

# North Dakota State University

## Policy Manual

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### SECTION 601

### RIGHTS AND RESPONSIBILITIES OF COMMUNITY: A CODE OF STUDENT CONDUCT

SOURCE: NDSU President

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## 1. Introduction

### 1.1 General NDSU Values

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

- Respect for the NDSU community,
- Respect for the protection and rights of others, and
- Respect for students in the conduct resolution process.

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

#### **Respect for the NDSU Community**

All NDSU stakeholders have a responsibility to respect the NDSU community. It is vital for all individuals to conduct themselves in a manner that does not negatively affect the welfare of themselves or others or the educational mission of the University. This includes promoting an

environment conducive to learning and nurturing a sense of shared and mutual community responsibility. Community responsibility also involves awareness of how personal decisions affect others.

### **Respect for the Protection and Rights of Others**

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

### **Respect for Students in the Conduct Resolution Process**

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

## **1.2 General Complaint Procedures**

Students may report general concerns, issues, and complaints utilizing the [Problems and Complaints](#) guidelines and form. The complaint procedure is designed to provide for orderly collection of information, to address students' complaints in a timely manner by appropriate University personnel, and to help students learn effective conflict resolution skills.

Students may also arrange a meeting with a staff member in the Student Affairs and Enrollment Management Office, Old Main 100, for advice and direction in resolving the problem. Complaints regarding student conduct covered in this Code will be resolved according to procedures described in this document.

## **1.3 Authority**

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

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

The Code of Student Conduct contains statements of University policies relevant to student life. Development and enforcement of these standards of conduct are an educational

endeavor designed to foster students' personal, social, and ethical development. This document forms the basis for student conduct expectations as a member of the NDSU community. The enforcement of these standards serves to promote the protection of the rights, responsibilities, and health and safety of members of the NDSU community.

Conduct described in this Code is illustrative rather than exhaustive. The term "including" should be interpreted to mean "including, but not limited to." All ambiguities, inconsistencies, or clarifications of the Code will be resolved by the Vice Provost or designee. Faculty, staff, and students are encouraged to request clarification if a clause or rule is unclear. Final authority for interpretation of this Code lies with the Vice Provost.

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

Questions should be referred to the Student Affairs and Enrollment Management Office, Old Main 100.

#### **1.4 Individuals Covered Under this Code**

For the purpose of this document, "student" is defined as any individual who has been admitted to the University, and is enrolled in one or more courses. Students may be held accountable under this Code for violations committed any time after they were admitted. Students are accountable for their guests' conduct; if a student's guest commits prohibited acts, the student may be sanctioned as if they had committed the violations themselves. Student organizations are held to the same conduct standards as individual students.

Additionally, individuals permitted by special status to utilize NDSU services may be held accountable under this Code. The University will use its discretion to determine if such action is necessary and/or appropriate.

Students may have varying roles within and outside of the University. As such, a student may be held accountable for prohibited conduct through multiple processes. Examples of other areas of accountability may include:

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

The University's procedures are educational and not criminal in nature, so separate proceedings do not constitute double jeopardy. The University may proceed under this Code before, during, or after the other NDSU administrative processes or legal proceedings. NDSU

does not typically wait for a court judgment prior to proceeding with University process. Findings under this Code may differ from judgments in criminal courts. Court judgments are not determinative of University findings.

## **2. Community Expectations**

### **2.1 General Student Responsibilities**

All students are expected to observe the University standards published in the [University Policy Manual](#). [Policy 601](#) outlines responsibilities that pertain specifically to students. However, students must follow all other University policies, procedures, contracts, or license agreements published elsewhere.

The University may address acts of prohibited conduct committed outside of University property when NDSU becomes aware of alleged Code violations through law enforcement or other third party reports.

### **2.2 Responsible Action Expectations**

All students are encouraged to promote the well-being of themselves, fellow students, and others. If an individual needs emergency medical attention, particularly resulting from the use of alcohol or other drugs, it is critical that students take responsible action by calling an ambulance or other appropriate emergency response personnel (police, fire, etc.) to gain that assistance.

Responsible action includes:

1. **CALL** for help: In medical emergencies, immediate action should be taken by calling 9-1-1 either off or on campus. In non-emergency situations, students can also contact NDSU Police (701-231-8998) or notify Residence Life staff.
2. **STAY** with the individual until help arrives and notice has been given that assistance is no longer needed.
3. **COOPERATE** with responding staff or emergency personnel, including all requests for information and assistance.

Students/student organizations who take such responsible action, or for whom such action is taken, will not be subject to the student conduct process for alleged policy violations related to alcohol or drug use or minor policy violations, nor will the incident become part of the student's conduct record. However, students [including the student(s) needing assistance and reporter(s)] may be required to have an educational meeting with University personnel and/or complete an educational program. This protection may not apply if other conduct violations occurred within the same incident.

### **2.3 Student Conduct Communication**

Student conduct communication will be sent to the student's email address as provided by the University. This address is considered the official form of communication for all purposes

and students are expected to monitor this account. (See [NDSU Policy 609, E-mail as an Official Communication Method to Students](#))

### **3. Prohibited Conduct**

#### **3.1 Violations of Law**

Violation of local, state, or federal law is prohibited by this Code. The University reserves the right to address conduct occurring on or off campus that may be construed as potential or alleged violations.

#### **3.2 Complicity in Prohibited Acts**

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

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

#### **3.3 Attempts to Commit Prohibited Acts**

Attempting to commit prohibited acts is a violation of this Code and may be addressed as if the prohibited act had been committed.

#### **3.4 Alcohol on NDSU Property**

Regardless of a student's age, the manufacture, sale, transfer, purchase, transportation, possession, use or consumption of alcohol, and/or possession or display of empty alcohol beverage containers anywhere on NDSU owned or controlled property and/or sponsored or supervised events is prohibited.

#### **3.5 Off Campus Alcohol**

Illegal use or possession of alcohol off campus is prohibited including minor in possession/consumption/under the influence of alcohol, driving under the influence of alcohol, and public consumption of alcohol.

#### **3.6 Drugs Other Than Alcohol**

Possession, consumption, being under the influence, or transport of illegal drugs or any other controlled substances is prohibited except pursuant to a physician's, dentist's, or other authorized medical personnel's prescriptions (see next paragraph for information regarding medical marijuana). The manufacture, exchange, distribution, purchase, or sale of illegal drugs or controlled substances is prohibited. The possession of drug paraphernalia is prohibited.



Although North Dakota state law permits the use of medical marijuana, i.e., use by individuals possessing lawfully issued medical marijuana cards, federal laws prohibit marijuana use, possession, and/or cultivation at educational institutions and on the premises of other recipients of federal funds. The use, possession, or cultivation of marijuana for medical purposes is therefore not allowed in any NDSU housing or other University property, nor is it allowed at any University sponsored event or activity off campus.

### **3.7 Conduct While Under the Influence of Alcohol or Other Drugs**

Being under the influence of alcohol or other drugs is prohibited when the student causes a disturbance or endangers, or may endanger, the safety of others, property, or themselves.

### **3.8 Alcohol at Student Organization Events**

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

Common sources or a bulk quantity of alcohol, such as cases or kegs, are not permitted at any student organization sponsored event, or in fraternity and/or sorority housing.

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

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

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

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

### **3.9 Advertising Related to Alcohol**

Alcohol promotional activities, including advertising, shall not be associated with otherwise existing campus events, programs, or campus organizational functions on or off campus, and is prohibited. This includes novelty items, giveaways, and apparel associated with the event.

Advertising of establishments that sell alcohol must adhere to the following guidelines:

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

For additional policy details, consult [NDSU Policy 155, Alcohol and Other Drugs: Unlawful and Unauthorized Use by Students and Employees](#).

### **3.10 Smoking**

Smoking, including vaping, is prohibited on NDSU grounds and in University buildings, residence halls, apartments, and enclosed structures. See [NDSU Policy 153, Smoke-Free Facilities](#).

### **3.11 Animals**

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

### **3.12 Intellectual Property Infringement**

Infringement of any intellectual property is prohibited. When reproducing or distributing information, students are responsible for observation of copyrights and other intellectual property rights of others by observing institutional and North Dakota University System (NDUS) policies and all state and federal laws. See [NDSU Policy 190, Employee Responsibility and Activities: Intellectual Property](#).

### **3.13 Use of NDSU’s Name or Trademark**

Use of NDSU’s name without prior authorization is prohibited. See [NDSU Policy 700.1, Use of University Name](#).

### **3.14 Sale of Class Lecture Notes/Materials**

Transferring class lecture notes or instructor provided materials for commercial purposes, unless approved by the course instructor, is prohibited. Note: This policy does not prevent note taking provided as part of an ADA accommodation.

### **3.15 Misuse of Proprietary Information**

Unauthorized use or misuse of proprietary information, in any form, is prohibited.

“Proprietary” means property in which the University or its employees and/or students have a legal interest or responsibility to maintain confidentiality. See [NDSU Policy 343, Confidential Proprietary Information](#).

### **3.16 Computer Related Conduct**

Failure to follow University acceptable use of electronic communication devices is prohibited. See [NDSU Policy 158; Acceptable Use of Electronic Communications Devices](#).

### **3.17 Deception/Falsification/Misrepresentation**

Withholding information or providing false information is prohibited. This includes:

Misrepresentation or providing false identification

- Falsely representing an entity and/or committing or using the resources of an entity without proper authorization;
- Knowingly, intentionally, or recklessly making false accusations of prohibited conduct against another individual; and/or
- Altering, destroying, or falsifying evidence.

### **3.18 Financial Aid Misuse**

Misuse of financial aid through fraud or abuse is prohibited.

### **3.19 Disruption of University Business**

Disruption or obstruction of University business, facilities, and grounds, such that the function or service is materially or substantially disrupted or obstructed, is prohibited.

University business includes: teaching, research, administration, public service functions, meetings of University committees or boards, or any other authorized University activity or organization on or off University premises.

### **3.20 Failure to Comply**

Failure to comply with the instructions or directions of all University and/or emergency personnel in the performance of their duties is prohibited. Such acts may include recklessly obstructing or delaying any University proceedings, providing misleading or false information during an investigation, resisting or fleeing a police officer, or failing to comply with assigned University directives or conduct sanctions.

### **3.21 Identification**

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

### **3.22 Bribery**

Offering, giving, receiving, or soliciting anything of value to persuade an individual to act in another's favor, is prohibited.

### **3.23 Arson**

Unlawful or intentional damage or attempt to damage any real or personal property by fire or incendiary device is prohibited.

### **3.24 Burglary**

Unlawful entry into a building or another structure with the intent to commit a felony or theft is prohibited.

### **3.25 Robbery**

Taking or attempting to take, anything of value under confrontational circumstances from the control, custody, or care of another by force or threat of force and/or violence or by putting another in fear of immediate harm is prohibited.

### **3.26 Motor Vehicle Theft**

Theft or attempted theft of a motor vehicle is prohibited.

### **3.27 Theft of Property**

Theft or removal of property belonging to another individual, the University, or any other entity is prohibited.

### **3.28 Theft of Services**

Using University services to which one is not entitled is prohibited. This includes using campus laundry services intended only for campus residents, and the unauthorized use of University parking, dining, and/or printing services.

### **3.29 Possession of Stolen Property**

Possession of goods that one knows or that any reasonable individual would realize were stolen is prohibited. This includes receiving, retaining, concealing, or disposing of property knowing that it was stolen.

### **3.30 Vandalism**

The intentional destruction or defacement of property belonging to another individual, the University, or any other entity is prohibited. This includes writing on or tearing down bulletin

boards, spray painting or unauthorized chalking of buildings or sidewalks, and breaking or damaging property.

### **3.31 Trespassing**

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

### **3.32 Unauthorized Sales, Solicitations, and Distribution of Materials**

Unauthorized sales, solicitations, and/or distribution of leaflets, signs, or posters in residence halls, university apartments, or in any other campus buildings or property are prohibited. See [NDSU Policy 700, Services and Facilities Usage](#) and [NDSU Policy 154, Distribution of Literature](#), or contact:

#### **Memorial Union**

Director of Operations  
Administrative Office, Room 246  
Memorial Union

#### **Residence Life Facilities**

Associate Director of Residence Life  
West Bison Court

#### **Other Areas**

Director of Facilities Management  
Thorson Maintenance Center

### **3.33 Traffic Safety and Parking Regulations**

Failure to follow University traffic safety and parking regulations is prohibited. See [NDSU Parking Regulations](#).

### **3.34 Unauthorized Entry/Use of Facilities**

Unauthorized entry/use of facilities is prohibited. Examples of unauthorized entry and use include:

- Any University facility or portion thereof that has been reserved, restricted in use, or placed off limits;
- Any University facility after closing hours;
- Entry, use, or occupancy to spaces which students are not permitted, such as spaces limited by virtue of enrollment, employment, class schedule, and/or gender in facilities restricted by gender;

- All building roofs, fire escapes, steam tunnels, elevator shafts, equipment storage, mechanical rooms, and construction sites;
- Duplication, manufacture, possession, loaning, or use of any key/access card or unlocking device for use on University facilities, locks, or other property on University premises without proper authorization; and
- Entering a residential facility without being escorted by a resident or failure to escort non-residents.

### **3.35 Intimidation**

Conduct in any form that involves an expressed or implied threat to an individual's personal safety, safety of property, academic efforts, employment, or participation in University sponsored activities is prohibited.

### **3.36 Unwanted Physical Contact**

Unwanted physical contact by a student upon another is prohibited. Examples include kissing, hugging, and backrubs.

### **3.37 Physical Assault**

Physical assault by a student on another is prohibited. Examples include use of physical force, violence, intoxicants, or other substances to restrict the freedom of action or movement of another, and/or endanger the health or safety of another, regardless if obvious or aggravated bodily injury is sustained.

### **3.38 Instigation/Provocation**

The face-to-face use of personally abusive epithets that, when addressed to another, are inherently likely to provoke immediate violent reaction whether or not the reaction occurs is prohibited.

### **3.39 Noise Disturbances and Other Disorderly Conduct**

Conduct that intentionally or recklessly creates a risk of public inconvenience, annoyance, or alarm without proper authority is prohibited. Examples include participating in or hosting noisy or loud parties/gatherings or other public disturbances on or off campus, making unreasonable noise, fighting, engaging in violent behavior, obstructing vehicular or pedestrian traffic, disturbing a lawful assembly, and streaking.

### **3.40 Discrimination, Harassment, and Retaliation**

NDSU is fully committed to providing a safe and non-discriminatory learning, living, and working environment for all members of its university community. For complete information regarding discrimination, harassment, and retaliation please see [NDSU Policy 100, Equal Opportunity and Non-Discrimination](#), [NDSU Policy 162, Sexual and Gender-Based Harassment, Sexual Misconduct, and Title IX Policy](#), and [NDSU Policy 156, Discrimination, Harassment, and Retaliation Complaint Procedures](#).

Students are encouraged to report incidents or information related to discrimination, harassment, and retaliation as soon as possible. Any NDSU employee who becomes aware of a potential violation of NDSU Policy 100 involving students shall report the complaint or policy violation (see [Report Form](#)) either to the Title IX Coordinator/Equity Office or to the Student Affairs Office.

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

Student Affairs and Enrollment Management Office  
Old Main 100  
Phone: 701-231-7701

### **3.41 Sexual and Gender-Based Harassment, Sexual Misconduct, and Title IX Compliance**

NDSU strives to create a campus community free from sexual discrimination of any kind. For complete information regarding sexual misconduct and Title IX compliance, please see [NDSU Policy 162, Sexual and Gender-Based Harassment, Sexual Misconduct, and Title IX Policy](#).

Students are encouraged to report incidents or information related to sexual and gender-based harassment, sexual misconduct, and Title IX as soon as possible. Any NDSU employee who become aware of a potential violation of Policy 162 shall report the information (see [Report Form](#)) to the Title IX Coordinator/Equity Office or to the Student Affairs Office.

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

Student Affairs and Enrollment Management Office  
Old Main 100  
Phone: 701-231-7701

### **3.42 Other Acts of Harassment**

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

### **3.43 Stalking**

Stalking is prohibited. Stalking is a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct that would cause a reasonable individual to feel fear for the safety of self or others or to suffer substantial emotional distress. See [Policy 162](#).

### **3.44 Lewd or Obscene Conduct**

Lewd or obscene behavior that infringes upon community standards with respect to sexuality is prohibited. Lewd behavior includes sexual acts in public places and exposing genitalia in nonconsensual circumstances.

### **3.45 Endangerment of Individuals**

Endangerment of individuals is prohibited. Examples include:

- Willful failure to comply with orders issued by any emergency personnel during any real or perceived emergency condition or willful failure to follow safety standards;
- Tampering with any fire protection sign or device or any other emergency equipment, elevator controls, elevator shaft access, and/or other elevator equipment; and
- Creating a risk of bodily harm or creating the impression of risk of bodily harm to others.

### **3.46 Hazing**

Hazing regardless of location, intent, or consent of participants is prohibited. Hazing is defined as any action or situation that implicitly or explicitly is required for student admission or affiliation with an organization or group. Such activities and situations include paddling in any form; creating excessive fatigue; forced consumption of any substance; forced road trips; morally degrading, demeaning, unsanitary, humiliating games or stunts; and harassment, ridicule, or other activities prohibited by law or University policy.

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

### **3.47 Sporting Activity Restrictions**

Use of skateboards, scooters, skates, hover boards, and bicycles inside any University facilities is prohibited. Use of water guns, water balloons, projectile launchers, and throwing of flying discs, balls, or other objects also are prohibited indoors, except when authorized. For guidance, contact the Director of [University Police and Safety Office](#).

### **3.48 Firearms/Explosives/Weapons**

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

- Firearms include airsoft guns, BB guns, dart guns, handguns, paint ball guns, pellet guns, rifles, shotguns, and stun guns or similar devices designed to deliver an electric shock.
- Explosives include bombs, fireworks, and other incendiary devices. Incendiary devices are defined as any flammable substance enclosed in a readily breakable container that can be equipped with an igniter of any type.



- Other weapons include martial arts implements, dangerous fuels and chemicals, and daggers, knives, sabers, swords, and bows and arrows. Any object may be considered a weapon when used to inflict or threaten infliction of bodily injury or property damage.

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

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

#### **4. Student Organizations/Activities**

##### **4.1 Responsibilities of Student Organizations and Affiliated University Groups**

A student organization or an affiliated University group shall be deemed responsible for acts of prohibited conduct committed by individuals when such acts meet one or more of the following criteria:

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

Students residing in properties owned by organizations or affiliated University groups will be held responsible for their conduct, conduct of their guests, and controlling access to their premises.

##### **4.2 Student Organizations and Affiliated University Group Compliance with University Policy**

Student organizations and affiliated University groups must comply with University policies, procedures, and regulations. Prohibited conduct includes misappropriation of funds, misuse of property, improper registration or misrepresentation of an organization or group, or abuse of student election regulations.

##### **4.3 Conduct Resolution and Enforcement Procedures**

For information concerning the Code resolution procedure(s) to be utilized, refer to Part 5.

## Procedures and Part 6. Hearing Procedures for Potential Suspension or Expulsion Cases.

When a student organization or an affiliated University group is noticed with prohibited conduct, the presiding officer or students affiliated with the group shall be required to participate as representatives of the group in proceedings conducted under this Code.

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

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

### **4.4 Recognition**

Recognition of student organizations is granted by the Congress of Student Organizations Commission and registered in the Student Activities Office in Memorial Union. Although student organizations are independent units which exist at NDSU and are not considered agents of the University, they are expected to uphold and comply with institutional and North Dakota University System (NDUS) policies and local, state, and federal laws.

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

### **4.5 Membership**

Membership in student organizations and affiliated University groups is limited to current students, faculty, and staff of NDSU.

### **4.6 Registration Requirements**

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

- Organization registration form,
- Privacy Statements by students in leadership positions, and
- Copy of the current constitution.

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

- Must have attained and must maintain during the term of participation a minimal cumulative grade point average of 2.0 and may not be on academic probation.
- Must be an enrolled NDSU student.
- Must be in good conduct standing with the Student Affairs and Enrollment Management Office.

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

#### **4.7 National/International Affiliated Organizations**

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

#### **4.8 On and Off Campus Activities/Events**

All on and off campus activities/events must follow all guidelines and procedures set by the Student Activities Office. For further information, contact the Student Activities Office, 120 Memorial Union or [ndsusao@ndsus.edu](mailto:ndsusao@ndsus.edu).

#### **4.9 Fraternities and Sororities**

##### **Membership**

Social fraternities and sororities are chartered with a single institution and therefore are ineligible for Tri-College students; membership is limited to students enrolled at NDSU.

##### **Residents of Greek Chapter Houses**

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

##### **Summer Rules**

Fraternity and sorority presidents are to furnish names of the summer house managers to the Coordinator of Fraternity and Sorority Life, Student Activities Office. Chapter leadership is required to inform summer residents of University and fraternity/sorority life policies.

##### **Alcohol and Other Drugs**

- Fraternity Houses – No alcoholic beverages are permitted in common areas of chapter property at any time. Student members who are 21 years of age may consume alcohol that is less than 15% ABV in the privacy of their rooms/suites with no more than three others who are also 21 years of age or older. If multiple individuals live in one room/suite, all must be 21 years of age or older for alcohol to be present and/or consumed. Illegal drugs are not permitted on chapter or campus property at any time.

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

### **Code Violations**

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

## **5. Procedures**

### **Resolution of Alleged Code Violations**

The Code resolution process generally includes the following steps:

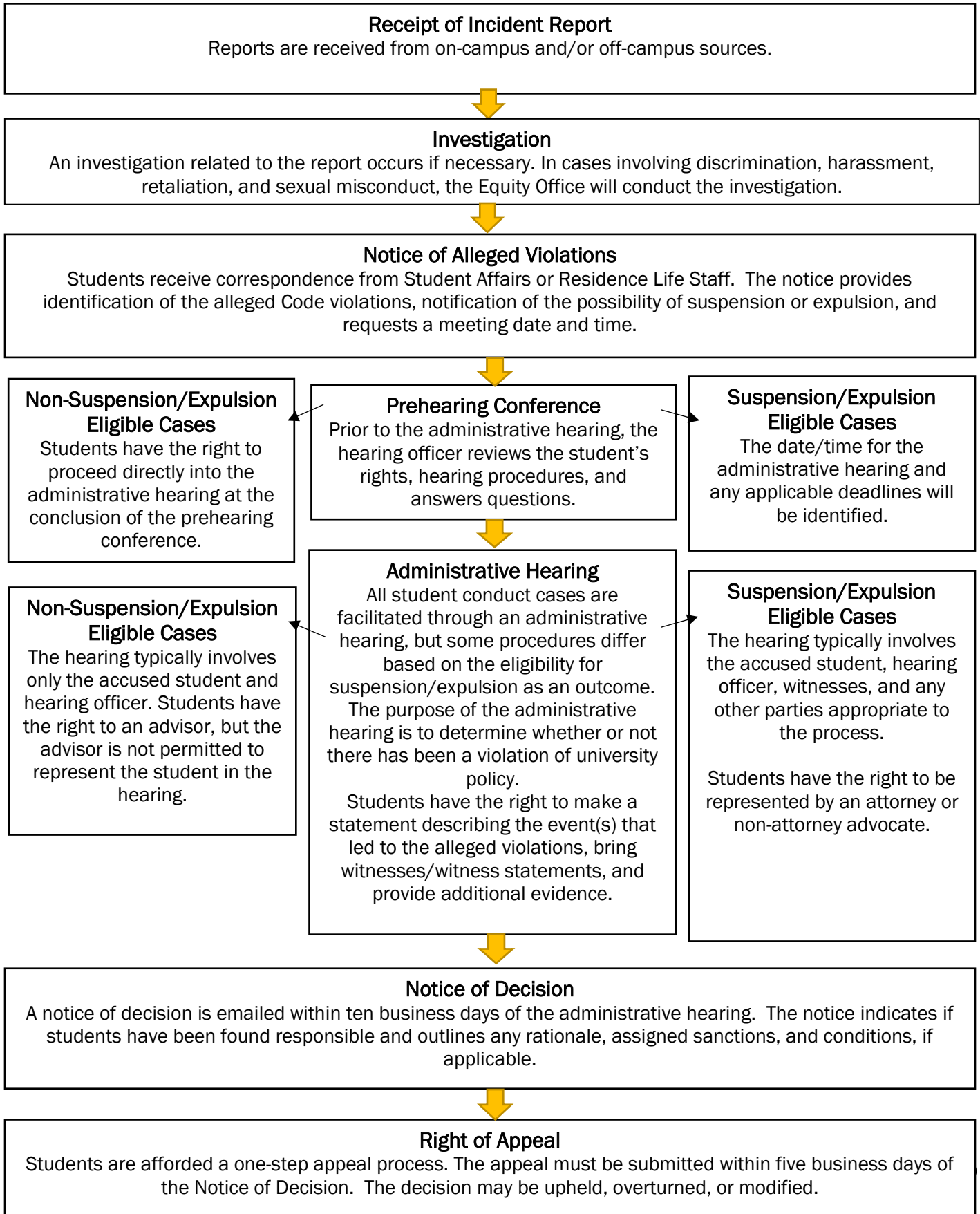
- Receipt of an incident report;
- Creation of a conduct file;
- Investigation of incident, if necessary;
- Implementation of interim or remedial measures, if necessary;
- Notice of alleged violations;
- Prehearing conference;
- Administrative hearing;
- Notice of decision;
- Right of appeal; and
- Notice of appeal decision.

This process is designed to:

- Provide for the education of students;
- Promote the health, safety, and well-being of University community members;
- Provide for fair inquiries concerning alleged violations of University policies;
- Determine whether or not any individual student has violated a University policy;
- Allow for consideration of extenuating or mitigating factors when a violation has been found to exist;
- Determine a resolution; and

Assist the student in reflecting upon and growing from their personal experiences. A detailed description of these steps is provided below. Cases related to discrimination, harassment, retaliation, and sexual misconduct may require some modification of the resolution process, as approved by the NDSU Title IX Coordinator. For additional information, see [NDSU Policy 156, Discrimination, Harassment, and Retaliation Complaint Procedures](#).

## Resolution of Code of Student Conduct Violations Flowchart



## 5.2 Reporting Alleged Code Violations

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

Student Affairs and Enrollment Office  
Old Main 100  
701-231-7701  
[ndsusrr@ndsus.edu](mailto:ndsusrr@ndsus.edu)

Department of Residence Life  
West Bison Court  
701-231-7557  
[ndsuresidence.life@ndsus.edu](mailto:ndsuresidence.life@ndsus.edu)

Equity Office  
Old Main 201  
701-231-7708  
[ndsueoaa@ndsus.edu](mailto:ndsueoaa@ndsus.edu)

For cases of discrimination, harassment, retaliation, and sexual misconduct, see [Report Form](#).

## 5.3 Student Advisor Options

Students have the right to have an individual present who may act in an advisory capacity. Hearing advisors may not serve as witnesses, unless otherwise allowed by Title IX regulations. If a student would like an advisor but needs assistance in identifying an appropriate individual, the Student Affairs and Enrollment Management Office will identify a trained staff or faculty member to work with the student.

If a student chooses to have an attorney present as his or her hearing advisor, NDSU may request legal representation be present as well. In cases that do not involve potential for suspension or expulsion, the role of an attorney shall be to advise his or her client, not to participate in the hearing, unless otherwise allowed by Title IX regulations.

Any advisor, attorney, or non-attorney advocate who does not respect this provision may be cautioned by the hearing officer and, if they persist, may be asked to leave and the hearing will proceed.

In cases that could result in suspension or expulsion, attorneys or non-attorney advocates may fully participate, which means they may make opening and closing statements, examine

and cross-examine witnesses present during the hearing, and provide the student with support, guidance, and advice throughout the process.

In Title IX cases, regardless of the potential of suspension or expulsion, the advisor will conduct the cross-examination.

#### **5.4 Investigation**

If an investigation is to take place, the student(s) will receive notice from the office conducting the investigation. The purpose of the investigation is to gather the facts, details and circumstances associated with a complaint. The investigation may include interviewing witnesses, reviewing documents to be considered, or completing other steps that will assist the Vice Provost or designee to determine whether action under the Code is warranted. Written findings of the investigation along with a recommendation for dismissal of the complaint or a recommendation of pursuing action under the Code will be produced by the investigator(s) and provided to the Student Affairs and Enrollment Management Office. If the report indicates reasonable cause to believe that a violation occurred, then the Vice Provost's designee may proceed with a Notice of Alleged Violations.

Upon receipt of notice, the University may investigate an allegation of Code violation, and may also initiate an investigation at the request of any member of the NDSU community or affected party. Designated, trained University personnel are authorized to investigate alleged violations of the Code.

All cases of discrimination, harassment, retaliation, and sexual misconduct involving a potential violation by a student shall be investigated by the Equity Office utilizing the procedures set forth in Sections 1 through 8.8 of [NDSU Policy 156](#). The Final Investigative Report as set forth in NDSU Policy 156 shall constitute the Investigation Determination for purposes of Section 5.7 below.

Any individual believed to have information relevant to an investigation may also be contacted and requested to make an appointment to discuss the matter. All information/evidence needs to be provided during the investigative phase in order to be considered for determining if a case will be dismissed or whether action will be pursued and in determining findings under the Code.

#### **5.5 Interim or Remedial Measures**

In the interest of safety and security, upon receipt of notice, interim or remedial measures may be implemented prior to a completed investigation or conduct hearing. Specific actions will be based on the circumstances of the allegations and may include no contact orders, housing/workplace changes, loss of privileges, and/or restricted access to campus.

#### **5.6 Right to Entry**

University policy on the privacy of student rooms stipulates that entry and search of University

residences by University officials will be permitted only in one or more of the following instances:

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

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

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

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

## **5.7 Notice of Alleged Violations**

A written notice will be sent via authorized University email, to the responding student to arrange a prehearing conference.

The notice will include:

- Nature of the alleged violation;
- Date, time, and place of the alleged violation;
- Source of the information;
- Maximum sanction applicable if found in violation of the Code of Student Conduct;
- The student's right to be represented by an attorney or non-attorney advocate, at the



- student's expense, if suspension or expulsion are identified as potential sanctions; and
- Notice that a decision may be made in the student's absence based on the information currently available.

The student must be given notice in writing of a summary of the alleged violations and evidence to be presented in sufficient time to ensure an adequate opportunity to prepare for the hearing. The University will provide the student written notification of the hearing at least three business days prior to the hearing date. Students may consent to a shorter notice period, if they so choose.

## **5.8 Prehearing Conference**

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

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

The student may request to proceed with an immediate hearing, except in cases that may result in suspension or expulsion.

## **5.9 Conduct Hearings**

The Code of Student Conduct resolution process will be facilitated through an administrative hearing to determine whether or not there has been a violation of University policy. Although all cases are heard administratively, some procedures differ between cases that are or are not eligible for suspension/expulsion. The University reserves the right to determine procedures and appropriate individuals to include in the process. In an administrative hearing, the responding student has a right to make a written and/or oral statement describing the event(s) that lead to the alleged violations, bring witnesses or witness statements, and present evidence.

In all cases involving an allegation of discrimination, harassment, retaliation, or sexual misconduct, both reporting and responding students shall have equal procedural rights as detailed in [NDSU Policy 156, Discrimination, Harassment, and Retaliation Complaint Procedures](#).

University administrators will process conduct cases related to fraternities, sororities, and student organizations. Individual organizational boards will only address violations of organizational standards, not violations of this Code.

### **Non-Suspension/Expulsion Conduct Hearings**

A non-suspension/expulsion conduct hearing is an administrative hearing that generally

involves only the responding student and the hearing officer. The hearing officer is the individual appointed by the University to process an alleged violation of University policy. The hearing officer shall typically be a University employee; however, the University may, at its discretion, retain a non-employee to serve as a hearing officer at the University's expense.

Following the hearing, all applicable parties will receive a written notice of decision within 10 business days.

### **Suspension/Expulsion Conduct Hearings**

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

The hearing will be recorded and retained as part of the student's conduct file. The reporting (if applicable) and responding parties may access the recording, including for the preparation of an appeal. Requests for access should be directed to the Student Affairs and Enrollment Management Office. Following the hearing, all applicable parties will receive a written notice of decision within 10 business days.

### **5.10 Default Proceedings and Unresolved Alleged Code Violations**

When a student/organization fails to appear for a hearing appointment without advance notice, or leaves the University with unresolved alleged violations, the hearing officer may make a decision in the student/organization's absence, providing the student/organization was issued adequate written notice of the date, time, and place of the scheduled hearing.

In certain cases, a registration hold may be placed on the student's records and the case will be archived until such time the student requests reactivation or a resolution of the pending matter.

### **5.11 Student Organizations in Default**

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

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

responsibility for the alleged violations, determine or recommend the appropriate sanction, and if that sanction is less than suspension or expulsion, will assess the need for any remedial measures.

#### **5.12 Conflicts of Interest**

Any hearing officer who has a conflicting interest in the particular case may not participate. Any party has the right to challenge the appointment of a hearing officer. Challenges must be submitted in writing to the Vice Provost or designee at least three business days prior to the hearing. If a party fails to raise an actual or reasonably perceived conflict by objecting three business days in advance, any objection is deemed to be waived. A hearing officer may not be disqualified solely based on his or her position in the University community.

#### **5.13 Standard of Proof**

The standard of proof is a “preponderance of the evidence” Which means the greater weight of the evidence indicates that a violation did occur. A student is found to have violated this Code when:

- The student admits to the violation, or
- Preponderance of the evidence indicates the student is in violation of the Code.

#### **5.14 Witnesses/Witness Statements**

Prior to the hearing, names of witnesses being called to the hearing must be submitted to the Student Affairs and Enrollment Management Office by a deadline set during the prehearing conference. All parties will be given reasonable opportunity to present witnesses and/or witness statements and will be allowed to address questions to any witnesses participating in the hearing. All questions will be addressed through the hearing officer; however, the hearing officer may allow for direct questioning of non-party witnesses. Witnesses will be given reasonable latitude to respond fully to questions and will only remain for the duration of their own testimonies.

Character witnesses are not permitted. The hearing officer will exclude any information from the hearing documentation that appears to be a character statement rather than facts or evidence related to the case.

#### **5.15 Evidence**

In cases that involve an investigation, all evidence is to be provided during the investigation. All parties will be given reasonable opportunity to present any written or oral information, documentation, or other evidence that is relevant in determining responsibility.

Due to the hearing being an educational process, formal rules of evidence do not apply. For this reason, hearsay evidence may be permitted. Hearsay evidence refers to testimony given by a witness who speaks about information received from others, rather than information

given directly by that witness. The value of such evidence is left to the discretion of each hearing officer.

#### **5.16 Self Incrimination**

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

#### **5.17 Closed Hearings**

All hearings are generally closed except to those who are part of the proceedings. The Vice Provost or designee may permit a limited number of NDSU personnel to be present as observers for the purpose of training. Other exceptions may also be made as deemed appropriate by the Vice Provost or designee.

#### **5.18 Appeals**

Students sanctioned for violations of any part of this Code of Student Conduct or relevant University policies may appeal. Reporting (if applicable) and responding students are limited to one appeal and that decision is final (see Section 8. Appeal Procedures).

### **6. Hearing Procedures for Suspension or Expulsion Cases**

#### **6.1 Introduction**

With all parties present, the hearing officer will call the meeting to order and ask all parties participating in the hearing to introduce themselves and identify their role in the proceedings. The hearing officer will describe the general outline of the hearing and read the following honesty statement:

##### **Honesty Statement**

*The University expects that all information presented in this hearing will be true and correct to the best of each participant's knowledge. If students willfully provide false information, they will be in violation of NDSU's Code of Student Conduct. As a result, they may also be subject to additional disciplinary action. Dishonest behavior by any faculty or staff members will be reported to supervisors for any necessary disciplinary action.*

If a student is represented by an attorney or non-attorney advocate, the representative has the ability to fully participate in the hearing as indicated in section 5.3 Student Advisor Options. Hearing advisors, attorneys, and/or non-attorney advocates will be required to sign a confidentiality statement pertaining to information about all parties involved in the hearing. The hearing officer will dismiss witnesses until they are called to speak.

#### **6.2 Case Presentation and Response**

The hearing officer or designee will outline the process for presentation of the case. The responding and/or reporting parties will be permitted to respond to the alleged violations and

present information that is relevant in determining whether the student violated one or more sections of the Code. The hearing officer is responsible for determining relevancy.

### **6.3 Questioning of Witnesses and Parties**

All parties will be allowed to present witnesses who may be asked questions by any of the other parties. All questions will be directed to the hearing officer who will determine reasonableness and relevancy to the hearing. The hearing officer will seek clarification if necessary and request a response. As appropriate, the hearing officer may allow direct questioning of witnesses and parties, with the right to rescind the permission at any time.

### **6.4 Closing Statements**

The reporting and/or responding parties (and investigator if applicable) will have an opportunity to make a closing statement.

### **6.5 Notice of Decision**

The hearing officer will provide written notice of decision to the responding student (and reporting party if applicable). The written notice will include the findings, rationale, sanctions, and conditions for continued enrollment or re-enrollment, if any. The notice will generally be provided within 10 business days following the hearing. The Vice Provost may grant time extensions, if necessary.

## **7. Sanctions and Conditions**

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

If a student is found not responsible for the alleged Code violation(s), no disciplinary action will be taken against the responding student. If a student is found responsible for one or more alleged Code violations, a sanction may be imposed. Sanctions may not include suspension or expulsion unless the student receives prior written notice that the case was serious enough to warrant suspension or expulsion. The sanctions listed below are assigned based on the severity of the incident and/or past conduct history:

- Written warning,
- Conduct probation,
- Supervised conduct probation,
- Conduct suspension, or
- Conduct expulsion.

The hearing officer will issue the written decision within 10 business days from the date of hearing. Sanctions of suspension are noted in the student's transcript throughout the duration of the

suspension period, while sanctions of expulsion remain permanently.

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

With each sanction, conditions may be assigned. In addition, notification may be given to other University officials as necessary. Conditions include:

- Alcohol or other drug programming, evaluation, and/or testing;
- Written assignments;
- Participation in a specific activity or project;
- Restricted access;
- Loss of privileges;
- No contact orders; and/or
- Restitution.

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

- Facts of the case as presented from all relevant sources, including the parties;
- Existence of any physical evidence or written or oral information provided by the parties;
- Type and severity of the offense;
- Impact on the reporting party (if applicable), the educational community, and its members;
- Previous incidents of prohibited conduct committed by the responding student; and
- The ability and/or willingness of the responding student to accept responsibility.

Any Code violation that is determined to have been motivated by bias based on a protected class may result in enhanced sanctions above those typically assigned for the same violations when not motivated by bias. See [NDSU Policy 100, Equal Opportunity and Non-Discrimination Policy](#).

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

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

## **7.1 Sanctions**

### **Written Warning**

A warning is written notification that subsequent Code violations will typically result in more severe sanctions.

### **Conduct Probation**

Conduct probation is written notification of a specified period of review and observation during which the student must demonstrate the ability to comply with University policies; local, state, and federal laws; and any other conditions that have been assigned in writing. The specific terms of the probation will be determined on a case-by-case basis. Further Code violations may result in additional sanctions, including suspension or expulsion.

### **Supervised Conduct Probation**

Supervised conduct probation is written notification of a specified period of review and observation during which the student must demonstrate the ability to comply with University policies and local, state, and federal laws. Supervised conduct probation requires meetings with a designated NDSU employee to monitor progress in behavioral, academic, social, vocational, and other areas of the student's life. The supervisor may assign educational tasks and/or projects as deemed necessary and appropriate to assist the student in personal growth. Further Code violations may result in additional sanctions, including suspension or expulsion.

### **Conduct Suspension**

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

- A student may not re-enroll at NDSU during the period of conduct suspension.
- The student's eligibility for any refund of tuition/fees will be subject to the University's normal withdrawal policy.
- The notice of conduct suspension will include the conditions for readmission that must be met prior to application for readmission. Students may obtain information regarding reactivation from Registration and Records or online through [One Stop](#). A meeting with a member of the Student Affairs and Enrollment Management staff may be required prior to acceptance of the student's application for readmission.
- The student's transcript will carry a notation "may not register for nonacademic reasons <effective date range>" without further explanation. Upon completion of the suspension, the notation will be removed by the University.
- A student who has been suspended must vacate residence life facilities within the time frame established in the written notice of the conduct suspension.
- In addition to being ineligible for enrollment, a student is also ineligible for employment with NDSU.
- A student who has been suspended is restricted from the NDSU campus during the specified period of suspension. The student will also be required to obtain prior written permission from the Vice Provost or designee, before being on any portion of the NDSU campus during the period of suspension. Approval is generally granted only to permit a

student to conduct business related to the University.

- Conduct suspension is a permanent conduct record, which means it may be retained indefinitely at the discretion of the Vice Provost, but not less than seven (7) years.
- Student organizations placed on suspension may have all rights and privileges provided by CSO revoked for the duration of their suspension. In order to regain all rights and privileges, the student organization is required to comply with and complete any and all sanctions and conditions.

### **Conduct Expulsion**

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

Conduct expulsion is a permanent conduct record, which means it will be retained indefinitely at the discretion of the Vice Provost, but not less than seven (7) years.

A student who has been expelled is restricted from the NDSU campus indefinitely.

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

## **7.2 Conditions Written Assignments**

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

### **Participation in a Specific Activity or Project**

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

### **Loss of Privileges**

A student may be denied various privileges associated with being a student at NDSU. Such privileges may include residing in, visiting, or accessing University property and facilities and participating in University events and/or student organizations.

### **No Contact Order**

Students may be prohibited from direct or indirect physical and/or verbal contact with another individual or group. Reasonable restrictions to protect the safety and welfare of others may also be imposed. These include any and all forms of communication, access to University owned or controlled locations, and specified minimum distances.

### **Restitution**

A student may be required to repair, pay the cost for repair, or pay for cost of replacement of



any university or state property damaged by the student. In each case, the goal will be to return the damaged property to its existing condition at the time of damage. The determination of the method used to calculate restitution shall be the responsibility of the hearing officer, taking into consideration the fair market value or cost to repair the damaged item(s).

### **Alcohol / Drug Evaluation and/or Testing**

The University reserves the right to require alcohol/drug evaluation and/or testing as a condition of enrollment or continued enrollment when:

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

## **8. Appeal Procedures**

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

In all cases involving an allegation of discrimination, harassment, retaliation, or sexual misconduct, the reporting party is also allowed to file an appeal within the same parameters identified in 8.2. In these cases, an appeal could result in a different decision regarding the finding of responsible or not responsible and/or stronger, the same, or lesser sanctions than originally imposed.

### **8.1 Deadline for Appeals**

An appeal of any conduct process decision must be made in writing within five business days following the date the sanction notice is provided to the student. In extraordinary circumstances, the Vice Provost may grant time extensions. The University reserves the right, however, to reduce the time allowed for a student appeal in cases that may have the potential to result in harm to an individual and/or property. The reduced time for appeal will be specified in the decision letter along with the rationale for allowing reduced time for an appeal. The appeal must be written by the student and shall contain the student's name, date of the decision or action, and reason(s) for the appeal.

### **8.2 Appeal Documentation**

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

- The severity of the sanction was not consistent with the severity of the offense,

- The finding of the Code having been violated or not was not substantiated by the evidence, and/or
- The student's due process rights as outlined in this Code were violated, which materially or substantially impacted the decision. Those rights believed to be violated must be specified.

A copy of an appeal will be given to the other party who will have the opportunity to respond. Students will have no more than five business days to submit their response to the other party's appeal; however, the response cannot include an appeal if the time period for appeal has already expired. In cases that only involve a responding student, the appeal officer may not increase the sanctions/actions imposed by the hearing officer.

### **8.3 Emergency Provisions**

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

### **8.4 Review**

The appeal officer will review the written appeal documentation/response to appeal from the student(s) and materials from the original hearing, including the recording. In reviewing the appropriateness of sanctions, the student's entire conduct file may be considered.

### **8.5 Appeal Advisory Board**

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

### **8.6 Decision/Sanction**

After reviewing appeal materials, the appeal officer may decide to do one of the following:

- Uphold the decision,
- Remand the case back to the original hearing officer,
- Adjust the sanction, or
- Assign a new hearing officer.

The decision on the appeal will generally be made within 10 business days of receipt of the appeal, but may take longer during University recesses or in the event of complex cases.

## 9. Special Circumstances and Conditions

### 9.1 Registration/Graduation Hold

If a student (new, current, or returning) fails to respond to a request to meet to discuss an alleged violation of this Code, or fails to comply with sanctions and conditions assigned as a result of being found responsible for a violation of this Code, a hold may be placed on the student's eligibility to register or the student's current registration may be canceled. If registration is canceled, eligibility for any refund of tuition/fees will be subject to the University's withdrawal policy.

Students may not be permitted to graduate or officially withdraw from NDSU while disciplinary action is pending. If the student withdraws before NDSU becomes aware of the potential violation of this Code, the student's educational records may be placed on hold and the allegations must be resolved prior to the student's readmission.

### 9.2 Returning and/or New Students

If a student, during a period of non-enrollment, commits an act that violates this Code, a registration hold may be placed to prevent the student's registration until a hearing may be held on that matter. The student may be notified about the hold at the time the University is first notified about the incident, or notice may be provided when the student subsequently requests enrollment. In addition, a hearing officer, in consultation with the Vice Provost or designee, may place a registration hold to deny a student the eligibility to register. Reasons may include the student's arrest or when criminal charges are pending against the student, serious concerns arise about the health or safety of the student or others in the University community, and/or as otherwise provided by [NDSU Policy 607, Admission & Re-Enrollment Safety Risks; Background Checks](#).

### 9.3 Rehearing Requests for Cases Resulting in Suspension or Expulsion

Any student who is suspended or expelled has the right to request a reconsideration of the case based on new or contradictory evidence that was not available at the time of the original hearing, and/or evidence that the student was not afforded due process as outlined in this Code. A request for reconsideration of the case should be submitted to the Vice Provost. Information that may be considered may include police reports, transcripts of legal proceedings, and the outcome of any civil or criminal proceeding directly related to the appeal. Student grievance proceedings based on allegations of Title IX violations are governed by NDSU Policy 156.1.

### 9.4 Temporary Emergency Suspension

A student may be temporarily suspended by the Vice Provost, pending a hearing, when the student's actions or threats of action indicate a serious threat to the welfare and/or safety of an individual or property. No hearing will be required before a temporary suspension is imposed; however, one will be convened within five business days following the suspension.

In unique circumstances, any alteration to this timeline will be at the discretion of the Vice Provost. If the suspension is upheld, the suspension remains subject to the rules outlined in Conduct Suspension (see Section 7.1 Sanctions) and remains a matter of permanent conduct record.

### **9.5 Administrative Withdrawal**

A student may be subject to administrative withdrawal if it is determined by compelling evidence that the student's actions or threats of action indicate a serious threat to the welfare and/or safety of persons or property.

Students wishing to return to the University may obtain information regarding reactivation from Registration and Records or online through [One Stop](#). A meeting with a member of the Student Affairs staff also will be required prior to acceptance of the student's application for readmission.

### **9.6 Negotiated Withdrawal**

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

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

### **9.7 Crimes of Violence**

The term "crime of violence" means:

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

Examples include arson, auto theft, assault, aggravated assault, burglary, kidnapping/abduction, manslaughter, murder, resisting arrest through the use or threat of physical force, robbery, vandalism, and sexual offenses.

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

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

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

## **10. Conduct Records**

### **10.1 Disclosure**

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

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

As provided under FERPA, information concerning Code violations for alcohol and/or drugs may be shared with parents. In addition, Code violations may also be shared with some academic departments upon request and as necessary to fulfill their professional obligations. A procedure exists between Student Affairs and Enrollment Management and Athletics that provides for full exchange of information concerning Code violations by student athletes with the pertinent athletic personnel and the Athletic Director.

### **10.2 Retention and Destruction**

In cases in which a student is found not responsible, all records related to that student's cumulative conduct history will be retained for seven years from the date of the incident.

#### **Sanctions Less than Suspension or Expulsion**

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

#### **Suspension or Expulsion**

In cases in which a student is found in violation and receives a sanction of suspension, conduct records may be retained indefinitely at the discretion of the Vice Provost, but not less than seven years. In cases in which a student is found in violation and receives a sanction of

expulsion, conduct records will be retained on a permanent basis.

### **Student Organization Records**

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

### **FINAL NOTE:**

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

### **Related University Policy Statements**

[Bank and Investment Accounts for Student Organization Bank Accounts](#)

[License Agreement for University Apartments](#)

[NDSU Policy 154.1, Sale or Distribution of Racially and Sexually Offensive Material](#)

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

[NDSU Policy 162.1, Consensual Relationships](#)

[NDSU Policy 703, NDSU Card Terms and Conditions](#)

[NDSU Policy 513, NDSU Collection Policy](#)

[SBHE Policy 401.2, Political Activities](#)

[SBHE Policy 506.1 Immunization](#)

[Student Organization Guidelines and Procedures](#)

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### **HISTORY:**

New	
Amended	September 27, 1999
Amended	May 31, 2011
Amended	August 23, 2014
Amended	September 18, 2015
Housekeeping	October 6, 2015
Housekeeping	June 23, 2017
Amended	August 22, 2017
Amended	November 25, 2019
Amended	August 14, 2020
Amended	December 14, 2020