



NDSU NORTH DAKOTA
STATE UNIVERSITY

**Resource Guide
for Students
on Sexual and
Gender-Based
Harassment
and Sexual
Misconduct**

North Dakota State University is committed to providing a safe, healthy and nondiscriminatory learning, living and working environment for all members of its university community that is free from sex and/or gender discrimination of any kind.

There are many resources available to provide support and information, both on campus and in the community. This document serves as a written guide about the rights, resources and reporting options for students available both at NDSU and in the Fargo-Moorhead community.

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YOU ARE NOT ALONE

**What to do if you believe that
you or someone you know has
experienced sexual misconduct.**

You are not alone.

Please know that it is not the fault of the survivor. Everyone deserves safety and to be treated with dignity and respect. An individual's response to sexual assault or relationship violence varies widely from person to person. There is no 'right' or 'wrong' way to react to a traumatic event. Additionally, there is no 'right' or 'wrong' time to disclose sexual misconduct.

Resources

ON-CAMPUS RESOURCES

CONFIDENTIAL

There are several confidential resources available to students on campus:

Counseling Center

Ceres Hall 212

701-231-7671

ndsuh.edu/counseling

The Counseling Center is a confidential and free resource for enrolled and eligible NDSU students. The center provides individual counseling and group counseling. The Counseling Center staff includes full-time psychologists and counselors. Students in crisis are seen immediately.

Case Management

Putnam 102

701-231-1809

ndsuh.edu/deanofstudent/cases

Case managers are confidential and licensed social workers trained to provide support and resources to students who experience sexual misconduct, which includes sexual assault, stalking and intimate partner violence. Disclosure of sexual misconduct will not initiate an investigation. Case managers assist students in obtaining accommodations/ supportive measures or accessing campus and community resources. If you choose to file a complaint, a case manager may assist you with filing the complaint and/or assist you during investigative and conduct processes.

Student Health Service

Wallman Wellness Center 102

701-231-7331

ndsuh.edu/studenthealthservice

Student Health Service, NDSU's campus clinic and pharmacy, provides medical and mental health care services with each individual student's unique needs at the center of care. The team of highly qualified professionals supports the health and well-being of our diverse student population in an environment of confidentiality, compassion and respect.

The team of licensed and certified professionals include a physician, nurse practitioners, nurses, dietitian, medical technologist (lab), pharmacists and radiologic technologists (x-ray). Other professional staff specialize in the areas of health promotion and education. Charges for clinical and pharmaceutical services will apply but can be processed through insurance. Students can also opt out of having claims billed to insurance, but any charges will be billed to the student's account.

Office of the Ombuds

NDSU Main Library, Room 20C (Lower Level)

701-231-5114

ndsuh.edu/ombud

The Office of the NDSU Ombuds is a confidential resource, providing individual appointments in person and online to assist with making decisions and finding resources for individual situations. The ombuds offers neutrality and works informally on campus to resolve issues at the lowest level. The ombuds offers individualized coaching and mediation services for small groups of two or more. The ombuds also facilitates talking circles to assist with resolving conflict, building community and finding common ground. The office also supports faculty and staff.

NONCONFIDENTIAL

Dean of Students Office

Old Main 100

701-231-7701

ndsuh.edu/deanofstudents

The Dean of Students Office serves campus by addressing students concerns, connecting students to resources and consulting with campus partners on a range of student issues. The Dean of Students Office also houses the NDSU Care Team and Case Management services to serve the short- and long-term needs of students.

Equal Opportunity and Title IX Compliance Office

Old Main 201
701-231-7708
ndsuhigheredsu.edu/equity

The Equal Opportunity and Title IX Compliance Office is responsible for receiving and resolving discrimination/harassment/retaliation/sexual misconduct reports and complaints; reviewing and developing NDSU policy related to equal opportunity and non-discrimination; creating and providing training regarding equal opportunity and Title IX; and acting as an institutional resource for questions or concerns regarding equal opportunity and non-discrimination at NDSU.

Center for Community and Belonging

Memorial Union 178
701-231-1029
ndsuhigheredsu.edu/community_belonging

The Center for Community and Belonging is dedicated to assisting the NDSU community in creating a safe, welcoming and inclusive campus. The center supports the campus community by hosting cultural events and programs, providing referrals to supports and services and advancing community and belonging to promote a more equitable campus environment.

Residence Life

701-231-7557
ndsuhigheredsu.edu/residence-life

Residence Life provides both on campus residence hall and apartment housing for NDSU students. There are a variety of living environments available. Residence Life staff are available to assist with concerns that arise. The staff work closely with various offices across campus to assist with specific needs including the offices mentioned in this guide.

University Police and Safety Office

701-231-8998
ndsuhigheredsu.edu/police_safety

The NDSU Police Department is the official law enforcement authority for the university. The department's enforcement authority is authorized by North Dakota Century Code 15-10-17.2 and the State Board of Higher Education (SBHE Policy 916). The NDSU police staff of sworn officers complies with all standards established by the North Dakota Peace Officers Standards and Training Board, and as such are armed, licensed police officers with full arrest power. In addition to enforcing local, state and federal laws, university police officers also enforce university policy.

OFF-CAMPUS RESOURCES

Abuse Adult Resource Center (AARC)

701-222-8370
218 W Broadway, Bismarck

Bismarck Police Department

701-223-1212
700 S 9th Street, Bismarck

CAWS North Dakota

888-255-6240
521 E Main Avenue Suite 320,
Bismarck

Essentia Emergency Center

701-364-8000
3000 32nd Avenue S, Fargo

F-M Rape and Abuse Crisis Center

701-293-7273
317 8th Street N, Fargo

Fargo Area Law Enforcement (RRRDC)

701-451-7660
300 NP Avenue Suite 206, Fargo

Fargo Cass Public Health

701-241-1360
1240 25th Street S, Fargo

FirstLink

701-235-7335
4357 13th Avenue S Suite 107L, Fargo

Legal Services of North Dakota

800-634-5263
112 N University Suite 220, Fargo

ND Human Trafficking Task Force

888-373-7888

Sanford Emergency Center

701-417-2100
5225 23rd Avenue S, Fargo

Southeast Human Services

701-298-4500
2624 9th Avenue S, Fargo

YWCA Cass Clay

701-232-3449
3000 S. University Drive, Fargo



Definitions

Amnesty for drug and alcohol use:

NDSU strongly encourages all university community members to report instances of sexual harassment, gender-based harassment or sexual misconduct as soon as possible. The university recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to report due to potential policy violations. To minimize hesitancy, an individual who reports sexual harassment, gender-based harassment or sexual misconduct, either as an involved party or as a witness, will not be subject to disciplinary action for any violation of NDSU's Policy 155 against alcohol and other drugs in connection with the reported incident. (Please see NDSU Policy 162, Section 2.8 ndsuhighereducation.edu/fileadmin/policy/162.pdf and NDSU Policy 601, Section 2.2 ndsuhighereducation.edu/fileadmin/policy/601.pdf.)

Confidential resource: A person you can speak with that is not required to report the information to university officials unless you give them permission to do so. Confidential resources at NDSU are the following: Counseling Center, Student Health Service, Case Management, and the Ombuds.

Consent: Mutually understandable words or actions, actively communicated both knowingly and voluntarily, that clearly convey permission for a specific activity. Consent must be all of the following: 1) knowing: Consent must demonstrate that all individuals understand, are aware of, and agree to the "who" (same partners), "what" (same acts), "where" (same location), "when" (same time), and "how" (the same way and under the same conditions) of the sexual activity. 2) active: Consent must take the form of "clearly understandable words or actions" that reveal one's expectations and agreement to engage in specific sexual activity. This means that silence, passivity, submission, or the lack of verbal or physical resistance (including the lack of a "no") should not – in and of themselves – be understood as consent. Consent cannot be inferred by an

individual's manner of dress, the giving or acceptance of gifts, the extension or acceptance of an invitation to go to a private room or location, or going on a date. 3) **voluntary**: Consent must be freely given and cannot be the result of force (violence, physical restraint, or the presence of a weapon), threats (indications of intent to harm, whether direct or indirect), intimidation (extortion, menacing behavior, bullying), coercion (undue pressure) or fraud (misrepresentation or material omission about oneself or the present situation in order to gain permission for sexual or intimate activity). 4) **present and ongoing**: Consent must exist at the time of the sexual activity. Consent to previous sexual activity does not imply consent to later sexual acts; similarly, consent to one type of sexual activity does not imply consent to other sexual acts. Consent may also be withdrawn at any time – provided the person withdrawing consent makes that known in clearly understandable words or actions. Consent is not present when an individual does not have the capacity to give consent, voluntarily or involuntarily, due to age, physical condition, or disability that impairs the individual's ability to give consent. Reasons why one could lack capacity to give consent due to a physical condition include, but are not limited to, incapacitation due to consumption of drugs or alcohol (voluntarily or involuntarily) or being in a state of unconsciousness, sleep, or other state in which the person is unaware that sexual activity is occurring. Consent is not effective if it results from: (a) the use of physical violence, (b) threats, (c) intimidation, (d) coercion, (e) incapacitation, or (f) any other factor that would eliminate an individual's ability to exercise their own free will to choose whether or not to engage in sexual activity. When determining whether consent was present, the University will consider whether a reasonable person in the same position should have known whether the other party could or could not consent to the sexual activity.

Dating violence: Abuse or violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the reporting party. The existence of such a relationship will be determined based on the reporting party's statement and with consideration of the type and length of the relationship and the frequency of interaction between the persons involved in the relationship. Two people may be in a romantic or intimate relationship regardless of whether the relationship is sexual in nature; however, neither a casual acquaintance nor ordinary fraternization between two individuals in a business or social context shall constitute a romantic or intimate relationship. This definition does

not include acts covered under domestic violence. Please visit ndsuh.edu/police_safety/universitypolice/annualsecurityreport for additional information, including Clery definitions.

Domestic violence: Abuse or violence committed by a current or former spouse or intimate partner of the reporting party, by a person with whom the reporting party shares a child in common or by a person with whom the reporting party is cohabiting (or has cohabited) with a spouse or intimate partner.

Incapacitation: A state of being that prevents an individual from having the capacity to give consent. Incapacitation means that a person lacks the ability to make informed, rational judgments about whether or not to engage in sexual activity. A person who is incapacitated is unable, temporarily or permanently, to give consent because of mental or physical helplessness, sleep, unconsciousness or lack of awareness that sexual activity is taking place. A person may be incapacitated as a result of the consumption of alcohol or other drugs, or due to a temporary or permanent physical or mental health condition. Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.

Intimate partner violence: Any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic or other intimate relationship. Intimate partner violence is an offense that meets the definition of domestic violence or dating violence.

No contact order (NCO): Order issued by NDSU (Dean of Students or Residence Life) to all involved individuals that prohibits any form of contact (physical, verbal or written) with other parties.

No trespass order: Order issued by University Police restricting access to university facilities and grounds.

Nonconsensual sexual contact: Any intentional sexual touching, however slight, with any object or body part without consent. Sexual contact includes: 1) Intentional contact with the breasts, buttock, groin or genitals whether clothed or unclothed; 2) Touching another with any of these body parts; 3) Making another touch you or themselves with or on any of these body parts; or 4) Any other intentional bodily contact in a sexual manner.

Nonconsensual sexual intercourse: Any sexual penetration or intercourse, however slight, with any object or body part, by a person upon another person that is without consent and/or is effectuated by force. Sexual intercourse includes 1) Vaginal or anal penetration by a penis, tongue, finger or object; or 2) Any contact, no matter how slight between the mouth of one person and the genitalia of another person.

The following offenses are examples of sexual assault: rape, incest, criminal sexual contact (formerly fondling) and statutory rape. 1) Rape – The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the reporting party. 2) Incest: Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. 3) Criminal sexual contact (formerly fondling) – The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation or the forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation. 4) Statutory rape – Non-forcible sexual intercourse with a person who is under the statutory age of consent.

Sexual violence, including rape, sexual assault and domestic and dating violence, is a form of sexual harassment.

Protective order: Order issued by a court, not NDSU, to protect a party from another party due to alleged intimate partner violence, harassment or sexual misconduct. There may be a cost associated with obtaining a protective order.

Retaliation: Any adverse action taken against a person for making a good faith report of prohibited conduct, assisting someone making such a report, or participating in any proceeding under this policy. Retaliation includes threatening, intimidating, harassing, coercing or any other conduct that would discourage a reasonable person from engaging in activity protected under this policy. Retaliation may be present even where there is a finding of “no responsibility” on the allegations of Prohibited Conduct. Retaliation does not include good faith actions lawfully pursued in response to a report of Prohibited Conduct.

Sexual assault: Any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Sexual assault includes nonconsensual sexual contact and nonconsensual sexual intercourse.

Sex discrimination: An act that deprives a member of the university community of their rights of access to campuses and facilities and of participation in education, services, programs, operations, employment, benefits, or opportunities with the university on the basis of the person's sex (including pregnancy, sexual orientation, and gender identity/ expression) or having a policy or practice that has a disproportionately adverse impact on protected class members.

Sexual exploitation: Taking non-consensual or abusive sexual advantage of another for the benefit of oneself or a third party, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse or Nonconsensual Sexual Contact. Sexual Exploitation includes, but is not limited to: 1) Recording, distribution, or dissemination of sexual or intimate images or recordings of another person without that person's consent; 2) Allowing third parties to observe private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g., Skype or livestreaming of images); 3) Engaging in voyeurism (watching private sexual activity without the consent of the participants or viewing another person's intimate parts, including genitalia, groin, breasts or buttocks, in a place where that person would have a reasonable expectation of privacy); 4) Causing the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity; 5) Exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals or private areas; 6) Prostituting or trafficking another person; or 7) Exposing another person to a sexually transmitted disease (STD), infection (STI), or virus (HIV) without the other's knowledge.

Sexual harassment: Unwelcome sexual advances, requests for sexual favors or other unwanted conduct of a sexual nature, whether verbal, written, graphic, physical or otherwise, when: 1) Submission to such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any University programs and/or activities or is used as the basis for University decisions affecting the individual (quid pro quo



harassment); or 2) Such conduct is sufficiently severe, persistent, or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University's education or employment programs and/or activities (hostile environment).

Quid pro quo sexual harassment can occur whether a person resists and suffers the threatened harm, or the person submits and avoids the threatened harm. Both situations could constitute sexual harassment.

A hostile environment can be created by persistent or pervasive conduct or by a single severe episode. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. A single incident of Sexual Assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

Sexual misconduct: A broad term encompassing all forms of gender-based harassment or discrimination and unwelcome behavior of a sexual nature. The term includes sexual harassment, gender-based harassment, non-consensual sexual contact, non-consensual sexual intercourse, sexual assault, sexual exploitation, stalking, public indecency, intimate partner violence, sexual violence, and other misconduct based on sex.

Stalking: A course of unwelcome conduct directed at a specific person that would cause a reasonable person to fear for their own safety or the safety of others or would cause that person to suffer substantial emotional distress. Course of conduct means two or more acts, including but not limited to acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property. Reasonable person means a reasonable person under similar circumstances and similarly situated to the reporting party. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Title IX: A federal law that prohibits discrimination on the basis of sex in education programs and activities that receive federal financial assistance.

Additional definitions are available in the Annual Security Report (nds.u.edu/police_safety/universitypolice/annualsecurityreport/) and also in Policy 162: Sexual and Gender-Based Harassment and Sexual Misconduct (nds.u.edu/fileadmin/policy/162.pdf).





Reporting Options

If you experience sexual misconduct, you have a wide range of options available.

You are highly encouraged, but not required, to report the misconduct to NDSU.

Equal Opportunity and Title IX Compliance Office:
701-231-7708

Dean of Students Office:
701-231-7701

Residence Life:
701-231-7557

University Police:
701-231-8998

You also can visit ndsu.edu/equity/filing_a_report_or_complaint to file a report.

NDSU prohibits sexual misconduct. NDSU staff members are trained and ready to support students who have experienced sexual misconduct. Students can reach out to anyone listed above to obtain information about their rights, about available resources, and about how to pursue a resolution process.

WHAT IF A PERSON DOES NOT WANT NDSU TO INVESTIGATE OR WANTS TO REMAIN ANONYMOUS?

In cases where an individual reporting sexual misconduct requests anonymity or does not wish to proceed with an investigation, the university will attempt to honor that request. In some cases, the university may determine the need to proceed with an investigation based on concern for the safety or well-being of the broader university community (e.g., risk of future acts of sexual violence or a pattern of sexual misconduct). NDSU reserves the right to take appropriate action in such circumstances, including cases when the individual reporting the misconduct chooses not to proceed; however, the university will not compel an individual to participate.

Complaint: It happened to you. If you experience discrimination, harassment, retaliation, or sexual misconduct you are encouraged, but not required, to file a complaint.

Report: It happened to someone else. If you observe or receive information about someone else experiencing discrimination, harassment, retaliation, or sexual misconduct AND you are working in the capacity as an employee when you are made aware of the information, you must file a report as a Mandatory Reporter (meaning you are not confidential). For more information on mandatory reporting, please visit ndsuhumanresources.com/equity/filing-a-report-or-complaint/reporting-responsibilities-for-mandatory-reporters.

PRIVACY AND CONFIDENTIALITY

NDSU will keep sexual misconduct reports confidential to the extent that it is possible without compromising NDSU's commitment and obligation to protect the university community. Information related to a report or complaint will be shared with a limited circle of NDSU employees who "need to know" in order to assist in the resolution of the report.

NDSU Policies

NDSU Policy 100: Equal Opportunity and Non-Discrimination

ndsu.edu/fileadmin/policy/100.pdf

Policy 100 prohibits discrimination and harassment against any individual on the basis of age, color, gender expression/identity, genetic information, marital status, national origin, physical or mental disability, pregnancy, public assistance status, race, religion, sex, sexual orientation, status as a U.S. veteran or participation in lawful activity off the employer's premises during nonworking hours which is not in direct conflict with the essential business-related interests of the employer.

NDSU Policy 156: Discrimination, Harassment and Retaliation Complaint Procedures

ndsu.edu/fileadmin/policy/156.pdf

Policy 156 outlines the process and procedures to resolve discrimination, harassment, retaliation, and non-Title IX complaints. A central purpose of these complaint procedures is to provide a system at NDSU to conduct adequate, reliable, and impartial investigations of complaints. NDSU's primary concern is to enact and implement complaint procedures that encourage reporting and to ensure the rights of NDSU students, employees and all other participants in its educational programs and activities are protected.

NDSU Policy 156.1: Title IX Complaint Procedures

ndsu.edu/fileadmin/policy/156_1.pdf

Policy 156.1 outlines the process and procedures to resolve Title IX complaints. A central purpose of these complaint procedures is to provide a system at NDSU to conduct adequate, reliable, and impartial investigations of complaints regarding Title IX. NDSU's primary concern is to enact and implement complaint procedures that encourage reporting and to ensure the rights of NDSU students, employees and all other participants in its educational programs and activities are protected.

NDSU Policy 162: Sexual and Gender-Based Harassment and Sexual Misconduct

ndsu.edu/fileadmin/policy/162.pdf

Policy 162 prohibits all forms of sexual harassment, gender-based harassment, and sexual misconduct, including but not limited to, intimate partner violence, sexual assault, sexual exploitation, stalking, complicity in the commission of any act prohibited by this policy, and retaliation against a person for the good faith reporting of any forms of misconduct or participation in any investigation or proceeding under this policy.

NDSU Policy 601: Rights and Responsibilities of Community: A Code of Student Conduct

ndsu.edu/fileadmin/policy/601.pdf

Policy 601 outlines the rights and responsibilities of students, prohibited conduct and proper reporting options and channels. The code focuses on three core values that support an educational environment:

- Respect for the NDSU community (on and off campus)
- Respect for the protection and rights of others,
- Respect for students in the conduct resolution process

NDSU Policy 601 5:5: Interim or Remedial Measures

ndsu.edu/fileadmin/policy/601.pdf

In the interest of safety and security, upon receipt of notice, specific interim or remedial measures appropriate to the circumstances may be implemented prior to a completed investigation or conduct hearing. Examples include No Contact Orders, housing/workplace changes, loss of privileges and/or restricted access to campus.

Resolution Options

INFORMAL RESOLUTION

Complaints of sexual misconduct may be resolved utilizing an informal resolution. Informal resolution is a process in which the parties attempt to agree upon the resolution of a complaint without a comprehensive investigatory and determination process. Unless there are extenuating circumstances, the entire informal resolution process will be completed within 30 calendar days of its initiation.

Informal resolution may involve the Ombuds, Equal Opportunity and Title IX Compliance Office, the Dean of Students Office, HR, administrators, supervisors, and/or external moderators working with the parties to arrive at an appropriate and mutually agreeable resolution of the complaint. The informal resolution process will not require that the parties meet face-to-face to resolve the complaint but may allow it, depending on the nature of the complaint and the power differential between the parties.


Additional information about informal resolution processes may be found by visiting Office of the Ombuds (ndsuhumanresources.com/ombuds) or Alternative Conflict Resolution Options (ndsuhumanresources.com/restorativepracticesnetwork).

FORMAL RESOLUTION

A properly trained investigator will conduct a comprehensive investigation under the formal resolution process in an adequate, reliable and impartial manner. A comprehensive investigation will include the following steps, as relevant and available:

An interview with each of the parties;
Interviews with witnesses identified by the parties or determined otherwise; A review of evidence provided by the parties or collected otherwise and an opportunity for the parties to submit questions of each other and/or the witnesses. Upon receipt of any such questions,





the investigator will determine which questions, if any, are relevant and present them to the intended recipient for a response.

Equal opportunity will be given to the parties to access and present evidence during the investigation. The parties will be provided with periodic status updates throughout the course of the investigation. The formal resolution process will be carried out using reasonably prompt time frames and without deliberate indifference.

After the investigator has finished the comprehensive investigation of the complaint, the investigator will draft a Preliminary Investigative Report.

For complaints involving an alleged violation by a student, the Preliminary Investigative Report shall include the findings of the investigation along with a recommendation for dismissal of the complaint or a recommendation of pursuing further action under the Code of Student Conduct. If there is reasonable cause to believe that a violation has occurred, the recommendation shall be to pursue further action; if such reasonable cause is not present, the complaint shall be dismissed. Reasonable cause is a lower standard than preponderance of the evidence and shall mean that there are just or legitimate grounds to believe that a violation has occurred. The Final Investigative Report will be forwarded to the Dean of Students Office.

FILING A COMPLAINT

A sexual misconduct complaint is initiated by contacting the Equal Opportunity and Title IX Compliance Office via email, phone, personal contact, or by completing an NDSU discrimination/harassment/retaliation/sexual misconduct complaint form. The complaint form is available at ndsuhumanresources.com/equity/filing_a_report_or_complaint/ or by contacting the Equal Opportunity

and Title IX Compliance Office in Old Main, Suite 201, NDSU Main Campus, 701-231-7708, ndsuhumanresources@ndsuhumanresources.com. The Equal Opportunity and Title IX Compliance Office is available to assist with completing the complaint form as needed.

NDSU encourages those who believe they have experienced sexual misconduct to file a complaint as soon as possible.

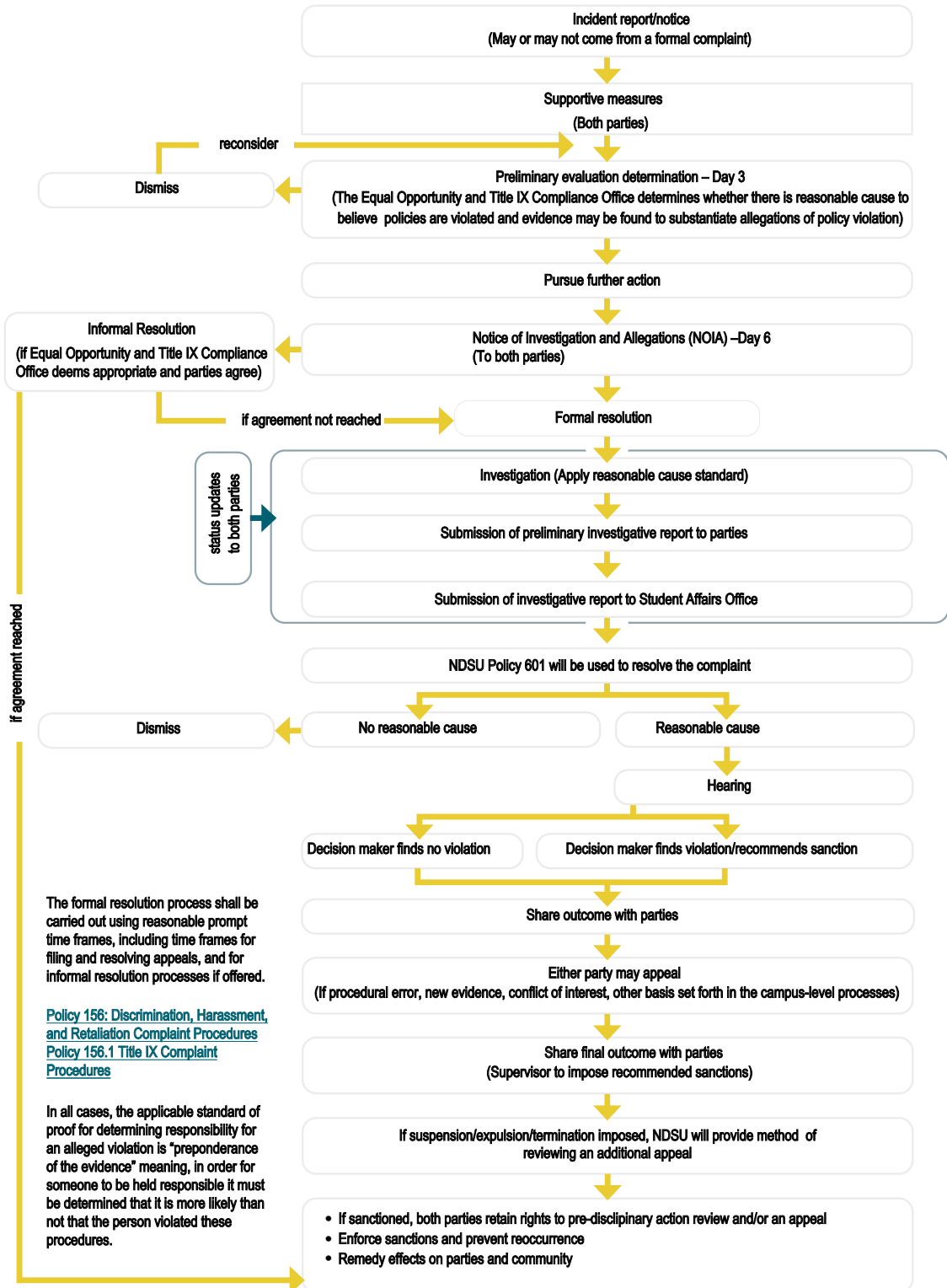
INVESTIGATIONS

The Equal Opportunity and Title IX Compliance Office will review all complaints alleging sexual harassment, gender-based harassment, and sexual misconduct and will evaluate the allegations and determine if further action can be pursued. A preliminary evaluation determination will be completed within three business days of receipt of the complaint and the decision will be provided in writing to the individual (or group) who filed the complaint. If the Equal Opportunity and Title IX Compliance Office determines that further action is warranted, the Equal Opportunity and Title IX Compliance Office will provide written notice to the individual (or group) who filed the complaint and the individual (or group) against whom the complaint was filed (collectively, the parties) within three business days of the preliminary evaluation determination. Investigations may be pursued through an informal or formal resolution process for cases alleging sexual misconduct.

Equal Opportunity and Title IX Compliance Office

Old Main 201
701-231-7708
ndsuhumanresources.com/equity

NDSU Policy 156 and Policy 156.1 EO/Title IX Investigation Process Chart for Student Cases (modeled after ATIXA)



Sanction/Corrective Actions: Student Conduct Process

ADMINISTRATIVE HEARINGS

Following an investigation by the Equal Opportunity and Title IX Compliance Office, the Dean of Students Office pursues action under The Code of Student Conduct. A written Notice of Alleged Violations will be sent to the student allegedly in violation. The student reporting the alleged violation will be copied.

The notice will include: date, time and place of the alleged Code of Student Conduct violation; nature of the alleged Code of Student Conduct Policy [601 ndsu.edu/fileadmin/policy/601.pdf](https://nds.u.edu/fileadmin/policy/601.pdf) violation; assigned hearing officer; source of the information; maximum sanction applicable if found in violation of the Code of Student Conduct; the student's right to be represented by an attorney or non-attorney advocate, at the student's expense, if suspension or expulsion are identified as potential sanctions; and notice that a decision may be made in the student's absence based on the information currently available or if the responding party does not participate in the process.

A pre-hearing conference is scheduled separately for each involved student. During the pre-hearing conference, the Hearing Officer will discuss:

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

DAY OF THE HEARING

The day of the hearing can be a stressful experience. Hearing advisors are allowed to be present at all times throughout the hearing process. Part of the hearing advisor's role is to provide support during the conduct hearing. If there are trusted friends or family who would like to be supportive, they are permitted to be available both prior to and at the conclusion of the hearing, but may not attend.

At the hearing, the Hearing Officer will review the hearing proceedings, identifying when each party may provide statements, call witnesses, ask questions, etc. If at any time a hearing participant would like

to take a break, this request may be made to the hearing officer, and the hearing may be halted until all parties are ready to proceed. All conduct hearings are recorded and the recording is retained as part of the conduct record. There is no average time for a hearing, as it is dependent upon the length of the opening and closing statements, how many witnesses are called and how many questions are asked.

YOUR RIGHTS

Throughout the conduct process, both the student filing the complaint of sexual misconduct and the student accused of a policy violation have the same rights. Both students have the right to take part in the process, have a hearing advisor, meet with officials, submit statements, be notified of an outcome and appeal the decision.

HEARING ADVISORS

All students involved in the conduct hearing process have the right to an advisor. Advisors play the following role:

- Provide support and assistance throughout the entire process including the conduct hearing and appeal process
- Accompany the student to meetings throughout the process
- Provide clarification on the process and guidance to the student

Hearing advisors may not do the following, unless the case involves the potential for suspension or expulsion:

- Speak for the student during meetings
- Write any of the student's materials
- Speak to the hearing officer on the day of the hearing
- Actively participate in the conduct hearing

The student may choose a hearing advisor or the university can provide an advisor.

For further details, see the Code of Student Conduct nds.u.edu/fileadmin/policy/601.pdf.

The student may choose a case manager to serve as a hearing advisor.

SUPPORT PERSON/ADVOCATE

Students also have the right to a support person during the conduct hearing process. Similar to a hearing advisor, a support person may:

- Provide support and assistance throughout the entire process including the conduct hearing and appeal process
- Accompany the student to meetings throughout the process
- Provide clarification on the process and guidance to the student

A support person may not speak during hearings and is present to provide support for the student. Having a support person is not required. The student may choose a case manager to serve as a support person/advocate for the student who is reporting sexual misconduct.

POTENTIAL OUTCOMES

The hearing officer will deliberate following the hearing. The hearing officer will generally have 10 business days to determine an outcome. All involved parties will be notified of the outcome by the Dean of Students Office.

If a student is found responsible for violating any NDSU policies, they may be sanctioned. Typical sanctions could include, but are not limited to, any of the following:

Conduct Probation

The student is not in good standing for conduct reasons for a specified period of time.

Supervised Conduct Probation

The student is not in good standing for conduct reasons for a specified period of time. In addition, they meet with a university official regularly, complete assigned tasks or assignments and any future violations could lead to suspension or expulsion.

Conduct Suspension

The student is separated from the university for a set amount of time, not to exceed two academic years.

Conduct Expulsion

The student is permanently separated from the university.

APPEAL PROCESS

All parties involved in the conduct process have the right to appeal the decision.

Students have five business days to submit an appeal to a designated Appellate Officer. Appeals must meet particular criteria that can be found in the Code of Student Conduct. Hearing advisors can assist students with accessing appeal criteria, crafting an appeal and submitting the appeal to the appropriate individual.

After appeals are submitted, either the original outcome will be upheld or the decision may change. Because both parties have the right to appeal, sanctions, if changed, can be more severe or less severe than the original outcome. This will serve as NDSU's final decision on the matter.



Additional Information

TOOLS AVAILABLE 24/7:

Safety Escort Service

University Police or Public Safety officers are available to escort you to NDSU facilities or locations adjacent to campus. Call 701-231-8998.

Personal Safety and Security Assist (Pathlight)

This service includes a smartphone app that allows University Police to track you remotely when you initiate a safety assist. You set your destination and approximate travel time in the app. Dispatchers and police will respond quickly if you don't arrive within the time frame you designated or you activate a silent alarm with the swipe of a finger.

Mobile personal safety apps

Several mobile personal safety apps are available for purchase to download to your phone.

PRESERVATION OF EVIDENCE

What you can do if you have experienced sexual misconduct (which includes sexual harassment, gender-based harassment, sexual assault, intimate partner violence or stalking). After an incident of sexual misconduct, you should consider seeking medical attention as soon as possible at NDSU Student Health Service or local hospitals. In North Dakota, evidence may be collected through a sexual assault forensic exam (SAFE Kit) up to 96 hours following the assault. In North Dakota, you also have the right to receive a forensic examination or to refuse an examination. These examinations can be completed at local emergency rooms. You also have the right to have a hospital advocate present during the exam. Hospital advocates are provided by the local rape crisis center.

The instructions below are important to follow if you experience sexual misconduct and would like to receive an examination.

- Do not bathe
- Do not douche
- Do not smoke or vape
- Do not change clothing
- Do not clean the bed/linen/area where you were assaulted if the offense occurred within 96 hours so evidence may be preserved

In circumstances of sexual assault, if you do not opt for forensic evidence collection, health care providers can still treat injuries and take steps to address concerns of pregnancy and/or sexually transmitted diseases. Those who experience sexual misconduct are encouraged to also preserve evidence by saving text messages, instant messages, social networking pages, and other communications. Also keep pictures, logs or other copies of documents, if you have any, that would be useful to University Police or investigators. It is your choice whether or not to make a report to law enforcement. Contact University Police (701-231-8998) or the appropriate city police department if you choose to pursue potential criminal charges.

The emergency facilities at both Sanford Health and Essentia Health have on-call Sexual Assault Nurse Examiners (SANE). Please note: According to Sanford Health, "SANEs are required under N.D. law to report to local law enforcement sexual assaults which may have caused injury. However, the victim has the right to choose to have evidence collected and to decide whether to cooperate with law enforcement by providing information."



PREVENTION AND SUPPORT

How can I play a role in preventing sexual misconduct?

Bystanders play an important role in helping reduce violence and sexual misconduct in our communities. Bystanders can help by knowing the warning signs of Power Based Personal Violence (PBPV) and safely intervening or by supporting someone who has experienced PBPV and helping them access resources.

What is Power Based Personal Violence?

When someone uses their choices, actions, words or behaviors to harm another person. Sexual misconduct is just one example of PBPV.

What are the 3 Ds of bystander intervention?

Stepping in when you see warning signs of PBPV can be harder than it sounds. While we all have barriers to intervention; like being unsure of the situation, being shy, or not wanting to call attention to ourselves, we also have options that can help us get around our barriers. Below are 3 options that can help you be an active bystander.

Direct

Do something yourself.

- 'Is everything okay?'
- 'Would you like me to help you find your friends?'
- Ask a friend, co-worker, classmate, etc. to help you safely address the situation. There is power in numbers

Remember: You may know the target of the behaviors or the person doing the behaviors.

Distract

- Think of a distraction that will diffuse the situation
- Cut off the conversation with a diversion like, "Let's get pizza, I'm starving" or "This party is no fun. Let's try somewhere else."
- Pretend to know the person and strike up a conversation

Delegate

Ask someone you trust to get involved. You could delegate to:

- Friends (either your friends, friends of the target, or the person doing the concerning behaviors)
- Faculty, staff, graduate assistant, etc.
- Staff members the store or restaurant
- Anyone you feel comfortable approaching

Remember that your safety is vital. There may be situations where the safest option is to delegate to someone else.





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