

Resolution Against House Bill 1446 Relating to a Pilot Program for Tenured Faculty Review at Institutions of Higher Education

Whereas proposed House Bill 1446 ([HB 1446](#)) stipulates that the president of each institution of higher education under the control of the state board of higher education (SBHE) “may review performance of any or all of the duties and responsibilities [...] of any faculty member holding tenure at any time the president deems a review is in the institution’s best interest” (Section 2.1);

Whereas HB 1446 stipulates that a university president “may not renew the contract of the tenured faculty member, unless the president specifically articulates why it is in the interest of the institution to continue to employ the faculty member” (Section 2.3);

Whereas HB 1446 (in its amended version 23.0083.04004) stipulates that a university president’s review of tenured faculty under the control of the SBHE “is not reviewable by a faculty member or faculty committee” (Section 2.6), thereby overriding existing North Dakota State University (NDSU) [Policy 350.3](#) *Board Regulations of Nonrenewal, Termination or Dismissal of Faculty*, according to which faculty maintain the right to appeal the recommendation for dismissal to the Standing Committee on Faculty Rights within 21 calendar days of the dismissal recommendation (Section 8.a);

Whereas HB 1446 (in its amended version 23.0083.04004) stipulates that “[a] faculty member whose contract is not renewed or whose employment is terminated or suspended as a result of a review [...] may appeal the review to the North Dakota university system chancellor” (Section 2.6), thereby offering an appeal that may not be meaningful as the chancellor is the direct supervisor of a university president and may be reluctant to overrule their recommendation for dismissal;

Whereas the process of acquiring tenure is conducted ethically, with multiple checks and balances, and in accordance with SBHE [Policy 605.1](#) *Academic Freedom and Tenure; Academic Appointments* and NDSU [Policy 352](#) *Promotion, Tenure and Evaluation*;

Whereas SBHE [Policy 605.1](#) and NDSU [Policy 352](#) already specify procedures for post-tenure review that ensure accountability for tenured faculty’s performance of contractual duties and responsibilities; SBHE [Policy 605.1](#) specifies the policy and procedure for faculty termination due to financial exigency, “upon discontinuance of the program in which the faculty member is

employed” (Section 7); and NDSU [Policy 350.3](#) specifies the terms and due process for the termination of faculty appointments for “financial exigency” and “adequate cause” (Sections 6 and 8); now therefore, be it

Resolved, that the NDSU Faculty Senate:

1. upholds SBHE [Policy 605.1](#), according to which “[t]he purpose of tenure is to assure academic freedom,” and the duties and rights related to academic freedom are set forth in [SBHE Policy 401.1](#), and the [1940 Statement of Principles on Academic Freedom and Tenure](#) (Rev. 1990), adopted by the American Association of University Professors and the Association of American Colleges;
2. supports academic freedom, which is not only a fundamental right afforded to faculty but also one of the criteria for accreditation by the Higher Learning Commission (HLC), NDSU’s accreditation body, according to which an accredited “institution is committed to academic freedom and freedom of expression in the pursuit of truth in teaching and learning” (Section D), and its “governing board preserves its independence from undue influence on the part of donors, elected officials, ownership interests, or other external parties” (HLC [Criterion 2 Integrity: Ethical and Responsible Conduct](#) Section C.4);
3. upholds the NDSU Faculty Senate’s [guiding principles for shared governance](#), which reiterate SBHE [Policy 305.1 Institution President Authority and Responsibilities; Contract Terms](#) that “each President shall ensure effective and broad-based participation in the decision-making process from faculty, staff, students, and others in those areas in which their interests are affected” (Section 4.a);
4. fully supports the NDSU Faculty Senate Executive Committee’s [Statement Against HB 1446](#), adopted on February 1, 2023;
5. fully supports the North Dakota University System’s Council of College Faculties’ Resolution in Opposition to HB 1446, approved on January 31, 2023; and
6. urges Chairman Shauer and Members of the Committee on Government and Veterans Affairs at the Sixty-Eighth Legislative Assembly of North Dakota **to vote DO NOT PASS on HB 1446.**

Adopted by the NDSU Faculty Senate on February 13, 2023.