

# North Dakota State University

## Policy Manual

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### SECTION 183

#### NONRENEWAL AND DISMISSAL OF NONBANDED, NONACADEMIC STAFF

SOURCE: SBHE Policy Manual, Section 608.2

1. This policy applies to all employees excluded from the broadbanding system who are not members of the academic staff, and, with respect to their positions as administrators or other non-academic positions, to employees with appointments to the academic staff.

This policy does not apply to:

- a. Chancellor and institution presidents.
  - b. Coaches.
  - c. Faculty – Employees with academic appointments are governed by SBHE Policy Sections 605.1, 605.2, 605.3, and 605.4.
  - d. Student residence hall assistants, work-study students and other students employed on a part-time basis for a limited term. The terms and conditions of employment for student resident hall assistants shall be stated in a written contract.
2. An employee may be dismissed, without cause, pursuant to written notice of termination in accordance with the following schedule:
    - a. At least three months, if written notice is given during the first year of service;
    - b. At least six months, if written notice is given during the second year of service or thereafter;

As used in this section 2, “service” means employment at the same institution or agency.

3. An employee may be dismissed based upon financial exigency as determined by the Board, loss of appropriations, loss of institutional or program enrollment, consolidation of organizational units or program areas or elimination of courses, in which cases the notice requirements of the preceding section shall not apply. If a dismissal is implemented pursuant to this section 3, no less than 90 days notice shall be given the employee.
4. An employee may be dismissed for just cause. Just cause means just cause for dismissal of staff employees as defined in the North Dakota University System Human Resource Policy Manual. (See NDSU 220.2) Notice of intent to dismiss for cause, stating the reasons for the proposed action, shall be given by a department head or other designated official unless the employee is an institution officer who reports directly to the institution’s chief executive, in which case the chief executive shall give notice. The notice shall be given at least five calendar days prior to the date of dismissal and the employee has the right, within that time, to respond in writing and request a pre-termination review. Following notice of intent to dismiss and, if requested by the employee, the pre-termination review, the department head or other designated individual, if the notice of intent to dismiss was not given by the chief executive, shall forward a recommendation to the institution's chief executive. The chief executive shall make a final decision and give written notice of that decision.

5. An employee who is dismissed for just cause pursuant to this policy may, within 20 days of dismissal, appeal the decision by filing a notice of appeal, accompanied by a specification of the reasons or grounds upon which the appeal is based, with the institution's chief executive. The chief executive shall appoint a hearing officer to conduct an evidentiary hearing and submit recommended findings, conclusions and a recommended decision. The hearing officer shall conduct the hearing according to appeal procedures governing hearings conducted by a staff personnel board that are set forth in Section 27 of the North Dakota University System Human Resource Policy Manual (*Policy 231 of the NDSU Policy Manual*). The chief executive shall make a final decision and provide written notice of that decision to the hearing officer and the employee within 20 calendar days of receiving the hearing officer's recommendation.
6. An employee who voluntarily or involuntarily leaves his or her non-academic position under this policy but holds a tenured faculty appointment may return to that appointment with all the rights and responsibilities of tenured faculty in the home department, unless a proceeding results in the discharge or demotion of the employee from the faculty position. Should the employee decide to return to the faculty appointment, his or her salary will be adjusted from a 12-month salary for the non-academic duties to a 9-month to 12-month faculty salary that is commensurate with the salaries of comparable tenured faculty members, unless a faculty salary was previously set in his or her contract at the time they assumed the non-academic position. Setting the return-to-faculty salary at the time a person with a tenured faculty appointment assumes a non-academic position is the preferred option. *7. Dismissal actions of **regular staff employees** are governed by the NDSU Policies 220 and 231.*
7. This Policy shall not apply to conduct by an NDUS employee which is alleged to constitute sexual harassment under Title IX of the Education Amendments of 1972, which is governed by NDSU Policy 156.1.
8. *Dismissal actions of **temporary staff employees** may occur at any time with or without cause (NDUS Human Resource Policy Manual, Section 2).*
9. *Dismissal or non-renewal actions for **faculty** are governed by NDSU Policy 350.1-350.4 and 352.*

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HISTORY:

|              |                    |
|--------------|--------------------|
| New          | June 1994          |
| Amended      | May 1996           |
| Amended      | February 1998      |
| Amended      | July 1999          |
| Amended      | December 1999      |
| Amended      | January 2000       |
| Amended      | January 3, 2013    |
| Housekeeping | August 26, 2013    |
| Amended      | September 18, 2013 |
| Amended      | December 4, 2015   |
| Amended      | April 28, 2016     |
| Housekeeping | June 27, 2016      |
| Amended      | May 9, 2018        |
| Amended      | August 14, 2020    |
| Amended      | December 14, 2020  |