of teaching, research, and service. "Teaching" includes all forms of instruction both on- and off-campus. "Research" includes basic and applied research and other creative activities. "Service" includes public service, service to the University, college, and department, and service to the profession. Because of the University's mission, the quality and quantity of contributions in all three areas will be considered at the times of promotion and tenure. But, because of variations among faculty in strengths and/or responsibilities, faculty members are not expected to exhibit equal levels of accomplishment in all areas. Moreover, disciplines will vary with respect to the kinds of evidence produced in support of quality of contributions.
- 1.3 The policies and standards of each college should be congruent with the University's mission and its policies on promotion and tenure, and also should reflect the college's unique expectations of its faculty members. The policies and standards of academic units within each college should be consistent with the missions of the University and college and their policies on promotion and tenure, and also should designate evidence of how faculty in the academic unit meet the expectations of the college and University.

2. UNIVERSITY PROMOTION, TENURE, POST-TENURE, AND EVALUATION: CRITERIA AND EVIDENCE

- 2.1 Promotion and granting tenure are not automatic. In addition to contributions in the areas of teaching, research, and service, consideration may be given to factors such as professional background and experience. Expectations for faculty in Professor of Practice and Research Professor positions may differ from those for tenure-line faculty.
- 2.2 The evaluation of a candidate's performance shall be based on the individual's contributions to teaching, research, and service, on- and off- campus, in regional, national, or international activities. Judgments will be based on evidence of both the quality and significance of the candidate's work.

2.2.1 TEACHING

2.2.1.1 CRITERIA In the areas of teaching (as defined above), the following criteria apply to evaluation of contributions by a candidate for promotion, tenure, and post-tenure review:

- 2.2.1.1.1 The effective delivery of instruction to and the stimulation of learning by students and/or clients;
- 2.2.1.1.2 the continuous improvement of courses or instructional programs;
- 2.2.1.1.3 the effective advising and mentoring of undergraduate and/or graduate students.

2.2.1.2 EVIDENCE A candidate demonstrates quality of teaching (encompassing both instruction and advising) by providing evidence and information from multiple sources such as:

- 2.2.1.2.1 the receipt of awards or special recognition including certification or licensing for teaching;
- 2.2.1.2.2 student, peer, and client evaluation of course materials, expertise, and ability to communicate knowledge;
- 2.2.1.2.3 peer evaluation of an individual's contribution to the improvement of instructional programs through the development and/or implementation of new courses, curricula or innovative teaching methods;
- 2.2.1.2.4 the dissemination of best practices in teaching;
- 2.2.1.2.5 evaluation by advisees of the quality of graduate and undergraduate advising.

2.2.2 RESEARCH

2.2.2.1 CRITERIA In the areas of research and creative activities (as defines above), the following criteria apply to evaluation of contributions by a candidate for promotion, tenure, and post-tenure review:

- 2.2.2.1.1 contributions to knowledge, either by discovery or application, resulting from the candidate's research, and/or
- 2.2.2.1.2 creative activities and productions that are related to the candidate's discipline.

2.2.2.2 EVIDENCE A candidate demonstrates quality of research by providing evidence of completed original work (i.e. published/in press, exhibited, or funded) from multiple sources such as:

- 2.2.2.2.1 presentation of scholarly or professional papers, and publication of books or articles;
- 2.2.2.2.2 juried or invited presentations or productions in the theater, music, or visual arts, design, and architecture;
- 2.2.2.2.3 the development and public release of new products or varieties, research techniques, copyrights, and patents or other intellectual property ;
- 2.2.2.2.4 peer evaluation of research by colleagues from an individual's discipline or area of expertise;
- 2.2.2.2.5 the receipt of awards or special recognition for research ;
- 2.2.2.2.6 the receipt of grants or other competitive awards.

2.2.3 SERVICE

2.2.3.1 CRITERIA In the areas of service (as defined above), the following criteria apply to evaluation of contributions by a candidate for promotion, tenure and post-tenure review:

- 2.2.3.1.1 contributions to the welfare of the department, college, university, or profession, and/or
- 2.2.3.1.2 contributions to the public that make use of the faculty member's academic or professional expertise.

2.2.3.2 EVIDENCE A candidate demonstrates quality of service by providing evidence and information from multiple sources such as:

- 2.2.3.2.1 the receipt of awards or special recognition for service;
- 2.2.3.2.2 evaluation of an individual's service contributions by peers, administrators, and constituents;
- 2.2.3.2.3 active participation in and leadership of societies which have as their primary objective the furtherance of scholarly or professional interests or achievements;

- 2.2.3.2.4 active participation and leadership in University governance and programs at the department, college, university and system levels;
- 2.2.3.2.5 contributions to fostering a campus climate that supports and respects faculty, staff, and students who have diverse cultures, backgrounds, and points of view;
- 2.2.3.2.6 effective management or improvement of administrative procedures or programs;
- 2.2.3.2.7 contributions to knowledge as editors of scholarly publications, or service on editorial boards, juries, or panels;
- 2.2.3.2.8 contributions to the operation of state or federal agencies.

2.3 The foregoing lists are not exhaustive, and other forms of information and evidence might be produced in support of the quality and significance of the candidate's work. The mission statements and specific promotion and tenure criteria of the individual academic units are important in defining the appropriate forms of evidence in the context of the candidate's discipline and distribution of responsibilities.

3. COLLEGE AND DEPARTMENTAL PROMOTION, TENURE, POST-TENURE, AND EVALUATION CRITERIA

- 3.1. Each academic unit is responsible for refining the University promotion, tenure, post-tenure, and evaluation criteria and applying those criteria within the special context of the unit. Thus, each academic unit will develop specific promotion, tenure, post-tenure, and evaluation criteria and designate the types of evidence to be used for evaluation of progress toward tenure, for renewal, promotion, and tenure decisions, and for post-tenure review. Within the framework of the University's promotion and tenure criteria, each academic unit shall specify the relative emphasis on teaching, research, and service, and the extent to which a faculty member's assigned responsibilities can be allocated among teaching, research, and service. Expectations for faculty in Professor of Practice and Research Professor positions may differ from those for tenure-line faculty.
- 3.2. A statement of promotion, tenure, post-tenure, and evaluation criteria specific to each college shall be developed by the Promotion, Tenure, and Evaluation (PTE) committee of the college in consultation with the Dean and approved by the faculty of the college. The faculty of each department shall also develop a statement of criteria for promotion, tenure, post-tenure, and evaluation that shall be reviewed and approved by the college PTE committee and the Dean to assure consistency with the college promotion, tenure, post-tenure, and evaluation criteria. The college and departmental statements, and any subsequent changes, shall be reviewed and approved by the Provost assure consistency with University and State Board of Higher Education (SBHE) policies.
- 3.3. For probationary faculty, and for non-tenure-line faculty at the assistant rank, the basis for review of the candidate's portfolio and any recommendations on promotion and/or tenure shall be the promotion and tenure guidelines and criteria of the academic unit that were provided to the candidate at the time of the candidate's appointment to the position. The

dean or director of the college or equivalent unit has the responsibility to provide to the appointee these documents, as well as a position description, contract, or other document that constitutes a tenure or work plan. Tenured and non-tenure-line candidates for promotion to the rank of full professor may choose to be evaluated by the criteria in effect at the time of the previous promotion, if the application is made within eight years of the previous promotion. Thereafter, candidates shall be evaluated by the criteria in effect at the time of application. Candidates applying for promotion to the rank of full professor more than eight years after the previous promotion may choose to be evaluated based on work completed in the eight years immediately prior to applying rather than on their entire post-promotion record.^[AD1]

3.4. Faculty Hired Without Previous, Relevant Experience

For a faculty member without previous academic-relevant experience, eligibility for tenure requires a probationary period of six years. Evaluations for promotion to Associate Professor and granting of tenure will ordinarily be conducted concurrently. However, exceptional academic accomplishments may warrant early promotion prior to the completion of the six years of the probationary period. Petitions for early promotion shall be initiated by department heads/chairs, and not by faculty members themselves.

3.5 Faculty Hired with Previous Relevant Experience

3.5.1 Individuals hired into a tenure-eligible position at a negotiable faculty rank may be hired with tenure and at a rank of Associate Professor or Professor when this is negotiated as a provision of the original contract. Decisions regarding tenure and advanced rank are made using the same process and standards as in the customary promotion and tenure process, although the timeline may be altered. The recommendation proceeds through the regular channels, including the respective Department and College PTE Committees, the Department Chair/Head, College Dean, Provost and President, prior to hire. The process of review is initiated by the Chair/Head of the unit in which the tenure line is housed.

3.5.2 A probationary faculty member with relevant professional/academic experience may be given credit toward tenure and promotion when this is negotiated as a provision in the original contract. The Department PTE Committee recommends to the Department Chair/Head the maximum number of years of tenure credit offered.

There are two options:

3.5.2.1 Faculty may be hired with one to three years of tenure credit. For each year of tenure credit awarded, one year shall be subtracted from the tenure application deadline. For example, given one year of credit, promotion and tenure application would be due in the fifth year of service; given three years, the application would be due in the third year of service. Faculty accomplishments during the tenure credited years are included as accomplishments in the faculty member's promotion and tenure portfolio. Requirements for promotion and tenure shall be adjusted according to the years at NDSU to maintain productivity at the same rate as that expected for promotion and tenure without tenure credit; for example, if six quality publications are required in the six-year probationary period for promotion and tenure, then one quality publication shall be required for each year the faculty member is at NDSU.

3.5.2.2 Faculty may be allowed the full six-year probationary period with the option of applying for promotion and/or tenure at any time following three years of academic service. How prior work is considered must be specified in the appointment letter.

3.5.2.3 For either option, failure to achieve tenure will lead to a terminal year contract. 3.6 Extensions to Probationary Period, apply in all other cases.

3.5.3 Any exceptions to Section 3.5 must be approved by the President.

3.6 Extension of Probationary Period

At any time during the probationary period but prior to the sixth year (or prior to the year in which the portfolio is due), a faculty member may request an extension of the probationary period not to exceed a total of three years based on institutional, personal or family (pertaining to a child, spouse/partner or parent, as described in NDSU Policy 320) circumstances, personal illness or disability, which, according to reasonable expectations, impede satisfactory progress towards promotion and tenure. Faculty given promotion and tenure credit are also eligible for this extension. Faculty members are encouraged to request probationary period extension as soon as they recognize the need for extension. Written notification to the Provost must be submitted within one year of the beginning of the event for which the extension is requested and approved prior to July 1 of the year in which the tenure/promotion portfolio is due. A faculty member who submits an extension request during the academic year in which they are to undergo third year review must successfully undergo third-year review and renewal before any extension can take effect. The request must be in writing and will be submitted to the Provost who will review the request and will approve or deny the request. Denial of an extension may be appealed under NDSU Policy 350.4, however, appeals will not be granted for requests that are submitted outside the required timeline for extension.

3.6.1 Extension of Probationary Period for Childbirth or Adoption

A probationary faculty member who becomes the parent of a child (or children in case of twins, triplets, etc.) by birth or adoption, prior to the year in which the portfolio is due, will automatically be granted a one-year extension of the probationary period upon written notification to the Provost. While NDSU supports the use of the extension, the probationary faculty member has the option at any time after the birth or adoption to return to the original schedule of review. Any additional extensions beyond the one year (per birth/adoption occurrence, not to exceed three years total extension) must be requested under the provisions of 3.6 above.

3.6.2 Extension of Probationary Period for Personal Illness or Disability

A probationary faculty member who experiences a personal illness or disability may request an extension of his/her probationary appointment. Medical documentation of the personal illness or disability is required. Such documentation shall be collected and housed by the Office of Human Resources/Payroll following guidelines provided in NDSU Policy 168. However, the Office of Human Resources/Payroll shall not make recommendations to the Provost pertaining to probationary period extension requests. The faculty member will grant the Provost access to Human Resources records relevant to the request. The Provost shall maintain strict confidentiality of

such documentation. Written notification of the request for an extension, along with supporting documentation, must be provided to the Provost.

3.6.3 Extension of Probationary Period for Institutional Circumstances

A probationary faculty member may be granted an extension of probationary period due to institutional circumstances, such as major disruption of work or faculty's ability to perform their duties beyond the reasonable control (e.g., natural or human-caused disaster, or lab-space unavailability) of the faculty member. Written notification of the request, along with supporting documentation, for an extension must be provided to the Provost.

3.6.4 Procedures for Initiating, Reviewing, and Approving Notifications/Requests for Extension of the Probationary Period

- 3.6.4.1 Notification of extension of the probationary period due to childbirth or adoption may be initiated by the faculty member, the Department Chair/Head, or the Dean of the college.
- 3.6.4.2 Request for extension of the probationary period due to personal or family circumstances, personal illness or disability shall be initiated by the faculty member. In the case of requests involving disability or illness, it is the responsibility of the faculty member to provide appropriate documentation to adequately demonstrate why the request should be granted.
- 3.6.4.3 Request for extension of the probationary period due to institutional circumstances may be initiated by the faculty member, the Department Chair/Head, or the Dean of the college.
- 3.6.4.4 Faculty members may inform their Department Chair/Head and/or Dean of the college of their request if they wish to do so, but they are not required to do so.
- 3.6.4.5 Extension of the probationary period requests shall be submitted to the Provost using the Request for Probationary Period Extension form.
- 3.6.4.6 Once an extension of the probationary period request is approved, the faculty member, Department Chair/Head, and the Dean of the college will be notified in writing by the Provost. If the request is denied, the faculty member will be notified in writing by the Provost.

3.6.5 Confidentiality

Individuals involved in the extension of the probationary period process (which may include the supervisor, the Department Chair/Head, the Dean of the college, the Provost, and/or the Office of Human Resources/Payroll) have the responsibility of keeping information pertaining to the request confidential and not sharing such information with individuals not involved in the process. Medical documentation provided by a faculty member requesting extension of the probationary period shall be maintained in a confidential file separate from the employee's official personnel file in the Office of Human Resources/Payroll. Other written documentation and forms pertaining to the request/notification of extension of the probationary period

shall be maintained in a confidential file separate from the employee's official personnel file in the Office of the Provost. It is understood that some information provided pursuant to this policy may be subject to disclosure pursuant to North Dakota open records laws.

- 3.6.6 Granting of an extension does not increase expectations for performance. For instance if the department requires at least five refereed journal articles in the standard six year probationary period, and a faculty member receives an extension of the probationary period, then the department will still only require at least five refereed journal articles for that faculty member's probationary period.

Related Policies and Procedures:

Policy 156. Discrimination, harassment, and retaliation complaint procedures (<http://www.ndsu.edu/fileadmin/policy/156.pdf>)

Policy 168. Reasonable accommodation on the basis of disability - guidelines for employee requests (<http://www.ndsu.edu/fileadmin/policy/168.pdf>)

Policy 320. Faculty obligations and time requirements (<http://www.ndsu.edu/fileadmin/policy/320.pdf>).

- 3.7 Each academic unit shall establish the criteria for promotion and tenure, including early promotion, as part of its statement on promotion, tenure, post-tenure review, and evaluation.

4. PERIODIC REVIEW

- 4.1 Periodic reviews of faculty serve multiple functions. The reviews assist faculty members in assessing their professional performance, assist the administration in delineating areas to which particular effort should be directed to aid in improving the professional achievement of the faculty members, and contribute to the cumulative base upon which decisions about renewal, promotion, and tenure are made. In addition, periodic reviews may result in changes in responsibilities, modified expectations, and/or altered goals for performance.
- 4.2 The procedures for periodic review that are developed by each academic unit shall be reviewed and approved by the college PTE committee and the Dean.
- 4.3 All full-time faculty will be reviewed annually. Unless college or department procedures provide otherwise, annual reviews of non-tenured faculty shall be conducted so that decisions and notifications can be made in accord with the deadlines listed in Section 350.3.
- 4.4 Probationary faculty hired into tenure-track positions must receive special review during their third year of service to the institution. This third-year review shall recognize and reinforce areas of strength as well as point out areas of weakness that could jeopardize the case for promotion and tenure. Specific formative evaluations shall be provided to help candidates prepare their strongest case for promotion and tenure. Any extension granted prior to the third year review will delay the review by an equal period.
- 4.5 While faculty in Professor of Practice and Research Professor positions are not eligible for tenure, promotion through ranks is encouraged and is based on time in rank and

satisfactory evaluations of assigned responsibilities. An application for promotion is initiated via a departmental recommendation and follows the same procedure and submission deadlines as for tenure-line faculty. Faculty in such positions are eligible to apply for promotion from assistant to associate after the completion of five years in rank.

- 4.6 Unless college or department procedures provide otherwise, the department chair or head of the academic unit will be responsible for the conduct of the reviews and the communication of their results. Periodic reviews shall result in a written report to the faculty member being reviewed. The report shall state expectations and goals for the coming review period. For probationary faculty, the report shall include an assessment of the faculty member's progress toward tenure and recommendations for improvement. Should the periodic reviews indicate that a faculty member is not making satisfactory progress toward tenure, the report may include a recommendation for nonrenewal. In making a judgment on satisfactory progress toward tenure, due consideration shall be given to the candidate's academic record, performance of assigned responsibilities, and potential to meet the criteria for promotion and tenure at the end of the probationary period.
- 4.7 Colleges and departments shall develop specific post-tenure review policies appropriate to their faculty. Annual reviews of tenured faculty shall include an evaluation of the faculty member's performance relative to the current position description. For Associate Professors, annual reviews must include specific recommendations to strengthen the case for promotion. Annual reviews of Professors must recognize and reinforce areas of strength, as well as discuss areas of weakness and recommend improvements. Should the annual reviews indicate that performance of a faculty member is unsatisfactory under the standards for post-tenure review, the report shall include a recommendation for appropriate remedial action.
- 4.8 The faculty member being reviewed shall have 14 days to respond in writing to the written report if the faculty member wishes to do so. The written report, and any written response from the faculty member, shall become part of the faculty member's official personnel file.

5. COMPOSITION OF PTE COMMITTEES

- 5.1 Each college shall have a PTE Committee consisting of at least three faculty members elected by the faculty of the college. The college PTE committee shall be as reflective as possible of the college's breadth of disciplines and fields of expertise. Ordinarily, at least three departments or sub-units of a college will be represented on the committee, and usually no more than one member of the same department may serve on the committee at one time.
- 5.2 Only tenured faculty members who have completed three years of full-time appointment with the University and who have attained the rank of associate professor or above are eligible for ~~election to service on~~^[AD2] a college or department PTE Committee. Prior to commencement of deliberations, the chair of any PTE committee must have received PTE committee training within the last three years, provided through the Office of the Provost. Faculty members who have applied for promotion and/or tenure may not be involved in the review and recommendation process of any candidate. Administrators who have applied for promotion may not be involved in the review and recommendation process of any candidate where there may be an actual or apparent conflict of interest. A candidate may provide input concerning selection of external reviewers if allowed by the college/department policies.^[AD3] ~~Faculty members and administrators being considered for promotion may not be involved in any candidate review and recommendation process,~~

~~including the selection of external reviewers, while under consideration.~~

- 5.3 The department and college PTE committees' reviews and recommendations are part of a process of peer review. Thus, faculty holding academic administrative appointments, including those with interim status, are not eligible to serve. ("Academic administrative appointment" includes appointments as President, Provost, Vice President or Provost, Associate or Assistant Vice President or Provost, Dean, Associate or Assistant Dean, Department Chair or Head, Associate, Assistant or Vice Chair or Head, and any other administrators who supervise and/or evaluate other faculty.) Center or Program Directors who do not supervise and/or evaluate other faculty are eligible to serve.
- 5.4 A college PTE committee member who has voted on the promotion/tenure of a candidate in the department PTE committee shall be recused from the vote by the college PTE committee. In such a case, college policy shall determine whether the committee member may or may not deliberate with the committee on the candidate.
- 5.5 Faculty members, including administrators, who participate in the PTE process shall be recused from deliberations and decisions regarding a candidate if there is a past or current relationship that compromises, or could have the appearance of compromising, a faculty member's judgment with regard to the candidate. The following list, while not exhaustive, illustrates the types of relationships that constitute a conflict of interest:
- A family relationship
 - A marital, life partner or dating/romantic/intimate relationship
 - An advising relationship (e.g., the faculty member having served as the candidate's PhD or postdoctoral advisor)
 - A direct financial interest and/or relationship
 - Any other relationship that would prevent a sound, unbiased decision

Recusal due to a conflict of interest with one candidate does not prevent a faculty member from participating in deliberations and decisions regarding other candidates.

6. PTE PROCEDURES

- 6.1 The candidate shall ensure that the electronically submitted portfolio is current, accurate and complete for review at the department level using procedures consistent with department and college policies. The chair or head shall forward the electronic portfolio together with the department's recommendations, and an explanation of the basis for them, to the College Dean and the College's PTE Committee ~~no later than November 1~~ by the Provost's deadline^[AD4].
- 6.2 After ~~November 1~~ the Provost's deadline, the information that may be added to the portfolio is limited to
- a) Recommendations by the evaluating units considering the portfolio at that time;
 - b) the candidate's response to those recommendations;
 - c) any materials requested by the evaluators.
- 6.2.1 Candidates may petition the college Dean and PTE committee to add additional materials after the deadline. The Dean and PTE committee must both agree to the addition in order for additional material to be added.

- 6.2.2 Any additional materials added to the portfolio must pertain to information or material already in the portfolio, such as pending publications or grant proposals.
- 6.3 Unsolicited individual faculty input is limited to the department level of review.
- 6.4 Recommendations and any other materials collected as part of the evaluation process at the department, college, and university levels must be added to the candidate's portfolio before being sent forward to the next level of review. At the time that any written materials are added to the candidate's portfolio, copies of the added material must be sent to the candidate for review. The candidate shall have 14 calendar days to respond in writing to the additional materials. Any response from the candidate to such materials must be in writing and must be included in the portfolio for review at the next level.
- 6.5 Allegations of misconduct discovered after ~~November 1~~the Provost's deadline that could be detrimental to a candidate's case (e.g. academic misconduct) shall be handled through the appropriate University policy and mechanisms. In such cases, the PTE process will be suspended until the allegations are resolved. Once the PTE process resumes, the candidate may update the portfolio.
- 6.6 Colleges and departments shall document that they have followed all procedures; e.g., by a comprehensive checklist of the steps in the PTE process. The documentation must be included in the portfolio.
- 6.7 The College PTE Committee and the College Dean shall separately and independently review and evaluate the candidate's portfolio without discussion or communication.
- 6.8 The college PTE Committee shall prepare a written report, including recommendations and an explanation of the basis for them, that shall be included in the candidate's portfolio. The report and recommendations shall be submitted to the Provost by January 5. A copy shall be sent to the Dean, the chair or head of the academic unit, and the candidate.
- 6.9 The College Dean shall also prepare a separate written report, including recommendations and an explanation of the basis for them that shall be included in the candidate's portfolio. The Dean shall forward the report and recommendations, and the portfolio of the candidate, to the Provost by January 5. A copy of the Dean's report shall be sent to the College PTE committee, the chair or head of the academic unit, and the candidate.
- 6.10 The Provost shall review the candidate's materials and the recommendations of the Department, College PTE Committee, and College Dean, and shall solicit input from a nonvoting advisory committee consisting of a faculty representative from each College PTE Committee, selected by the Provost with attention to diversity. The Provost shall submit a recommendation to the President in writing, including an explanation of the basis for it, by the deadline established in the PTE guidelines. Copies of the Provost's written recommendation shall be sent to the candidate, the Department Chair/Head, the College Dean, and the Department and College PTE Committees.
- 6.11 When appropriate, the President shall then make the final recommendation to the SBHE for tenure. When appropriate, the President shall notify the candidate of promotion or denial of promotion.
- 6.12 In the case of joint appointments, the primary responsibility for the review rests with the department and the college that hold the majority or plurality of the appointments. Such department or college shall solicit input from the other units holding the remainder of the

appointment as appropriate to the allocation of effort. This input from other units which shall be included in the portfolio.

- 6.13 When evaluating faculty participating in interdisciplinary programs, the primary department may solicit input from the director of the interdisciplinary program as appropriate to the allocation of effort.

7. APPEALS

- 7.1. Appeals of periodic reviews are made by requesting a reconsideration by the evaluating party. If not satisfied, the faculty member may initiate the grievance process pursuant to Section 353.
- 7.2. Appeals of nonrenewal and nonpromotion decisions shall be pursuant to Policy 350.3.

8. DOCUMENT RETENTION

Electronic copies of portfolios shall be maintained by the appropriate college for the length of time specified by the university records management policy. Disposal of these documents, as well as filing of archival copies, will also conform to the university records management policy.

HISTORY:

Amended	May 13, 1974
Amended	February 10, 1975
Amended	December 12, 1988
Amended	May 14, 1990
Amended	April 1992
Amended	December 12, 1994 (Effective date July 1, 1995)
Amended	June 1997
Amended	November 2000
Amended	October 2001
Amended	October 2007
Amended	July 2008
Housekeeping	February 14, 2011
Amended	October 11, 2011
Amended	June 19, 2014
Amended	October 19, 2015
Amended	January 27, 2016
Amended	April 11, 2016
Amended	September 8, 2016
Amended	April 12, 2017
Housekeeping	April 19, 2017