

# North Dakota State University

## Policy Manual

---

### SECTION 601

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

SOURCE: NDSU President

#### Table of Contents

<b>1. Introduction</b>	<b>4</b>
1.1 General NDSU Values	4
1.2 General Complaint Procedures	5
1.3 Authority	5
<b>2. Community Expectations</b>	<b>6</b>
2.1 General Student Responsibilities	6
2.2 Persons Covered Under This Code	6
2.3 Official University Communication	6
2.4 Prohibited Conduct Not on University Property	7
2.5 Tri-College Policies	7
2.6 Multiple Accountabilities	7
2.7 Financial Responsibility	7
2.8 Bias-Motivated Violations	8
2.9 Repeated Code Violations	8
<b>3. Prohibited Conduct</b>	<b>8</b>
3.1 Violations of Law	8
3.2 Complicity or Attempts to Commit Prohibited Acts	8
3.3 Alcohol on NDSU Property	9
3.4 Off Campus Alcohol	9
3.5 Drugs Other Than Alcohol	9
3.6 Conduct While Under the Influence of Alcohol or Other Drugs	9
3.7 Alcohol at Student Organization Events	9
3.8 Advertising Related to Alcohol	10
3.9 Good Samaritan Responsibilities	10
3.10 Smoking	11
3.11 Animals	11
3.12 Intellectual Property Infringement	11
3.13 Use of NDSU's Name or Trademarks	11

3.14	Sale of Class Lecture Notes/Materials .....	12
3.15	Misuse of Proprietary Information.....	12
3.16	Computer Related Conduct .....	12
3.17	Deception/Falsification/Misrepresentation .....	12
3.18	Financial Aid Misuse .....	12
3.19	Disruption of University Business.....	12
3.20	Failure to Comply.....	13
3.21	Identification.....	13
3.22	Bribery.....	13
3.23	Arson .....	13
3.24	Burglary.....	13
3.25	Robbery.....	13
3.26	Motor Vehicle Theft .....	13
3.27	Theft of Property.....	14
3.28	Theft of Services.....	14
3.29	Possession of Stolen Property.....	14
3.30	Vandalism .....	14
3.31	Trespassing .....	14
3.32	Unauthorized Sales or Solicitations .....	14
3.33	Traffic Safety and Parking Enforcement .....	14
3.34	Unauthorized Entry/Use of Facilities.....	15
3.35	Intimidation.....	15
3.36	Physical Assault.....	15
3.37	Instigation/Provocation.....	15
3.38	Disorderly Conduct.....	16
3.39	Discrimination, Harassment, and Retaliation.....	16
3.40	Sexual and Gender-Based Harassment, Sexual Misconduct, and Title IX Compliance .....	16
3.41	Other Acts of Harassment.....	17
3.42	Stalking.....	17
3.43	Lewd or Obscene Conduct.....	17
3.44	Endangerment of Individuals.....	17
3.45	Hazing.....	17
3.46	Sporting Activity Restrictions .....	18
3.47	Weapons/Firearms/Explosives .....	18
<b>4.</b>	<b>Student Organizations/Activities .....</b>	<b>19</b>
4.1	Responsibilities of Student Organizations and Affiliated University Groups.....	19

4.2	Student Organizations and Affiliated University Group Compliance with University Policy.....	19
4.3	Conduct Resolution and Enforcement Procedures .....	19
4.4	Recognition.....	20
4.5	Membership .....	20
4.6	Registration Requirements.....	20
4.7	National/International Affiliated Organizations.....	21
4.8	On and Off Campus Activities/Events .....	21
4.9	Fraternities and Sororities .....	21
4.10.	Commercial Solicitations and Distribution Issues.....	22
<b>5.</b>	<b>Procedures.....</b>	<b>22</b>
5.1	Reporting and Investigating Complaints.....	24
5.2	Reporting Alleged Violations.....	24
5.3	Investigations .....	24
5.4	Interim Measures .....	25
5.5	Searches and Seizures .....	25
5.6	Notice of Charges.....	26
5.7	Prehearing Conference .....	26
5.8	Conduct Hearings.....	26
5.9	Student Advisory Options.....	28
5.10	Default Proceedings and Unresolved Charges.....	28
5.11	Student Organizations in Default .....	28
5.12	Conflicts of Interest .....	29
5.13	Burden of Proof .....	29
5.14	Standard of Proof .....	29
5.15	Witnesses/Witness Statements.....	29
5.16	Evidence .....	30
5.17	Self Incrimination .....	30
5.18	Closed Hearings .....	30
5.19	Appeals .....	30
<b>6.</b>	<b>Hearing Procedures for Potential Suspension or Expulsion Cases .....</b>	<b>30</b>
6.1	Introduction .....	30
6.2	Complaint and Response.....	31
6.3	Presentation of Witnesses.....	31
6.4	Questioning of Parties.....	31
6.5	Closing Statements .....	31
6.6	Notice of Decision .....	31

<b>7.</b>	<b>Sanctions and Conditions</b> .....	<b>32</b>
7.1	Sanctions .....	33
7.2	Conditions.....	35
<b>8.</b>	<b>Appeal Procedures</b> .....	<b>37</b>
8.1	Deadline for Appeals.....	37
8.2	Appeal Documentation .....	37
8.3	Emergency Provisions .....	38
8.5	Review.....	38
8.6	Decision/Sanction.....	38
8.7	Rehearing Requests for Cases Resulting in Suspension or Expulsion.....	38
<b>9.</b>	<b>Special Circumstances and Conditions</b> .....	<b>39</b>
9.1	Registration/Graduation Hold .....	39
9.2	Returning and/or New Students .....	39
9.3	Temporary Emergency Suspension.....	39
9.4	Negotiated Withdrawal.....	40
9.5	Administrative Withdrawal .....	40
9.6	Interim Actions.....	40
9.7	Crimes of Violence.....	40
9.8	Notification of Hearing Outcomes for Crimes of Violence.....	41
<b>10.</b>	<b>Conduct Records</b> .....	<b>41</b>
10.1	Disclosure .....	41
10.2	Retention and Destruction.....	41

## **1. Introduction**

### **1.1 General NDSU Values**

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

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

The intent of this 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 educational mission of the University or the welfare of themselves or others. This includes promoting an environment conducive to learning and nurturing a sense of shared and mutual community responsibility. Community responsibility also involves awareness of how personal decisions affect others.

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

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

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

All NDSU students have identified rights within the Code of Student Conduct and as afforded by due process as outlined in this Code. The 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 concerns, issues and complaints utilizing the [Problems and Complaints](#) guidelines and form. The 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 also may arrange a meeting with a staff member in the Student Affairs Office, Memorial Union 250, for advice and direction in resolving the problem. Complaints regarding student conduct covered in this 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 the various administrative committees and boards charged with hearing complaints against students or student organizations for

violation of those rules and regulations. Student organizations and University employees are required to inform the Vice Provost whenever action is deemed necessary against a student or student organization.

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

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. Faculty, staff, and students are encouraged to request clarification if a clause or rule is unclear. Final authority for interpretation of this Code lies with the Vice Provost.

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

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

## **2. Community Expectations**

### **2.1 General Student Responsibilities**

All students are expected to observe the University standards published in the University Policy Manual. This section outlines responsibilities that pertain specifically to students. However, students must follow all other University policies, procedures, contracts, or license contracts published elsewhere. In addition, students are expected to observe the laws of the community, the state, the nation and relevant jurisdictions when touring or studying abroad.

### **2.2 Persons Covered Under This Code**

For the purpose of this document, "student" is defined as any individual who has been admitted to the University or enrolled for credit or non-credit courses. Students previously enrolled in the University may be held accountable under this Code for those violations committed after they were admitted and before they left the University. Student organizations are held to the same conduct standards that apply to individual students.

### **2.3 Official University Communication**

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

the accuracy of all personal data. Students must monitor the University provided email account for important announcements, notifications, and other messages.

#### **2.4 Prohibited Conduct Not on University Property**

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

#### **2.5 Tri-College Policies**

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

#### **2.6 Multiple Accountabilities**

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

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

Actions under this Code are educational (administrative) as are other actions taken under NDSU policies. Because the University's procedures are educational and not criminal in nature, such separate proceedings do not constitute double 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 finding prior to proceeding with University process. Findings under this Code may differ from judgments in criminal courts.

#### **2.7 Financial Responsibility**

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

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

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

### **2.8 Bias-Motivated Violations**

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

### **2.9 Repeated Code Violations**

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).

## **3. Prohibited Conduct**

### **3.1 Violations of Law**

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

### **3.2 Complicity or Attempts to Commit Prohibited Acts**

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

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

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



### **3.3 Alcohol on NDSU Property**

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

### **3.4 Off Campus Alcohol**

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

### **3.5 Drugs Other Than Alcohol**

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

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

Being under the influence of alcohol or other drugs is a violation of this Code when the person:

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

### **3.7 Alcohol at Student Organization Events**

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

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

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

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

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

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

### **3.8 Advertising Related to Alcohol**

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

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

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

### **3.9 Good Samaritan Responsibilities**

All students are expected to protect the well-being of fellow students and others wherever events occur. If a person needs emergency medical attention, particularly resulting from the use of alcohol or other drugs, students are expected to call an ambulance or other appropriate emergency response personnel (ambulance, police, fire, etc.) to gain that

assistance. Students/student organizations who fail to respond appropriately may be subject to serious University sanctions and may potentially be subject to additional civil and/or criminal liability.

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

### **3.10 Smoking**

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

### **3.11 Animals**

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

### **3.12 Intellectual Property Infringement**

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

### **3.13 Use of NDSU's Name or Trademarks**

Use of NDSU's name without prior authorization is prohibited. For additional information and

guidance, please see [NDSU Policy 700.1, Use of University Name](#).

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

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

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

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

### **3.16 Computer Related Conduct**

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

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

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

- Falsely representing an entity and/or committing or using the resources of an entity without proper authorization;
- Knowingly, intentionally or recklessly making false accusations of prohibited conduct against another individual;
- Providing false information or falsified evidence with the intent of harming another person; and/or
- Attempting to intimidate witnesses and/or altering or destroying evidence necessary to conflict resolution.

### **3.18 Financial Aid Misuse**

Misuse of financial aid through fraud or abuse is prohibited.

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

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

### **3.20 Failure to Comply**

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

### **3.21 Identification**

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

### **3.22 Bribery**

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

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

### **3.23 Arson**

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

### **3.24 Burglary**

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

### **3.25 Robbery**

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

### **3.26 Motor Vehicle Theft**

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

### **3.27 Theft of Property**

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

### **3.28 Theft of Services**

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

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

Possession of goods that one knows or that any reasonable person would realize were stolen is prohibited; as is receiving, retaining, concealing, or disposing of property knowing that it was stolen. If it can reasonably be demonstrated that the receiver was unknowing, the property should be returned to its owner with no action taken against the receiver.

### **3.30 Vandalism**

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

### **3.31 Trespassing**

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

### **3.32 Unauthorized Sales or Solicitations**

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

### **3.33 Traffic Safety and Parking Enforcement**

Failure to follow University traffic safety and parking enforcement is prohibited. Please see [NDSU Parking Regulations](#).

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

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

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

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

### **3.35 Intimidation**

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

### **3.36 Physical Assault**

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

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

### **3.37 Instigation/Provocation**

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

prohibited.

### **3.38 Disorderly Conduct**

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

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

### **3.39 Discrimination, Harassment, and Retaliation**

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

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

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

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

Title IX Coordinator/Equity Office



Old Main 201  
Phone: 701-231-7708

Student Affairs Office  
Memorial Union 250  
Phone: 701-231-6537

### **3.41 Other Acts of Harassment**

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

### **3.42 Stalking**

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

### **3.43 Lewd or Obscene Conduct**

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

### **3.44 Endangerment of Individuals**

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

- Initiating or circulating a false report or warning,
- Willful failure to comply with orders issued by any emergency personnel during any real or perceived emergency condition,
- Tampering with any fire protection sign or device or any other emergency equipment,
- Tampering with elevator controls, elevator shaft access, and/or other elevator equipment,
- Willful failure to follow safety standards,
- Creating a risk of bodily harm or falsely creating the impression of risk of bodily harm to others, and
- Knowingly focusing, pointing or shining a laser pointer at an aircraft or at a person.

### **3.45 Hazing**

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

prohibited by law or University policy.

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

### **3.46 Sporting Activity Restrictions**

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

### **3.47 Weapons/Firearms/Explosives**

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

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

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

The [University Police and Safety Office](#) provides limited, temporary storage space for on-campus residents to store ammunition and sporting arms, such as those used for hunting and other shooting sports. Weapons should be checked in immediately upon arrival to NDSU

and checked-out immediately prior to leaving the campus. An officer must be present for check-in/check-out. The [University Police and Safety Office](#) is open and available for check-in/check-out on a 24/7 basis.

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

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

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

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

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

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

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

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

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

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

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

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

federally protected individual names will be removed.

#### **4.4 Recognition**

Recognition of student organizations is granted by the Congress of Student Organizations Commission and registered in the Student Activities Office in the 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 University policies; the Code of Student Conduct; 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 must be limited to current students, faculty and staff of NDSU. Students who transfer to another Tri-College institution who want to retain membership in an NDSU registered student organization may be eligible for on-going membership, contingent upon approval from the Vice Provost. In the case of dual college or tri-college recognized student organizations, membership criteria as defined in the Congress of Student Organizations (CSO) guidelines must be met.

#### **4.6 Registration Requirements**

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

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

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

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

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

#### **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.

#### **Posters, Signs, Leaflets**

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

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

- **Membership**

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

- **Residents of Greek Chapter Houses**

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

- **Summer Rules**

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

- **Alcohol and Other Drugs**

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

Sorority Houses – National Panhellenic Conference policy requires alcohol free facilities

for all house chapters. Illegal drugs are not permitted on chapter property at any time.

- **Code Violations**

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

#### **4.10. Commercial Solicitations and Distribution Issues**

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

## **5. Procedures**

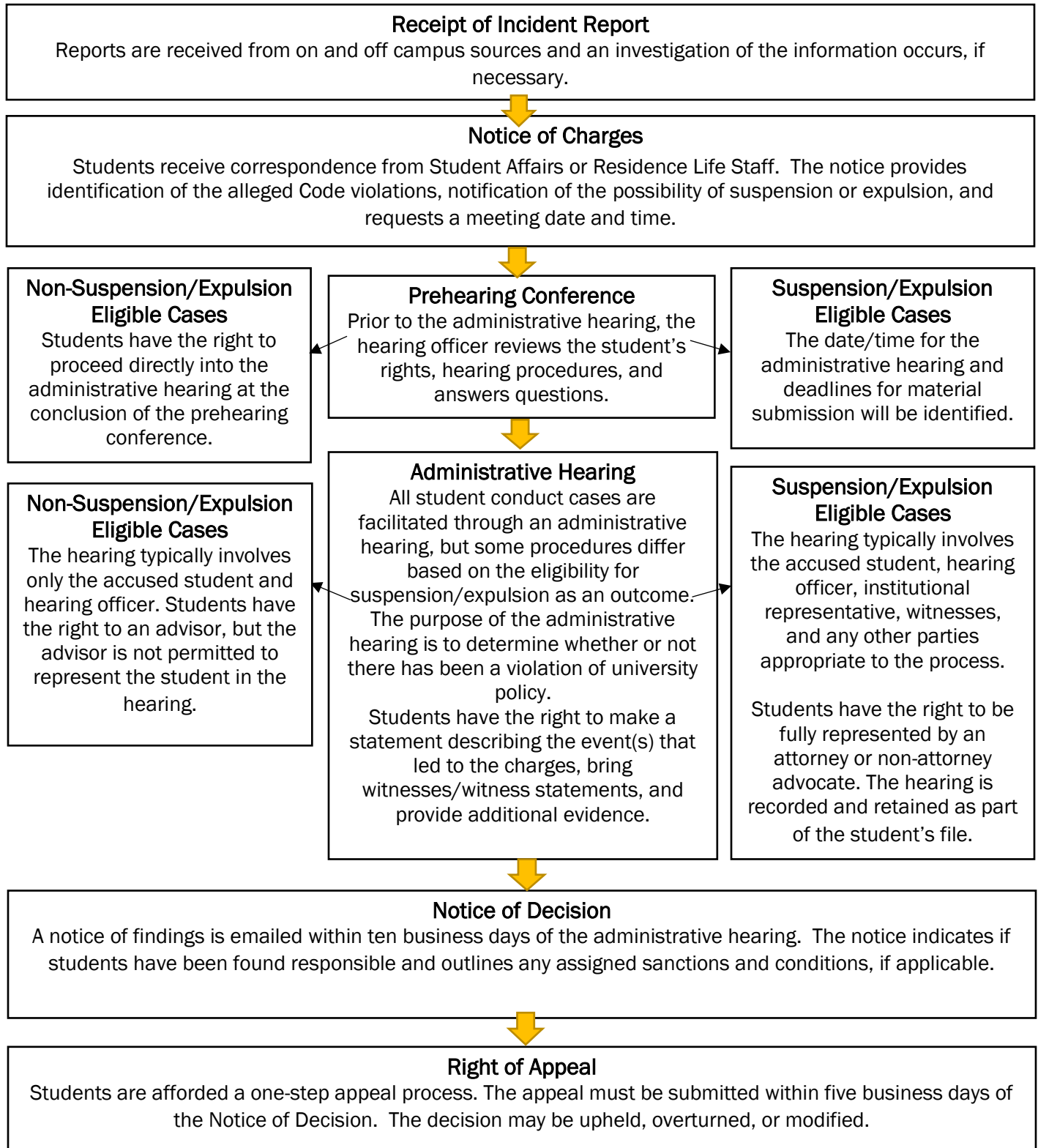
### **Resolution of Alleged Code Violations**

The Code resolution process generally includes the following steps:

- a) Receipt of an incident report;
- b) Creation of a conduct file;
- c) Implementation of interim actions, if necessary;
- d) Investigation of incident, if necessary;
- e) Notice of charges;
- f) Prehearing conference,
- g) Administrative hearing,
- h) Notice of decision;
- i) Right of appeal; and
- j) Notice of appeal decision.

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

## Resolution of Alleged Student Code Violations Flowchart



**Discrimination, Harassment, Retaliation, and Sexual Misconduct**  
In all cases involving an allegation of violation to Policy 100 or Policy 162, both the reporting and responding students have equal procedural rights.

## 5.1 Reporting and Investigating Complaints

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

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

## 5.2 Reporting Alleged Violations

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

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

## 5.3 Investigations

Investigation means to gather the facts, details and circumstances associated with a complaint. The investigation may include interviewing witnesses, review of documents or other steps that will assist the Vice Provost and/or designee to determine whether charges are warranted. Written findings of the investigation along with a recommendation for dismissal of the complaint or a recommendation of pursuing charges will be produced by the investigator(s) and provided to the Student Affairs Office. If the report indicates reasonable cause to believe that a violation occurred, then the Vice Provost's designee shall proceed with a Notice of Charges.

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

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



Report as set forth in NDSU Policy 156 shall constitute the Investigation Determination for purposes of Section 5.6 below.

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

#### **5.4 Interim Measures**

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

#### **5.5 Searches and Seizures**

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

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

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

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

The right to inspect residence hall rooms and university apartments without notice is reserved by the University for purposes of maintenance, cleaning, fire, personal safety and administering provisions of the license agreements. The University will provide reasonable

notice, when possible. Such entry by the University shall not be regarded as a search, but is separately agreed to and authorized by the student through provisions in the residence hall agreements or university apartment license. Items that pose an imminent danger to health, safety, life, or property may be taken into temporary custody of residence life staff, university police, or other emergency personnel.

## **5.6 Notice of Charges**

If the investigation determines that charges are appropriate, a written notice will be sent via authorized University email, to the responding student to arrange a prehearing conference.

The notice of charges will include:

- Nature of the alleged Code violation;
- Date, time and place of the alleged Code 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 nonattorney advocate, at the student's expense if suspension or expulsion are identified as potential sanctions; and
- Notice that a decision may be made in the student's absence based on the information currently available.

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

## **5.7 Prehearing Conference**

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

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

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

## **5.8 Conduct Hearings**

The Code of Student Conduct resolution process is facilitated through an administrative

hearing to determine whether or not there has been a violation of University policy. Although all cases are heard administratively, some procedures differ between cases that are not eligible for suspension/expulsion and those that are eligible for suspension/expulsion. The University reserves the right to determine procedures and appropriate individuals to include in the process. In an administrative hearing, the responding student has a right to make a written and/or oral statement describing the event(s) that lead to the charges, bring witnesses or witness statements, and provide any additional evidence.

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

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

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

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

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

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

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

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

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

## **5.9 Student Advisory Options**

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

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

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

## **5.10 Default Proceedings and Unresolved Charges**

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

In certain cases, the hearing officer reserves the option to place a registration hold on the student's records and archive the case until such time the student requests re-registration or a resolution of the pending matter.

## **5.11 Student Organizations in Default**

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

If the organization requests registration at a later date, the Vice Provost or designee will assign a hearing officer to meet with the student organization leadership to determine responsibility for the original charges, determine or recommend the appropriate sanction, and if that sanction is less than suspension or expulsion, will assess the need for any current remedial actions.

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

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

#### **5.13 Burden of Proof**

The burden of proof will rest upon the University.

#### **5.14 Standard of Proof**

The standard of proof will be a “preponderance of the evidence.” A student is found to have violated this Code when:

- a) The student admits to the violation or
- b) Evidence admitted at the hearing indicates by a preponderance of the evidence that the student is responsible for a violation.

#### **5.15 Witnesses/Witness Statements**

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. All written statements that are to be considered are to be provided at least two business days prior to the hearing. Written statements must also be signed and dated, with the name of the witness printed below to ensure legibility or sent electronically directly by the witness. Deviations to the time restriction may be granted as long as all parties have sufficient time to prepare.

Character witnesses are not permitted. The hearing officer will exclude any information from the hearing documentation that appears to be a character statement rather than facts or evidence related to the case. If the responding student is found responsible for violating this

Code, character statements may be considered during sanctioning. All parties may submit up to three letters to the hearing officer, at least two business days prior to the hearing. Each letter must be dated and signed, with the name of the individual signing printed below to ensure legibility or sent electronically from the author of the written statement.

#### **5.16 Evidence**

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

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

#### **5.17 Self Incrimination**

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

#### **5.18 Closed Hearings**

All hearings are generally closed except to those persons who are part of the proceedings. 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.

#### **5.19 Appeals**

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

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

#### **6.1 Introduction**

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

The hearing officer will describe the general outline of the hearing and will read the honesty statement. If a student is represented by an attorney or nonattorney advocate, that

individual has the ability to fully participate in the hearing as indicated in section 5.9, Student Advisory Options. Hearing advisors (attorney or nonattorney advocates) will be required to sign a confidentiality statement pertaining to information about all parties involved in the hearing.

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

### **Honesty Statement**

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

## **6.2 Complaint and Response**

The institutional representative will present the case.

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

## **6.3 Presentation of Witnesses**

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

## **6.4 Questioning of Parties**

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

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

## **6.5 Closing Statements**

All parties will have an opportunity for a closing statement.

## **6.6 Notice of Decision**

The hearing officer will provide written notice of decision to the responding student stating

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

## **7. Sanctions and Conditions**

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

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

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

1. Written warning,
2. Conduct probation,
3. Supervised conduct probation,
4. Conduct suspension, or
5. 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, terms and conditions and/or restorative actions may be assigned. In addition, notification may be given to other University officials as necessary. Terms and conditions include, but are not limited to:

1. Alcohol or other drug programming, evaluation and /or testing,
2. Written assignments,
3. Participation in a specific activity or project,
4. Restricted access,



5. Loss of privileges,
6. No contact orders,
7. Restitution, and/or
8. Confiscation.

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

- a) Facts of the case as presented from all relevant sources, including the responding student,
- b) Existence of any physical evidence or written or oral information provided by the responding student and/or witnesses,
- c) Type and severity of the offense,
- d) Impact on the victim(s), the educational community and its members,
- e) Previous incidents of prohibited conduct committed by the accused student, and
- f) The ability and/or willingness of the student to accept responsibility.

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

## **7.1 Sanctions**

### **Written Warning**

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

### **Conduct Probation**

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

### **Supervised Conduct Probation**

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

## **Conduct Suspension**

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

- a) A student may not re-enroll during the period of conduct suspension.
- b) The student's eligibility for any refund of tuition/fees will be subject to the University's normal withdrawal policy.
- c) The notice of conduct suspension will include the conditions for readmission that must be met prior to application for readmission. Students may obtain information regarding reactivation from Registration and Records, Ceres Hall, or online through [One Stop](#). An interview with a member of the Student Affairs Office staff also will be required prior to acceptance of the student's application for readmission.
- d) 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.
- e) A student who has been suspended must vacate residence life facilities within the time frame established in the written notice of the conduct suspension.
- f) In addition to being ineligible for enrollment, a student is also ineligible for employment with NDSU.
- g) There may be other restrictions placed on the suspended student including, but not limited to, restricted access to the entire campus, specified campus facilities, or portions of specified campus facilities. The student also may be required to obtain prior written permission from a member of the Student Affairs Office staff before being on any portion of the NDSU campus during the period of suspension. Approval is generally granted only to permit a student to conduct business related to the University.
- h) Conduct suspension is a permanent conduct record. A permanent record indicates that student conduct files may be retained indefinitely at the discretion of the Vice Provost, but not less than seven (7) years.
- i) Student organizations placed on suspension may have all rights and privileges provided by CSO revoked for the duration of their suspension. In order to regain all rights and privileges, the student organization is required to comply with and complete any and all sanctions and terms and conditions.

## **Conduct Expulsion**

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

Conduct expulsion is a permanent conduct record. A permanent record indicates that

student conduct files may be retained indefinitely at the discretion of the Vice Provost, but not less than seven (7) years.

The student must leave University residences and cease all use of University owned or controlled buildings, properties and services as designated in the expulsion notice. The expulsion notice will also include any other specific restrictions and a time frame during which these restrictions apply. These may include restricted access to the entire campus, specified campus facilities, or portions of specified campus facilities.

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

## **7.2 Conditions**

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

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

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

### **Written Assignments**

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

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

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

### **Restricted Access**

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

### **Loss of Privileges**

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

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

### **No Contact Order**

Students may be prohibited from direct or indirect physical and/or verbal contact with another individual or group. Reasonable restrictions to protect the safety and welfare of others may also be imposed. These include, but are not limited to, any and all forms of communication, access to 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). In the case of personal injury, the responsible party may be required to cover the cost of medical care for others harmed as a result of the student's actions.

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

### **Confiscation**

In addition to items seized as evidence, goods used or possessed in violation of University

policies and/or local, state or federal laws, may be confiscated and not be returned to the student. This includes, but not limited to, falsified information or identification.

## **8. Appeal Procedures**

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

### **8.1 Deadline for Appeals**

An appeal of any conduct process decision must be made in writing within five business days following the date the sanction notice is 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 persons and/or property. The reduced time for appeal will be specified in the decision letter along with the rationale for allowing reduced time for an appeal. The appeal must be written by the student and shall contain the student's name, date of the decision or action, and reason(s) for the appeal.

### **8.2 Appeal 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:

- a) The severity of the sanction was not consistent with the severity of the offense,
- b) The finding of the Code having been violated or not was not substantiated by the evidence, and/or
- c) The student's due process rights as outlined in this Code were violated. Those rights believed to be violated must be specified.

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

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

### **8.3 Emergency Provisions**

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

### **8.4 Appeal Advisory Board**

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

### **8.5 Review**

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

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

### **8.6 Decision/Sanction**

When the reporting student appeals, the appeal officer may uphold or change the original decision/sanction. When the responding student appeals, the appeal officer may not increase the sanctions/actions imposed by the hearing officer. The decision on the appeal will generally be made within 10 business days of receipt of the appeal, but may take longer during University recesses or in the event of complex cases.

### **8.7 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.

## **9. Special Circumstances and Conditions**

### **9.1 Registration/Graduation Hold**

- a) If a student (new, current or returning) fails to respond to a request to meet to discuss an alleged violation of this Code, or fails to comply with sanctions or terms 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.
- b) Students may not be permitted to graduate or officially withdraw from NDSU while disciplinary action is pending. If the student withdraws before NDSU becomes aware of the potential violation of this Code, the student's academic records may be placed on hold and the allegations must be resolved prior to the student's readmission.

### **9.2 Returning and/or New Students**

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

### **9.3 Temporary Emergency Suspension**

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

- a) To ensure the health, safety or well-being of members of the University community,
- b) To preserve University property,
- c) To ensure the suspended student's safety and well-being, or

- d) To ensure against the disruption of, or interference with, the normal operations of the University.

#### **9.4 Negotiated Withdrawal**

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

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

#### **9.5 Administrative Withdrawal**

A student may be subject to administrative withdrawal if it is determined by clear and convincing evidence that the student engages or threatens to engage in conduct that:

- a) Poses a significant threat of harm to self or others, or
- b) Poses a threat of disruption of, or interference with, the normal operations of the University community.

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

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

#### **9.6 Interim Actions**

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

#### **9.7 Crimes of Violence**

The term "crime of violence" means:



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

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

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

### **9.8 Notification of Hearing Outcomes for Crimes of Violence**

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

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

## **10. Conduct Records**

### **10.1 Disclosure**

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

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

As provided under FERPA, information concerning Code violations for alcohol and/or drugs may be shared with parents. In 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 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**

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

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

### **Suspension or Expulsion**

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

### **Student Organization Records**

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

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

There are a number of additional 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**

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

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